

April 6, 2017

Via Electronic Mail

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Re: Comments on Creekside Memorial Park (County File LP05-2096) Water Efficient Plan

Documents Discussed: 1-Water Efficient Plan, P/A Design Resources (February 6, 2017); 2-Conceptual Landscape Plan, P/A Design Resources (February 6, 2017); 3-Proposed Landscape Irrigation System, Russell D. Mitchell Associates, Inc. (February, 2017)

Dear Ms. Moreira,

We have four areas of concern with the new Water Efficient Plan for the proposed Creekside Memorial Park cemetery. First, the new plan is flawed due to its internal contradictions and due to the unsupported assertions and significant omissions in its water usage calculation. Second, the cemetery project as proposed in this new plan is so changed from the original plan that the existing EIR does not adequately analyze the environmental impacts of the proposed project. Third, the existing financial analysis no longer applies to this very different cemetery proposal and so can no longer be used to support the contention that this proposed cemetery would be financially feasible. Finally, the new plan lacks sufficient safeguards to ensure that existing groundwater sources are protected in the likely event that the project were to use more water in the future than allowed in this plan.

1. The New Plan Is Flawed Due To Internal Contradictions, Unsupported Assertions, and Significant Omissions.

First, the new plan is flawed due to its internal contradictions. The new plan states simultaneously that *no* irrigated plantings are included in the plan and also that *some* irrigated plantings are included. In particular, it states that “(t)he Water Efficient Plan calls for *no* Riparian Corridor Enhancement Plantings, however, *some minimal* riparian corridor planting is shown . . . and the water required is accounted for . . .” (Water Efficient Plan, p. 4, emphasis added). It similarly states that “(t)he Water Efficient Plan calls for *no* Oak Woodland Enhancement Plantings, however, *some minimal* oak woodland planting is shown . . . and the water required is accounted for . . .” (ibid, emphasis added). And again, “(t)he Water Efficient Plan would require *the entire project* to be xeriscaped” (emphasis added), yet at the same time, “*some ornamental trees and shrubs* will be used” (ibid, emphasis added). Given that the new plan is clearly proposing irrigated landscaping, it is disingenuous and contradictory for it to claim that the “entire

project” would be xeriscaped (i.e. no irrigated landscaping), and simultaneously that it would contain irrigated landscaping.

In addition to internal contradictions, the new plan also contains unsupported assertions and significant omissions. In the new plan’s estimate of 1.45 acre-feet/year (AFY) for irrigated landscaping—the single largest component of the new water usage of 2.5 AFY and a good indication that the new plan does indeed include irrigated landscaping—it does not provide enough detail to understand or to analyze this estimate, or to compare it to the EIR analysis. Although Mitchell Associates provides a table showing that the proposed cemetery would include 1.3 irrigated acres (57,777 square-feet) consisting of seven “hydrozones” (Ground Covers, Shrubs, Trees, Trees (Willows), Bio-Retention, Bio 4 Swales, Water Features), as well as the square footage of each hydrozone and its overall water usage, it does not specify the number of trees/shrubs/ground covers in each hydrozone, nor where each of these hydrozones would be located on the site plan (Mitchell Associates, table, p. 1). Nor does the information provided by Mitchell Associates specify what the new water usage would be for the Riparian Corridor, for the Oak Woodland, or for the ornamental landscaping, although P/A Design Resources states that the water for each of these areas is accounted for in Mitchell Associate’s analysis (Water Efficient Plan p. 4). Nor is it possible to determine either the locations of the seven hydrozones or the locations of the Riparian Corridor, Oak Woodland, and ornamental landscaping on the new Conceptual Landscape plan provided by P/A Design Resources. Without this information, it is not possible to understand or to analyze the differences between this new plan and the plan analyzed by the EIR.

The new plan also omits significant components of the water needed for landscaping, such as the water needed for initial establishment of the xeriscaped plantings and the water needed to maintain those xeriscaped plantings through their first summer (and possibly for a second summer as well). Nor is any water budgeted on an ongoing basis to maintain landscaping with new plants when existing ones need to be replaced. These components must be included in the calculation as well.

The new plan also uses unrealistic and inconsistent assumptions in cutting its estimate for the second largest component of water usage, that of 0.83 AFY for domestic use, by one-third from the 1.25 AFY in the EIR:

- The new plan unrealistically reduces the number of cemetery staff nearly in half, from 19 in the EIR (11 administrative and 8 groundskeepers, DEIR page 2.0-6) to 10. It states that “the number of landscaping employees needed for operation has been reduced” (apparently to less than 0, since the new plan makes no mention of cutting the number of administrative employees), since the cemetery would include “low maintenance xeriscape landscaping, little ornamental planting and no longer includes the lake” (Water Efficient Plan, p. 3). Yet this staff reduction seems arbitrary and not supported given that the overall size of the cemetery envelope remains quite large, at the 58 +/- acres specified in the EIR. In addition, the in-ground entombment areas (covering 24 +/- acres per the DEIR, pages 2.0-1 through 2.0-5) would be covered with “native grassland” (Water Efficient Plan, p.

- 4), which would still have to be mowed, existing plantings would still have to be tended, the complex “state of the art” irrigation system described by Mitchell Associates would have to be maintained, and of course the deceased would still have to be buried or interred. Thus, there’s a chance that the number of staff could end up larger still, leading to even more water usage.
- In addition, the new plan inexplicably and inconsistently cuts the number of daily visitors from the 276 specified in the EIR to 197. The EIR assumed that two chapel services, each at full capacity of 138 seats, would occur seven days per week (DEIR Appendix E, page 853), while the new plan assumes that two full chapel services would only occur five days per week. No reason is given for this drop in anticipated burials, which is inconsistent with one of the basic assumptions of the project: that 900 to 1000 burials would occur per year. Note that this drop in burials would also decrease the financial viability of the proposed cemetery (see below).

The implication of these flaws is that the proposed cemetery’s water usage is likely to be higher than the 2.5 AFY specified in the new plan.

2. The Cemetery As Proposed In This New Plan Is So Changed From the Original Plan That the Existing EIR Is No Longer Adequate To Analyze Its Changed Environmental Impacts.

The original plan proposed an abundance of trees, shrubs, grass, and other plantings designed to enhance the riparian corridors and oak woodland parts of the cemetery site, as well as significant ornamental landscaping and water features. As a result, many potential environmental impacts were reduced to “less than significant” in the EIR. Yet since the new water efficient plan lacks this substantial landscaping, these environmental impacts must be reexamined, with additional mitigation measures defined as necessary; in other words, a new EIR is required. Further, these changes are significant enough that they deserve to be reviewed by the public. The environmental impacts that will need additional mitigation measures as a result of the new plan are listed below.

- In Section 3.1 (Aesthetics and Open Space), the DEIR states that “(t)he Project Sponsors’ plans show *significant landscaping* within the entryway and lower gardens that will effectively screen views of the parking lot, roadways and mausoleums after vegetation matures” (DEIR 3.1-11, p. 100, emphasis added), which would help reduce the impact of these views to less-than-significant. But these views will no longer be “effectively screened” due to the new plan’s lack of “significant landscaping” in these areas, so new mitigation measures are required.
- In this same section, the DEIR describes how the highly visible cutslope created behind the main mausoleum building would be masked: “Although the cutslope would be visible from Camino Tassajara, the combination of the proposed hydroseeding to reestablish its grassland character in conjunction with the new buildings proposed in front of the cutslope will reduce the potential visual impact

of the proposed cutslope. *Other existing landscape features in the foreground between the new buildings and Camino Tassajara will also reduce the potential visual impact of the cutslope*” (DEIR 3.1-11, p. 100, emphasis added). The FEIR stresses the role of landscaping even more: “In addition, it can be stated that the proposed Oak Woodland Enhancement area includes much of the cutslope and the combination of Oaks and Buckeyes that would be a part of this enhancement (see Figure 2.0-7 and the Preliminary Project Landscaping plan following page 2.0-18 in the DEIR) will additionally reduce the potential visual impact for the proposed cutslope with a landscape that is more in character with the existing conditions of the site and surrounding area” (FEIR 2.0, p. 17). Even a brief comparison of the new Landscaping Plan with that included in the DEIR shows that there are far fewer trees and other landscape elements, and so this screening would not occur. Additional mitigation measures are needed.

- Similarly, DEIR Impact 3.1-5 (Scenic Corridors) states that “development of the Proposed Project would alter views of the Project Site from Camino Tassajara, a designated scenic route in the Contra Costa County General Plan. This is a potentially significant impact” (DEIR 3.1-13, p. 102) which the original plan’s extensive landscaping would have reduced to less than significant. Additional mitigation measures are required to reflect the reduced landscaping in the new plan.
- In Section 3.3 (Air Quality), the DEIR notes that one of the measures “included in the design of the Proposed Project to reduce long-term significant air pollutant emissions” is its use of “(s)hade trees and landscaped areas” (DEIR 3.3-9, p. 117). Again, since the new plan has significantly fewer shade trees and landscaped areas, additional mitigation measures are now needed.
- In Section 3.4 (Biological Resources), the DEIR states that “enhancement of suitable riparian habitat on the Project Site would ensure that the Proposed Project would have a no (sic) significant impact on this species [Valley Elderberry Longhorn Beetle]” (DEIR 3.4-31, p. 152), yet the new plan will not be enhancing the riparian habitat to the same extent. A new analysis and associated mitigation measures are needed.
- In the same section, the DEIR states that “(h)abitat enhancement efforts proposed as part of the Project include *extensive plantings of native riparian trees and shrubs*, which would eventually serve to greatly expand the extent of riparian scrub and woodland habitat on the Project Site,” and therefore “there would be a less-than-significant impact to this sensitive natural community type [Great Valley Riparian Scrub] and no mitigation is required” (DEIR 3.4-32, p. 153, emphasis added). This statement is no longer true under the new plan, so new mitigation measures are now required.
- The DEIR states that although the project would reduce the number of “protected trees,” this damage would be offset since “approximately 13.5 acres of riparian

habitat would be enhanced on the Project Site and approximately 31.5 acres of oak woodland would be created on the hillsides and adjacent to the riparian habitat, *substantially increasing* the number of native oak and buckeye trees on the Project Site as indicated in the Conceptual Planting Plan,” and as a result, “(i)mplementation of the proposed enhancement plantings and compliance with the County Code related to Protected Trees would serve to reduce potentially significant impacts on tree resources to a less-than-significant level” (DEIR 3.4-33, p. 154, emphasis added). Yet these enhancement plantings are now significantly reduced or eliminated; the EIR analysis no longer applies and new mitigation measures are required.

- Similarly, in its discussion about whether the setting-aside and preservation of 147+/- acres of the project site would “adequately compensate for Project impacts to habitat for special-status species,” the DEIR noted that “(r)econtouring of the banks along the tributary drainages and adjacent upland would also occur in several locations, encompassing approximately 12 acres; however, these areas would be enhanced as part of the Project with extensive native plantings of trees, shrubs and ground covers as indicated in the Conceptual Landscape Plan,” and so “the proposed 147-acre conservation easement area was considered adequate compensation for Project impacts to federally listed species” (DEIR 3.4-38, p. 159). Yet under the new plan, these 12 acres would no longer have extensive plantings. The EIR must be revised to address this.
- The DEIR also notes that “The tributary banks [of the on-site tributaries to Tassajara Creek] would be enhanced with native riparian species such as oaks, cottonwoods, and buckeye to increase habitat quality and diversity. The riparian corridor would be designed to provide habitat and serve as a suitable dispersal habitat for wildlife. Proposed habitat enhancement would occur along approximately 4,000 linear feet of channel and the enhanced corridor would be a minimum of 150 feet wide along most of its length” (DEIR 3.4-38, p. 159). The new plan significantly reduces or eliminates this riparian enhancement. The EIR must be revised to cover this impact change.
- In its discussion on wildlife movement corridors, the FEIR stresses the importance of the original project’s enhanced riparian corridors, stating that “the unnamed tributary drainage in the southern portion of the Project Site would be enhanced with native plantings and would maintain a natural corridor between Tassajara Creek and the undeveloped lands along Tassajara Ridge” (FEIR 2.28 and 2-29, pp. 36-37). The new plan would not enhance this habitat as much and the EIR must be revised to reflect this change.
- DEIR Mitigation Measure 3.4-2d (Revisions to Project Master Site Plan and Conceptual Landscape Plan), item 2, states that “(t)o prevent further loss and conversion of existing grassland habitat to woodland cover and to reduce irrigation demands for the Project, the density of proposed tree plantings in non-riparian habitat of proposed open space areas shall be reduced by approximately

- 50 percent from that depicted in the Conceptual Landscape Plan” (DEIR 3.4-45, p. 166). Note that this restriction is only to “non-riparian” habitat, yet the new plan appears to restrict plantings much more than 50% in both oak woodland and riparian areas. More EIR analysis is needed to determine if the new plan meets this mitigation measure.
- DEIR Mitigation Measure 3.4-6 (Breeding Birds and Raptors) states that the “oak woodland and riparian enhancement plans incorporated into Mitigation Measure 3.4-2a include *substantial enhancement planting* of native trees and shrubs creating an estimated 45 acres of future potential nesting habitat for tree and shrub nesting species” (DEIR 3.4-54, p. 175, emphasis added). The DEIR states that this mitigation is needed to reduce this impact to “less than significant.” Since the new plan does not include any "substantial enhancement planting," the EIR analysis must be updated.
 - DEIR Impact 3.4-11 describes the “significant impact” to “Regulated Wetlands and Other Waters” that would be caused by the project (DEIR 3.4-59, p. 180). To address these impacts, Mitigation Measure 3.4-11a states that “(t)he Project would include enhancement of approximately 5,000 linear feet of riparian corridor along the tributaries to Tassajara Creek, substantially improving the aquatic resource functions and values, and compensating for the estimated 559 linear feet of permanent impacts to the creek channels at an approximate 9:1 ratio. The Project would create approximately 13.5 acres of riparian habitat along a 100 to 150 foot wide corridor flanking the tributaries” (DEIR 3.4-60, p. 181). It must be determined whether the new plan would include this much riparian enhancement; if not, additional mitigation measures are required.
 - In discussing cumulative biological impacts, the DEIR notes that “(i)n addition to revisions to the Master Site Plan and Conceptual Landscape Plan called for in Mitigation Measure 3.4-2d, these include preservation and enhancement plantings along the Tassajara Creek and tributary drainages, additional native oak plantings, replacement habitat for affected special-status plant species, and enhancement of existing breeding habitat for California red-legged frog and California tiger salamander” (DEIR 3.4-62, p. 183). Additional EIR analysis is needed to determine whether the new plan would meet these requirements.
 - In DEIR Section 3.6 (Geology, Soils and Mineral Resources), the “Discussion of Grading Plan/Geotechnical Report” notes that a “combination of creek bank flattening and biotechnical slope stabilization (plantings) at bends in the drainages, riparian plantings at the toe of slopes, rip-rapped lined "step pool" depressions along the drainage channels and rip-rapped channel outfalls are planned” (DEIR 3.6-12, p. 203). It must be determined whether the new plan includes these required plantings at bends in the drainages and riparian plantings at the toe of slopes; additional EIR analysis is needed.

- In DEIR Section 3.9 (Hydrology, Drainage, and Water Quality), Mitigation Measure 3.9-3a states that “(i)n coordination with Mitigation Measure 3.4-2d and 3.4-11a-d (Biological Resources)” the project should reduce its long-term water demand by a number of steps, including (among others) “(d)ecreasing the area and density of plants in the riparian corridor and oak/buckeye woodland”; “(d)ecreasing the area of the traditional cemetery landscaping”; and “(d)ecreasing the watering requirements of the traditional cemetery landscaping through installation of low-water use grass and plant species” (DEIR 3.9-29, p. 253). While the new plan appears to meet these three requirements to use less water, this measure also requires that this must be done in coordination with Mitigation Measures 3.4-2d and 3.4-11a-d in Biological Resources. It is not clear that the new plan guarantees this coordination.

As a result of the changes to the proposed cemetery resulting from the new Water Efficient Plan discussed here, it is clear that the existing EIR does not adequately analyze the project’s environmental impacts and so needs to be redone, and public review must be allowed for the revised EIR.

3. The Existing Financial Analysis No Longer Reflects This Very Different Cemetery and So Can No Longer Be Used To Support the Contention That This Proposed Cemetery Would Be Financially Feasible.

The new plan would drop the anticipated number of services/burials from around 900 per year (AGI Valuations report, dated August 15, 2015, revised December 29, 2015, p. 72) to 520 (2 services per day, 5 days/week), and so it would cut cash flow almost in half. Yet the initial up-front cost of constructing the cemetery would remain high, since the new plan states that all grading and landscaping would be done before a single person would be buried (Water Efficient Plan, p. 2).

In addition, because the new plan shows a cemetery with no traditional landscaping, despite its oft-stated intent to be a “high quality traditional service oriented cemetery” (DEIR p. 2.0-5), there are significant reasons to doubt the original revenue assumptions of the original financial analysis. In particular, the assumptions that it would receive a 25% premium in sales price and that the entire proposed project would have a 20% profit margin (a number taken from the aggregate of established, successfully operating cemeteries, AGI Valuations, p. 75) should be seriously questioned.

A new economic analysis should be required by the County, incorporating these concerns as well as those specified by Christopher Sproul, Environmental Advocates, in his letters to the County dated May 17, 2016 and August 8, 2016.

4. The New Plan Lacks Sufficient Safeguards To Ensure the Protection of Existing Groundwater Sources In the Event That the Project Were To Use More Water In the Future Than the 2.5 AFY Specified In This New Plan.

At a minimum, these safeguards should include the additional mitigation measures specified in the memo from Hydrofocus (dated October 6, 2015), sent to the County by Christopher Sproul on October 15, 2015. In addition, the project should also be required to abide by the restrictions suggested on page 2 of the new plan:

- The Creekside Memorial Park project will be conditioned to a maximum groundwater use of 2.5 AFY, and this groundwater will be the sole source of water for the project during its operation;
- The existence of additional groundwater will be determined based on the long term testing and monitoring of on-site and neighboring groundwater wells;
- Any additional amount of groundwater desired by the project must be available without impact to the groundwater sources in the vicinity of the project;
- The use of any additional groundwater would not be automatic. If the applicant were to request it, the County may consider, following the appropriate environmental analysis, an amendment to its Land Use Permit to increase the maximum amount of groundwater available for the project to use.

Overall, we believe that this new plan is flawed due to its internal contradictions, unsupported assertions, and significant omissions, and that it needs to be redone with the additional detail requested here in order for it to be fully analyzed. In addition, the new plan is so different from the earlier plans that its full environmental impacts cannot be analyzed without a new EIR. The public deserves the chance to see and comment on these changes and their impacts; this new plan certainly is not the plan that was endorsed by the nearby cities in 2005. The existing financial analysis is also invalid due to the major changes the new plan would make to the cemetery's appearance and operations. Lastly, the new plan must include sufficient safeguards to ensure that existing groundwater sources are protected.

Thank you for your consideration.

Bill and Holly Newman