

Response to Comments in Hanson Bridgett Appeal

These response address Appellant’s contentions in support of their appeal of the Project, which are contained in Sections 2 through 6 of the letter dated June 20, 2023 and attached to the June 28, 2023 appeal application.

Section 2

Appellant claims the Project does not qualify for an exemption under State CEQA Guidelines Section 15183 because it is not consistent with the development standards in the amended PA-1 Specific Plan and there are Project-specific significant effects peculiar to the Project and Project site.

Pursuant to State CEQA Guidelines Section 15183, subdivision (a)—“Projects Consistent with a Community Plan, General Plan Update, or Zoning”—additional environmental review is not required for projects “which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified,” except as might be necessary to determine whether there are project-specific significant effects. Section 15183 was promulgated on the authority of Public Resources Code Section 21083.3, which provides a public agency need examine only those environmental effects that are peculiar to the project and were not addressed or were insufficiently analyzed as significant effects in the prior EIR. (Pub. Res. Code § 21083.3, subs. (a), (b).)

Here, in accordance with State CEQA Guidelines Section 15183, the City prepared a site-specific CEQA analysis for the Project (“Environmental Analysis”). The Environmental Analysis, which is supported by numerous Project-specific technical studies, demonstrates that there are no site-specific or peculiar impacts associated with the Project, and identifies uniformly applied standards and policies that would be applied to the Project. Impacts from buildout of the PA-1 Specific Plan including cumulative impacts associated with development and buildout of the Project site, as proposed, were fully addressed in the PA-1 Specific Plan EIR, inclusive of all Specific Plan updates and Addendum to the Environmental Impact Report (EIR) prepared for the Priority Area 1 Specific Plan (State Clearinghouse No. 2018042064), and implementation of the proposed Project would not result in any new or altered impacts beyond those addressed in the Specific Plan EIR. Accordingly, the City has satisfied the requirements of State CEQA Guidelines Section 15183 and no further CEQA review is required.

Section 2(a)

This comment provides Appellant’s interpretation of CEQA, the State CEQA Guidelines and related case law, but does not allege any issues with the Environmental Analysis performed for the Project. As such, the comment is noted and no further response is required.

Section 2(b)

The comment provides the Appellant’s interpretation of CEQA, the State CEQA Guidelines, and related case law, related to program EIRs, but fails to address Public Resources Code Section 21083.3 and State CEQA Guidelines Section 15183, which apply to the Project.

Public Resources Code Section 21083.3 and corresponding State CEQA Guidelines Section 15183 allows a streamlined environmental review process for projects that are consistent with the densities established by existing zoning, community plan or general plan policies for which an EIR was certified. Here, the PA-1 Specific Plan has also been adopted as the zoning for the Plan area, and therefore serves as the zoning designation for purposes of Public Resources Code Section 21083.3 and State CEQA Guidelines Section 15183. As such, the application of CEQA to the approval of development projects, such as the proposed Costco Project, shall be limited to effects on the environment which are peculiar to the parcel or to the Project and which were not addressed as significant effects in the prior environmental impact report, or which substantial new information shows will be more significant than described in the prior environmental impact report. (Pub. Res. Code § 21083.3.) Further, an effect of a project on the environment is not considered peculiar to the parcel or the project, if uniformly applied development policies or standards have been adopted by the local agency with a finding that they will substantially mitigate that effect when applied to future projects. (State CEQA Guidelines § 15183(f).)

The lead agency must make a finding at a public hearing that any mitigation measures in the prior EIR that apply to the project's specific effects, and that the lead agency found to be feasible, will be undertaken. (Pub. Res. Code § 21083.3(c); State CEQA Guidelines § 15183(e).) The City has done that here, by incorporating the mitigation measures in the PA-1 Specific Plan EIR as Project Requirements. Such a finding is not required for potentially significant environmental effects that are *not* considered peculiar to the parcel or the project if uniformly applied development policies or standards were previously adopted by the agency with a finding that the policies or standards would substantially mitigate the environmental effect when applied to future projects. (State CEQA Guidelines § 15183(f).) When the agency has failed to make such a finding previously, it can do so when it approves the later project.

Often, such certified prior EIRs are Program EIRs and, in fact, the factual questions as to whether project impacts fall within the scope of the prior EIR are very similar. As to reliance on a Program EIR, later activities are examined to determine whether an additional environmental document must be prepared. (State CEQA Guidelines § 15168(c).) As appellant notes, if a later activity would result in environmental effects that were not examined in the Program EIR, the agency must prepare an initial study to determine whether an EIR or negative declaration is required to address those effects. (*Id.*) However, as is the case here, if a later activity would not have any effects that were not examined in the Program EIR (including any new or more severe impacts), the agency can approve the activity as being within the scope of the project covered by the Program EIR, and no new environmental document would be required. (*Id.*)

Factors that an agency may consider in determining whether a later activity is within the scope of a Program EIR include “consistency of the later activity with the type of allowable land use, overall planned density and building intensity, geographic area analyzed for environmental impacts, and covered infrastructure as described in the program EIR.” (State CEQA Guidelines § 15168(c).) An agency must incorporate feasible mitigation measures and alternatives developed in the Program EIR into later activities in the program. (*Id.*) “Where the later activities involve site specific operations, the agency should use a written checklist or similar device to document

the evaluation of the site and the activity to determine whether the environmental effects of the operation were within the scope of the program EIR.” (*Id.*)

The City’s Environmental Analysis complies with both Section 15183 and Section 15168 of the State CEQA Guidelines. The Appellant claims an initial study and either an EIR or negative declaration are required for the Project. While the applicability of the exemption provided by State CEQA Guidelines 15183 does not turn on whether the City completes some form of preliminary review, here the City did use an environmental checklist which identifies whether or not each CEQA Appendix G environmental checklist question, and its corresponding impacts, were adequately addressed in the PA-1 Specific Plan EIR, if there is a significant impact due to new information, or if the Project would result in a significant impact peculiar to the Project site that was not adequately addressed in the PA-1 Specific Plan EIR. The Environmental Analysis identifies the applicable City of Brentwood development standards and policies that would apply to the proposed Project during both the construction and operational phases, identifies applicable mitigation measures from the PA-1 Specific Plan EIR that must be implemented, identifies applicable state-level standards and requirements, and explains how the application of these uniformly applied standards and policies would ensure that no peculiar or site-specific environmental impacts would occur. (Environmental Analysis (“EA”), p. 14.)

The Appellant further claims the PA-1 Specific Plan EIR never evaluated the specific components of the Project, including the warehouse retail center, tire center, and fuel center. The Appellant also claims the fuel center was not analyzed as service stations are prohibited in the Transit Village portion of the PA-1 Specific Plan.

The PA-1 Specific Plan EIR analyzed impacts related to the Transit Village designation, which is defined to provide “for an integrated mix of high-intensity uses in the area surrounding the planned transit/eBART station, and encourages the development of a high-quality, pedestrian and bicycle friendly mixed-use district that will define the Specific Plan area’s core. Allowed uses include professional and medical offices, personal services, retail and restaurants, entertainment- and hospitality-related uses, and upper floor multiple-family residences.” (PA-1 Specific Plan EIR, p. 2.0-8.) Costco’s warehouse retail center, including the tire center, is a retail use permitted in the Transit Village zone, and analyzed in the PA-1 Specific Plan EIR. The site-specific Environmental Analysis prepared for the Project confirms that any impacts related to the proposed use of the Project site were adequately addressed in the PA-1 Specific Plan EIR.

As relates to the fuel station, the City amended the PA-1 Specific Plan and adopted an Addendum to the PA-1 Specific Plan EIR on October 25, 2022 (“Addendum”). The most relevant changes related to subject properties included changing the Specific Plan designation of the 19.04-acre Costco site from Transit Village/Mixed Use (“TV/MU”) to Regional Commercial (“RC”). The 4.02-outparcel site maintained its original designation of TV/MU. The Addendum analyzed changes to the permitted uses in the RC zone. Specifically, large format retail no longer required a CUP, and fuel stations are permitted with approval of a CUP in the RC zone. (Addendum, pp. 4-9 – 4-10.) The Addendum found that none of the minor changes associated with the modified project, such as alternating the location of permitted uses, have the potential to result in new or more severe environmental impacts than those that were analyzed and disclosed in the Certified EIR, for which Findings of Fact and a Statement of Overriding Considerations were adopted by the City Council. (Addendum, p. 9.) Accordingly, the Addendum analyzed

changes to the TV/MU and RC zones. The statute of limitations to challenge the analysis in the Addendum has expired, and as such, the Addendum cannot be challenged now.

The Appellant further alleges that the site-specific studies related to traffic, GHG, and air quality that were prepared for the Project show Project-specific changes that were not analyzed in the PA-1 Specific Plan EIR. The Appellant does not describe what changes were not analyzed in a way that would enable the City to respond. However, it should be noted that the Environmental Analysis, supported by the referenced technical studies, found all impacts of the Project were adequately addressed in the PA-1 Specific Plan EIR and Addendum. To the extent the Appellant makes specific allegations regarding these topics, they are addressed in the corresponding responses below.

Section 2(b)(i) (Aesthetics)

Appellant contends that the Project will contribute to direct, indirect, and cumulative impacts regarding light and glare, and that there is no evidence the Project will comply with the design guidelines set forth in Section 3.1 of the PA-1 Specific Plan EIR.

Initially, and as noted above, the Addendum analyzed any potential impacts from changing the Project site's designation from TV/MU to RC. The statute of limitations to challenge the analysis in the Addendum has expired, and as such, the Addendum is presumed valid and can no longer be challenged. The Environmental Analysis for the Project examined the Project's potential impacts regarding light and glare. As discussed in the Environmental Analysis, parking lot light standards are designed to provide even light distribution for vehicle and pedestrian safety. The parking lot lights will be timer controlled to limit lighting after the warehouse has closed and most employees are gone from the warehouse. Parking lot lighting will only remain on to provide security and emergency lighting along the main driveways. Downward facing security lighting will be located on the exterior of the building on all sides. Lighting fixtures will also be located on the building approximately every 40 feet around the exterior of the building to provide safety and security. Further, parking and site lighting will incorporate the use of cutoff lenses to keep light from overflowing beyond the Costco site boundaries. (EA, p. 26.)

The Environmental Analysis also provides that the Project is subject to the PA-1 Specific Plan lighting and design guidelines. Implementation of the lighting and design standards in the Specific Plan would ensure that Project lighting features do not result in light spillage onto adjacent properties and do not significantly impact views of the night sky. Adherence to the design requirements would ensure that excessively reflective building materials are not used, and that the proposed Project would not result in significant impacts related to daytime glare. (EA, p. 26.) The Project's compliance with the PA-1 Specific Plan lighting and design guidelines is exactly the type of compliance with design standards contemplated in State CEQA Guidelines Section 15183. As such, light and glare impacts are not peculiar to the Project with compliance with the uniform PA-1 Specific Plan lighting and design guidelines.

Section 2(b)(ii) (Air Quality)

Appellant contends that a volumetric analysis of land uses does not provide a complete picture of how change in uses can lead to more significant air quality (and GHG) impacts, the mobile traffic patterns of the RC zone are different than those analyzed for the TV zone, which was studied in the PA-1 Specific Plan EIR, and impacts related to the fuel station have not been evaluated in the PA-1 Specific Plan EIR or Addendum and must be evaluated in further CEQA review.

The Appellant correctly cites the conclusion on Page 38 of the Environmental Analysis. Namely, the land uses assumed for development of the proposed Project are consistent to those assumed in the PA-1 Specific Plan in terms of potential mobile source emissions that may be generated by these land uses. The mobile emissions are the dominant source of emissions. The square footage of the proposed Project would be less than the corresponding square footage assumed for retail development for this portion of the PA-1 Specific Plan, and thus, it is expected that the proposed Project would have similar if not lower emissions for this portion of the PA-1 Specific Plan.

Further, the construction activities for the proposed Project is also expected to be similar for the land uses as assumed in the PA-1 Specific Plan given that similar site preparation and building construction is expected to occur. Additionally, the Project would further the fundamental goals of the Bay Area Air Quality Management District (BAAQMD) in reducing emissions of criteria pollutants associated with vehicle miles traveled, and would be required to comply with all District Rules and Regulations and included in Requirement AQ-2 to further limit criteria pollutants.

These conclusions are supported by site-specific analysis, which addresses Appellant's concerns. As stated in the Air Quality/Health Risk Technical Report, the report quantifies the Project's emissions during construction and operations and compares those results to the applicable BAAQMD thresholds. This report also summarizes results of the health risk assessments which assess the potential health risk impacts to sensitive receptors from construction and operation. Additionally, because the Project is located within the PA-1 Specific Plan area, consistency with the PA-1 Specific Plan EIR was also analyzed.

The Air Quality/Health Risk Technical Report found that Project emissions were significantly less than those analyzed for the PA-1 Specific Plan (See Table 5, EA p. 36). Additionally, as shown in Tables 3 and 4, the operational emissions for the Project are less than the BAAQMD mass daily and annual significance thresholds for all pollutants. Furthermore, the Brentwood Costco Transportation Analysis prepared by Kittelson shows that the overall change in total regional daily vehicle miles traveled (VMT) is net negative. (EA, pp. 35-36.) Thus, the Project is consistent with BAAQMD thresholds and the PA-1 Specific Plan, even as the proposed use is consistent with the RC zone. The service station emissions were also specifically analyzed. To the extent Appellant is arguing RC uses require more analysis, such issues should have been raised during the Addendum process. The statute of limitations has run on that approval and the Addendum's analysis is thus presumed valid.

Section 2(b)(iii) (Biological Resources)

Appellant alleges that given the amount of traffic and outdoor lighting associated with the Project, further CEQA analysis is needed to mitigate impacts on wildlife habitat and movement, including edge-effects on wildlife movement near the Project site.

As noted in the Environmental Analysis prepared for the Project, the undeveloped Project site provides very limited to no potential for special status species mammals, except for movement and foraging. As described in the PA-1 Specific Plan EIR, subsequent development under the proposed PA-1 Specific Plan could result in the direct loss of habitat areas associated with these special-status mammal species, since suitable habitat for these species does occur in the region. Additionally, indirect impacts to special-status mammal species could occur with implementation of the PA-1 Specific Plan. Indirect impacts could include habitat degradation, increased human presence, and the loss of foraging habitat. The PA1 Specific Plan determined this is a potentially significant impact and imposed mitigation measures 3.4.1 through 3.4.10 to reduce this impact to less than significant. (EA, pp. 46-51.)

As addressed above in Section 2(b)(i), there is nothing unique or impactful regarding the Project lighting that was not already addressed in the PA-1 Specific Plan EIR and design guidelines. Similarly, as addressed in Section 2(b)(xi) regarding traffic below, the Project's traffic would not be more impactful than that analyzed in the PA-1 Specific Plan EIR, and in fact, would result in net negative VMT. Thus, there is nothing peculiar to the Project regarding outdoor lighting or traffic that would necessitate additional mitigation regarding wildlife habitat or movement. Further, the Project is required to implement PA-1 Specific Plan EIR mitigation measures 3.4.1 through 3.4.10 to ensure any impacts regarding habitat remain less than significant. (EA, p. 51.)

Additionally, the California Natural Diversity Database (CNDDDB) record search did not reveal any documented wildlife corridors or wildlife nursery sites on or adjacent to the Specific Plan Area. According to the California Department of Fish and Wildlife BIOS Viewer, no wildlife corridors or wildlife nursery sites exist on or adjacent to the Project site. The nearest wildlife corridor is located approximately 3.0 miles southeast of the Project site. The Proposed Project is consistent with the adopted vision and uses identified within the PA-1 Specific Plan, and would not result in any new or increased impacts associated with biological resources, beyond those that were already addressed in the PA-1 Specific Plan EIR. (EA, p. 53.)

Section 2(b)(iv) (Geology and Soils)

Appellant states that the PA-1 Specific Plan EIR requires the submission of geologic and soils reports for all new developments. Appellant further alleges that the PA-1 Specific Plan EIR never anticipated a fuel service station at the Project site and there is no analysis of the risks proposed by the Project fuel service station.

State CEQA Guidelines Section 15183(b)(2) provides that for projects meeting the requirements of Section 15183, the public agency shall limit its examination of environmental effects to those which the agency determines through analysis "were not analyzed as significant

effects in a prior EIR on the zoning action, general plan, or community plan, with which the project is consistent.” That is exactly what the City did here.

A Project-specific geotechnical report, prepared by Kleinfelder, was included in the Environmental Analysis as Attachment B. (EA, p. 62.) The project description included in the geotechnical report includes the following: “The fuel facility will contain three 40,000-gallon underground storage tanks (USTs), a fuel additive UST, four fueling islands, and a pre-manufactured metal canopy.” (Geotechnical Report, p. 5.) Accordingly, the Project-specific geotechnical report, submitted in compliance with PA-1 Specific Plan EIR requirements, does include analysis of the fuel service station use.

Specifically, Section 5.4 of the geotechnical report addresses impacts to groundwater during construction, including due to placement of the underground storage tanks for the fuel service station and provides recommendations to ensure impacts are less than significant. (Geotechnical Report, pp. 42-43.) Accordingly, any Project-specific impacts related to the fuel station were analyzed in the Project-specific geotechnical report and Environmental Analysis, which includes Requirement GEO-1 (“Implement recommendations presented in the Geotechnical Study Prepared by Kleinfelder during the project design and construction”), ensuring the recommendations of the Kleinfelder geotechnical report are implemented. (EA, p. 66.)

Section 2(b)(v) (GHG Emissions)

Appellant alleges the PA-1 Specific Plan EIR did not evaluate site-specific impacts associated with the transportation and sale of gasoline and whether these impacts are consistent with the State’s GHG reduction goals and strategies in the MTC/ABAG’s Plan Bay Area 2050.

As noted above, State CEQA Guidelines Section 15183(b)(2) provides that for projects meeting the requirements of Section 15183, the public agency shall limit its examination of environmental effects to those which the agency determines through analysis “were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan, with which the project is consistent.” The site-specific GHG report prepared for the Project by Ramboll US Consulting, Inc., and included in the Environmental Analysis as Attachment C satisfies the requirements of Section 15183(b)(2). Specifically, as demonstrated in Table C-2 of the GHG technical report included as Attachment C, the Project would be consistent with applicable MTC/ABAG strategies for the reduction of GHG emissions. (EA, p. 75.)

Additionally, Appellant argues the new uses proposed by the Project are different than those analyzed in the PA-1 Specific Plan EIR and analysis is required regarding emissions related to customer traffic, deliveries, and idling at the fuel service station. As shown in Table 9, the GHG emissions for the Project are less than the GHG emissions outlined in the PA- 1 Specific Plan EIR. As such, implementation of the proposed Project would not create new impacts over and above those identified in the PA-1 Specific Plan EIR, nor significantly change previously identified impacts. (EA, p. 74.)

Section 2(b)(vi) (Hazards and Hazardous Materials)

Appellant alleges that Project Requirements related to hazards and hazardous materials should be considered mitigation measures and therefore the Project does not qualify for the exemption found in State CEQA Guidelines Section 15183.

Compliance with relevant regulatory standards can provide a basis for determining that the project will not have a significant environmental impact. *Tracy First v. City of Tracy* (2009) 177 Cal.App.4th 912. The proposed fueling station would require the routine transport and use of hazardous materials as part of the operation. The transport of fuels to the Project site would be required to adhere to the Hazardous Materials Regulations stipulated in the Code of Federal Regulation, Title 49, Parts 100-185, which regulates the transportation of hazardous material and hazardous waste.

Construction equipment and materials would likely require the use of petroleum-based products (oil, gasoline, diesel fuel), and a variety of common chemicals including paints, cleaners, and solvents. Transportation, storage, use, and disposal of hazardous materials during construction activities would be required to comply with applicable federal, state, and local statutes and regulations. Compliance would ensure that human health and the environment are not exposed to hazardous materials. In addition, Project Requirements included in the Hydrology Section discussed below oblige the Project applicant to implement a stormwater pollution prevention plan (SWPPP) during construction activities, which would prevent contaminated runoff from leaving the Project site during construction. In addition to the requirements associated with Federal and State regulations and the Municipal Code, the City's General Plan includes policies and actions to address potential impacts associated with hazardous materials among other issues. Policy SA 4-2 requires hazardous waste generated within the city limits to be disposed of in a safe manner, consistent with all applicable local, State, and Federal laws. Policy SA 4-3 requires materials be stored in a safe manner, consistent with all applicable local, State, and Federal laws, and Policy SA 4-4 requires coordination with the East Contra Costa Fire Protection District (which has since become part of the Contra Costa County Fire Protection District) to ensure that businesses in Brentwood which handle hazardous materials prepare and file a Hazardous Materials Business Plan (HMBP). (EA, p. 78.)

The Project Requirement HAZ-1 that the Project prepare a HMBP is done pursuant to uniformly applied development policies and standards, and as such additional environmental review is not required. (State CEQA Guidelines, § 15183(c).)

Section 2(b)(vii) (Hydrology and Water Quality)

Appellant alleges that there is no analysis of potentially significant impacts related to changes in the area's surface cover, the new fuel service station, or any potential contamination from automobile related uses, including potential spills at the service station.

Please refer to the response to Section 2(b)(vi) regarding any accidental upset regarding the proposed fuel service station.

The Environmental Analysis discusses the Project's increase in impervious area, noting that buildings, roads, and parking lots introduce relatively impervious asphalt, concrete, and

roofing materials to the landscape. These materials are relatively impervious, which means that they absorb less rainwater. (EA, p. 85.) The Environmental Analysis then explains that there are no rivers, streams, or water courses located on or immediately adjacent to the Project site. As such, there is no potential for the Project to alter a water course, which could lead to on or offsite flooding. Drainage improvements associated with the Project site would be located on the Project site, and the Project would not alter or impact offsite drainage facilities. Development of the Project site would potentially increase local runoff production, and would introduce constituents into storm water that are typically associated with urban runoff. These constituents include heavy metals (such as lead, zinc, and copper) and petroleum hydrocarbons. Best Management Practices (BMPs) will be applied to the proposed site development to limit the concentrations of these constituents in any site runoff that is discharged into downstream facilities to acceptable levels. (EA, pp. 85-86.)

The Project would be subject to all relevant General Plan policies and actions that aim to reduce water pollution from construction and new development, and protect and enhance natural storm drainage and water quality features. The policies include numerous requirements that would reduce the potential for implementation of the proposed Project to result in increased water quality impacts. In addition, compliance with the Clean Water Act and regulations enforced by the Regional Water Quality Control Board (RWQCB) would ensure that construction-related impacts to water quality are minimized and projects comply with all applicable laws and regulations. Additionally, all municipalities within Contra Costa County (and the County itself) are required to develop more restrictive surface water control standards for new development projects as part of the renewal of the Countywide NPDES permit. Known as the “C.3 Standards,” new development and redevelopment projects that create or replace an acre or more of impervious surface area must contain and treat stormwater runoff from the site.

The proposed Project is a C.3-regulated project and is required to include appropriate site design measures, source controls, features and facilities for hydromodification management (HM) and hydraulically-sized stormwater treatment measures. These measures would include underground storage facilities for HM and bioretention areas to treat stormwater runoff before allowing it to proceed into the public storm drain system. In order to ensure that stormwater runoff from the Project site does not adversely increase pollutant levels in adjacent surface waters and stormwater conveyance infrastructure, Project Requirement Hydro 1 requires the preparation of a SWPPP. The SWPPP would require the application of BMPs to effectively reduce pollutants from stormwater leaving the site during both the construction and operational phases of the Project. Additionally, the Project is subject to the Project Requirement Hydro 2 that requires the Project applicant to prepare and submit a Stormwater Control Plan that meets the criteria in the most recent version of the Contra Costa Clean Water Program Stormwater C.3. Guidebook.

New development projects in the City of Brentwood are required to provide site-specific storm drainage solutions and improvements that are consistent with the overall storm drainage infrastructure approach presented in Contra Costa County Flood Control District Drainage Area maps. The Project applicant is required to submit a detailed storm drainage infrastructure plan to the City for review and approval. The Project’s storm drainage infrastructure plans must demonstrate adequate infrastructure capacity to collect and direct all stormwater generated on the Project site within the on-site retention and detention facility to the City’s existing stormwater

conveyance system and demonstrate that the Project would not result in on- or offsite flooding impacts. The development of an onsite storm drainage system, the payment of all applicable development fees, and the implementation of Requirements Hydro 1 and Hydro 2 would ensure that this impact is less than significant. Accordingly, with compliance with uniformly applied development standards, the Project would not result in a new or more severe impact than what was previously analyzed. (EA, pp. 86-87.)

Section 2(b)(viii) (Noise)

Appellant claims the PA-1 Specific Plan EIR and Addendum do not analyze or mitigate potential noise impacts associated with changing mobile traffic patterns and operational uses associated with the Project, and that direct, indirect and cumulative noise impacts associated with such changed land uses and traffic patterns must be evaluated in an appropriate CEQA analysis.

As stated above, State CEQA Guidelines Section 15183(b)(2) provides that for projects meeting the requirements of Section 15183, the public agency shall limit its examination of environmental effects to those which the agency determines through analysis “were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan, with which the project is consistent.” The Project-specific Acoustical Assessment prepared by Kimley-Horn & Associates, Inc., included in the Environmental Analysis as Attachment F, analyzed the major noise sources associated with the Project that would potentially impact existing nearby sensitive receptors. These include the following:

- Off-site traffic noise;
- Mechanical equipment (e.g., trash compactors, air conditioners, tire center/vehicle maintenance equipment, etc.);
- Activities at the loading areas (e.g., maneuvering and idling trucks, loading/unloading, and equipment noise);
- Parking and fueling station areas (e.g., car door slamming, car radios, engine start-up, and car pass-by);
- Landscape maintenance activities; and
- Trash/Recycling pickups.

As shown in Table 11 of the Environmental Analysis, receptors near the Project site would either remain below the allowable noise threshold of 55 dBA for residential uses or 72 dBA for commercial uses and would not increase ambient noise levels by more than 3 dBA when the existing ambient noise levels are already in exceedance of the City’s noise standards. Therefore, the Project’s operational noise levels would not result in a significant increase over existing ambient noise levels at the nearest noise-sensitive uses in the City of Brentwood. Impacts would be less than significant in this regard. (EA, pp. 94-95.) Further, as indicated in Table 12: Composite Project Operational Noise for Antioch Receptors, the ambient plus Project’s on-site operational noise levels would be at 65.9 dBA Ldn at Heritage Baptist Academy, and between 49.4 dBA Ldn and 54.2 dBA Ldn at the residential uses to the southwest of the Project site located within the City of Antioch. As such, noise levels from on-site operations at the Project site would not exceed the City of Antioch’s noise standards of 60 dBA

CNEL for residential uses. Noise levels at Heritage Baptist Academy are expected to be similar to existing ambient levels with implementation of the Project, and a noticeable change would not occur. A less than significant impact would occur in this regard. (EA, p. 98.) Cumulative impacts were also analyzed in the Project-specific analysis and impacts were less than significant. (EA, p. 99.)

Section 2(b)(ix) (Population and Housing)

Appellant argues further CEQA review is needed to address population and housing needs as the Project fits within the RC zone, while the Project site was originally designated as TV/MU in the PA-1 Specific Plan EIR.

Appellant argues that the RC zone results in different population and housing needs than the TV/MU zone, but does not elaborate on what those different needs entail. The Environmental Analysis states that employment growth attributable to the proposed Project would not result in any significant site-specific environmental impacts related to other environmental topics. There are no aspects of the Project as compared to the PA-1 Specific Plan EIR that would result in a new significant impact or an impact that is more severe than disclosed in the EIR. (EA, p. 103.) To the extent Appellant is arguing population and housing should have been analyzed when the Project site was redesignated as RC from TV/MU, such arguments should have been raised when the Addendum was adopted in October 2022. As the Addendum was not challenged, and the statute of limitations for challenge has run, the analysis in the Addendum is presumed valid and further reexamination of the redesignation of the Project site is time barred.

Section 2(b)(x) (Public Services)

Appellant claims additional CEQA analysis is needed to determine whether the Project's proposed uses, including the service station, will require new or additional fire or other emergency services in the City.

The Environmental Analysis at page 104 states that the buildout of the PA-1 Specific Plan will not create new impacts over and above those identified in the General Plan Final EIR, nor significantly change previously identified impacts. The Project is consistent with the uses proposed in the PA-1 Specific Plan, as amended. To the extent Appellant finds fault with the environmental analysis regarding public services related to the designation of the Project site as RC, which permits gas stations with a CUP if accessory to large format retail, such concerns should have been raised prior to the adoption of the Addendum in October 2022. As no challenges to the Addendum were made, the finding in the Addendum that "none of the minor changes associated with the Modified Project have the potential to result in new or more severe environmental impacts than those that were analyzed and disclosed in the Certified EIR, for which Findings of Fact and a Statement of Overriding Considerations were adopted by the City Council" remains valid.

Section 2(b)(xi) (Transportation and Traffic)

Appellant first contends that mobile traffic patterns are different for RC uses than TV/MU uses and that such changes should be analyzed. Further, the Appellant suggests that the

proposed fuel station creates potential for idling and TAC emissions. Please refer to the response to Section 2(b)(ii) and 2(b)(v) regarding air quality and GHG emissions.

Appellant next argues the Addendum did not contain detailed analysis regarding the changes in the land use map approved in 2022. For the adequacy of the 2022 Addendum analysis, see Response 2(b). Appellant also alleges there is no analysis regarding proposed truck routes for delivery trucks serving the Project. Appellant ignores the site-specific analysis prepared regarding air quality and GHG emissions. For instance, Figure 02 of the Air Quality technical report depicts the truck routes for the warehouse, tire center and fuel service center. Idling for these Project components is also depicted. Such site-specific analysis comports with State CEQA Guidelines Section 15183 and additional CEQA review is not required.

Appellant then argues that neither the PA-1 Specific Plan EIR nor the Addendum evaluate whether the Project complies with the revised circulation plan adopted as part of the 2022 amendments to the PA-1 Specific Plan. Appellant specifically claims there is a conflict with Specific Plan Policy C.11 and Specific Plan Circulation Design Guideline No. 10.

Policy C.11 was formerly numbered C.10. Other than the change to the numbering, the language of the Policy is unchanged from that analyzed in the original PA-1 Specific Plan EIR. (Addendum, Circulation Plan 5-21.) To the extent Policy C.11 requires new developments that generate over 50 employees to implement Traffic Demand Management (TDM) programs, the Project will implement TDM strategies. As provided in Table C-2, Consistency with MTC/ABAG Regional Transportation Plan/Sustainable Communities Strategy, and as conditioned, the Project will implement the following employee TDM-reducing strategies: maintain safe and efficient pedestrian, bike, and transit networks; support a transportation system that facilitates the efficient movement of people and goods, and promote the use of alternatives to the single-occupant vehicles. The Project thus complies with Policy C.11.

Circulation Design Guideline No. 10 requires curbside pick-up and drop-off. The Project complies with Circulation Design Guideline No. 10 by providing a pick-up/drop-off area at the front apron of the Costco warehouse building.

Finally, Appellant contends that CEQA analysis is necessary to evaluate the adequacy of emergency ingress and egress for the uses proposed by the Project. Emergency ingress and egress is addressed in the Environmental Analysis. Emergency vehicles access to the Project site is accommodated at the access points on Lone Tree Way/Canada Valley Road and Heidorn Ranch Road/Lone Tree Plaza Drive. To address emergency and fire access needs, the site improvements would be required to be designed in accordance with all applicable Contra Costa County Fire Protection District design standards for emergency access. Adequate emergency access is required per the local fire code and site plans will be reviewed by local fire officials as part of the design review. (EA, p. 113.) As such, with uniformly applied development policies and standards, there are no impacts regarding emergency access peculiar to the Project and no further environmental review is required.

Section 2(b)(xii) (Wildfire Hazards)

Appellant contends additional analysis is required to evaluate wildfire risks associated with the proposed uses on the Project site, including the service station, and that analysis is also needed to determine whether changes in patterns of vehicle trips would result in increased wildfire risk.

The City is a Local Responsibility Area (LRA) and is not characterized as a “Very High Fire Hazard Severity Zone” (VHFSZ). The Project site is not located within a State Responsibility Area or an area identified with wildland fire risks. As such, while the PA-1 Specific Plan EIR did not analyze wildfire impacts, there would be no impacts as a result of the Project, as it would not place people or structures in areas with significant risk of wildland fire. (EA, p. 120.) To the extent Appellant is concerned about the proposed fuel station use, the Environmental Analysis found that the Project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires. Development allowed under the proposed Project would not place people and/or structures in areas at significant risk of wildland fires. Additionally, the proposed Project will be required to demonstrate consistency with all applicable building and fire safety code sections that reduce fire risks. Thus, with application of uniformly applied standards, any impact related to the gas station would be less than significant, consistent with the finding in the PA-1 Specific Plan EIR. (EA, p. 81.)

Section 2(c)

The Appellant summarizes their prior contentions regarding the applicability of State CEQA Guidelines Section 15183 to the Project. Please refer to responses above for contentions related to specific topic areas. Appellant also claims that the City cannot make the requisite CUP findings for the gas station and that because it is only permitted as a conditional use if accessory to large format retailers, the Project is inconsistent with PA-1 development standards. Please refer to the response to Section 3 below.

Section 3

Appellant contends the Tentative Parcel Map findings cannot be made for the Project because the CUP findings for the Project cannot be made and the proposed development is therefore not consistent with PA-1 Specific Plan policies and development standards. Appellant has only cited two policies with which Appellant claims the Project conflicts, but as explained in response to Section 2(b)(xi) above, the Project is in fact consistent with Policy C.11 and Design Guideline No. 10.

The Environmental Analysis prepared for the Project analyzes any Project-specific impacts of the Project and substantiates that the Project site is suitable for the proposed use. Appellant also claims the “inherent risks associated with the operation of gasoline service stations” shows the Project is likely to cause substantial environmental damage, injure fish or wildlife, or create potential public health hazards. Responses to these concerns regarding the gasoline service station have been addressed in the responses above. The City’s findings for CUP 22-001 and MS 351-22 are thus supported by substantial evidence.

Section 4

Appellant claims the finding that the location, size, design and operating characteristics of the proposed development will be compatible with the surrounding neighborhood is not supported because of undisclosed and unmitigated Project-specific environmental effects. As evidenced in the Environmental Analysis and supporting technical studies, and affirmed in these Responses to Comments, there are no Project-specific environmental effects which were not already addressed by the PA-1 Specific Plan EIR and Addendum. Accordingly, the proposed Conditional Use Permit findings are supported by substantial evidence.

Section 5

Appellant claims the City's findings for Design Review DR 22-002 are not supported by substantial evidence and further environmental analysis is needed. Appellant has not specified the exact fault the Appellant sees with the City's findings that would enable a response. However, please refer to the response to Section 4 regarding substantial evidence to support the City's findings.

Section 6

Appellant claims there is no evidence the proposed sign program will comply with applicable code requirements. Please refer to the City's findings regarding MSP 22-001, which substantiate the master sign program's compliance with Brentwood Municipal Code requirements.

Section 7

Appellant provides a conclusion restating their opposition to the Project based on the comments addressed above. No further response is warranted.