

Zoning Administrator adopted the recommendations A and B as listed in the staff report for the December 16, 2013 agenda with the following changes to the EIR:

1. Add 10 page ERRATA sheet dated December 2013;
2. Page 1-1: paragraph 1: Amend text to include the Appendices document as part of the EIR: This document, together with the September 2011 Creekside Memorial Park Cemetery DEIR (SCH No. 2007012069 County File No. LP 052096), ~~along with the Appendices document and~~ the minutes of the public hearings and responses to these hearings, constitutes the FEIR for the Creekside Memorial Park Cemetery Project (the Project) proposed by Corrie Development Corporation (Project Sponsor/Applicant).
3. Page 2-3: paragraph 2: Correct the reference to cemetery findings: Those findings are presented on ~~p. 3.10-1 of the DEIR.~~ Table 3.10-1 of the Draft EIR (page 3.10-7).
4. Page 2-3; paragraph 3 Delete last sentence:  
~~Futher discussion as to the County staff position on these findings will be found in the Staff Report when the project is taken to public hearing and is also discussed in Section 2.2.4, Master Response on CEQA, Alternatives and Project Need, subsection 2.2.4.3.~~
5. Page 2-3; paragraph 4 (Williamson Act): Delete sentence 3 and 4:  
~~With respect to the Williamson Act, there is no legal requirement that lands adjoining Williamson Act designated lands be compatible. This project will, however, provide a setback from adjacent properties so that minor nuisances associated with a cemetery are separated by the distance required under the A-80 Zoning District.~~  
Add the following sentence:  
"The Draft EIR includes a discussion of whether the project has adverse impacts on agricultural lands."
6. Page 2-3; paragraph 5 (Chapels): Delete all text with the exception of Sentence #1:  
~~Commenters have asserted that the chapels proposed by the Project Sponsor are not a permitted use, and are specifically prohibited as they are akin to a church or community building, which is not allowed in the A-80 zoning district. The proposed chapels are part of the cemetery use, and they are not being proposed and would not be approved as a church or community building. The term "cemetery" as used in the County Code includes the cemetery use in the broad sense. The ~~and~~ California courts have defined the term "cemetery" to include as part of the cemetery use a number of ancillary uses. The California Supreme Court stated in *Wing v. Forest Lawn Cemetery Ass'n* (1940) 15 Cal.2d 472, 477 that "Cemeteries have always been and are now used primarily for the burial of the dead, but portions of cemetery properties have likewise been used for numerous othe incidental purposes, such as greenhouses, nurseries, chapels, administration buildings and tool houses..." The *Wing* decision has been cited in a court decision interpreting the Contra Costa County Code definition of cemeteries. *Sunset View Cemetery Ass'n v. Kraintz* (1961) 196 Cal.App.2d 15. As a matter of planning practice, the County has in the past approved~~

~~cemeteries with a chapel as a part of the cemetery use (most recently Gan Shalom, which has a comparable agricultural setting).~~

Replace with:

“The proposed chapel areas located within the administrative/chapel building are proposed for cemetery associated use. This comment will be further addressed by the Department of Conservation and Development as part of the staff report prepared for the project.”

7. Page 2-4 paragraph 1: Land Use and Water Consumption: Amend the paragraph for clarity:
  - a. Amend sentence #3: However, the ~~irrigation~~ water demand for the project is addressed in the DEIR in Section 3.9, *Hydrology, Drainage and Water Control* and in Appendix D.
  - b. Amend sentence #6: “For example, both olives and vineyards are located in the immediate vicinity of the site and their water demand ~~is comparable~~ could be comparable to a cemetery.” Add an additional sentence, “However, as noted above and in the Draft EIR, the water demand of the proposed project is not sustainable.”
  - c. Amend final sentence: Table 2.2.1-2 provides ~~irrigation~~ water demand estimates for agriculture-related uses that are allowed under the Agricultural zoning (~~some would require a land use permit as does this use~~).
  
8. Page 2-4: Response to questions related to the consistency of the project with the GP land use Element Goals and policies: Retain paragraph #1 and delete paragraphs 2-6 (to the end of page 2-5) and replace with the following text:

General Plan compatibility: General Plan policies are found both in the Land Use section of the Draft EIR as well as within the topic sections of the document. The County General Plan includes hundreds of policies that are both compatible and competing, and it is inappropriate to assess consistency of a singular policy without reference to the overall framework of the County General Plan. The County General Plan specifically cautions readers against myopically focusing one general plan policy for the purpose of determining compatibility or incompatibility of a project.

The commenters have raised a number comments suggesting that the project is inconsistent with the General Plan, and have identified additional goals and policies to highlight this concern. It should be noted that the County General Plan differentiates between goals and policies: Goals sets the direction .. an ideal future end, condition or state... whereas a policy is a specific statement intended to guide decision making. (page 1-6 of the CCC General Plan).

The County has previously approved land use permits for cemeteries within lands designated for agricultural use within the County General Plan. These include both the Gan Shalom Cemetery and Sunset View Cemetery.

The proposed project does not appear to be in conflict with the agricultural goals included within the County General Plan and there has been no evidence provided to support this conclusion. This project would utilize approximately 59 acres of an over 221 acre site – with the remainder remaining in its natural condition with grazing continuing

on the site. The actual developed portion of the site is limited to approximately 25% of the property.

Cemetery uses are conducive to rural settings and may be compatible with surrounding agricultural uses. The Aesthetics and Open Space Section, the Biological Resources section and the Hydrology Drainage and Water Quality Section all include related discussion and mitigation measures.

The decision as to whether this project is consistent with the General Plan will be determined by the Planning Agency – that being the hearing body deciding whether to approve, deny or approve with modifications this proposed project. The comments related to the compatibility with the County General Plan will be considered by the Department staff and the hearing body as part of the decision on the proposed project.

9. Page 2-16 paragraph 2 Amend sentence #3: The grading to accommodate the relocation of the tanks ~~should also be designed~~ has been designed to avoid additional aesthetic impacts.
  
10. Page 2-25: paragraph 2 – Amend sentence #1:  
As indicated in Figure 2 of Appendix B-4, most of the elderberry shrubs on the Project Site would be avoided by ~~permanent and temporary impacts of the proposed project~~ the design of the proposed project.
  
11. Page 2-48 through 2-51 – Amend section related to the range of alternatives.
  - a. Page 2-48 – paragraph 1: Amend sentence #2 and Delete last two sentences of the paragraph:  
Hence, alternative sites outside of unincorporated Contra Costa County were not considered. ~~The project site is centrally located to the five Tri-Valley Cities (see Vicinity Map in Appendix F of the DEIR). Three of the cities within the Tri-Valley Area are located within Contra Costa County and within 10 miles of the project site.~~
  
  - b. Page 2-48 paragraph 3: Amend last sentence:  
Construction of a cemetery outside of the ULL assists in ensuring that there is adequate land area for urban development within the ULL.
  
  - c. Page 2-48 paragraph 5: Delete last sentence  
~~Compliance with this project objective will ensure the County's ability to make the findings needed to approve any land use permit for a cemetery (see, discussion of Required Findings in section 3.10-7 of the DEIR).~~
  
  - d. Page 2-48  
Paragraph 7: Reasonings:  
While this is a Project Sponsor-proposed Project Objective, adding this objective to the screening criteria ~~supports the County's General Plan Goals and Policies related to open space. The Project Objective furthers the first two findings that~~

~~need to be made (see Required Findings in section 3.10-7 of the DEIR), which ensures that the public's health, safety, comfort and welfare are not compromised and that the cemetery will not become a public nuisance was designed to address the feasibility of the alternatives by ensuring that the property can support the type of development.~~

Paragraph #9:

The County's inclusion of this Project Objective serves to ensure that the screening criteria support the General Plan's Goals related to compatibility with agricultural uses and that the project does not impact more densely developed neighborhoods. Adding this objective to the screening criteria was designed to address the feasibility of the alternatives by ensuring that the property can support this type of development.

12. Page 2-51: Elimination of Upper Gardens: Paragraph #2:

~~This suggested change has not been included in this EIR as an alternative or as a mitigation measure, for the following reasons. First, the omission of the Upper Garden area does not reduce any potentially significant and unavoidable impacts that are not already mitigated by other mitigation measures identified in the DEIR. Second, the proposal is inconsistent with the fundamental objectives of the project which call for the (1) development of approximately 100,000 burials and (2) construction of a cemetery on a site with varied topography including dramatic hillsides. Elimination of the Upper Gardens area of the project would substantially reduce the amount of acreage proposed for ground entombment (24.3 acres to 14 acres), and eliminate private estate crypts and mausoleums proposed in the Upper Garden area. Scenic qualities that would be offered by the site if the Upper Gardens area were to be constructed would also be eliminated. Proposing an environmental alternative that excludes construction of the Upper Gardens portion of the project would eliminate some of the most basic and necessary project objectives that are required to establish a feasible alternative required under CEQA (CEQA Section 15126.6(a)). There may potentially be additional impacts associated with balancing of cut and fill and an associated increase in construction traffic.~~

The Draft EIR includes a reasonable range of alternatives and CEQA does not require that all possible alternatives be evaluated. The elimination of the Upper Garden area does not reduce any potentially significant and unavoidable impacts that are not already mitigated by other mitigation measures identified in the Draft EIR.

13. Page 2-121/ G-24 response- correct as follows:

The County supports the recommendations of the Commenter to further reduce the demand for irrigation and the decrease in hardscape by replacing with ~~impervious~~ pervious surfaces. See Section 2.2.4, *Master Response on CEQA, Alternatives, and Project Need*, subsection 2.2.4.6

14. Page 3-2: Aesthetics and Open Space-

The following text has been added to Mitigation Measure 3.1-1 on page 3.1-12, line 3 of the DEIR:

~~d. The water tank shall be lowered per the Applicant's suggested changes of January 18, 2013. The planting of additional Toyon to cover the partial view will provide additional filtration of the top of the water tank.~~

15. Draft EIR page 3.10-8 line 54;

Policy 8-76 of the Water Resources ~~Element~~ Section of the Conservation Element of the County General Plan states, "Ensure that land uses in rural areas be consistent with the availability of groundwater resources."

In many cases, there were multiple comments on the same issue. The changes identified above should be corrected throughout the document.