

May 8, 2023

VIA ELECTRONIC MAIL

Andrew Trippel
Planning Manager, City of Petaluma
11 English Street
Petaluma, CA 94952
atrippel@cityofpetaluma.org

Re: Oyster Cove Development Project

Dear Mr. Trippel:

Our firm represents Vulcan Materials Company, doing business as Shamrock Materials Inc. ("Shamrock"). The purpose of this letter is to provide comments on the Oyster Cove Development Project ("Project"), which is scheduled for a public hearing before the Planning Commission on May 9, 2023.

The Project proposes construction of 132 residential units on approximately 6 acres of industrial land immediately next to Shamrock's ready-mix concrete and construction materials facility. Shamrock is supportive of residential development in the City; however, we are concerned about the long-term land use compatibility between the proposed Project and Shamrock's longstanding industrial operation.

Shamrock and its predecessors have operated the facility since 1945. Construction materials from the facility have been used in a number of important regional and local projects over the past 78 years. Today, Shamrock's operations occur 24 hours per day, 7 days per week, depending on market demand. Project residents may thus be exposed to higher levels of dust, noise, odor, nighttime lighting, and truck traffic, among other things, than would be experienced at other residential locations, even though Shamrock operates in conformance with all applicable regulatory requirements. For these reasons, Shamrock, while supportive of new housing, is understandably concerned about the location of the Project.

We understand that the City is proposing two conditions of approval that require notice to future property occupants about the potential for industrial related off-site effects, reproduced below:

14. At time of Final Map recordation, the developer/applicant shall record in the Official Records Notification of Sonoma County the notice stated at SmartCode §4.70.050(A) "Note to all occupants and users - the surrounding area may be subject to noise, dust, fumes, or other effects associated with commercial and industrial uses and of river-dependent and/or agricultural support industrial operations nearby which may cause effects at higher levels than would be expected in residential areas."

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15. Prior to final inspection and Certificate of Occupancy, compliant with SmartCode §4.70.050 and §4.70.020.E.1, the developer/owner shall provide evidence that the following notice shall be included in all sale, lease, or rental agreements concerning any portion of the property and that the language has been included in the project Covenants, Conditions, and Restrictions (CC&Rs): "This document shall serve as a notification that you have purchased property, or you are leasing or renting premises in an area where river-dependent, agricultural support, commercial, and/or industrial operations are located, which may cause off-site effects including without limitation, noise, dust, fumes, smoke, light, and odors, and which may operate at any time of night or day. The nature and extent of such operations and their effects may vary in response to fluctuations in economic circumstances, business cycles, weather and tidal conditions, and other conditions. This statement is a notification that these off-site effects are a component of the industrial operations in the Central Petaluma Specific Plan area of the City of Petaluma, and you should be fully aware of this at the time of purchase, lease, or rental."

These conditions of approval are a good start; however, they must be legally enforceable to ensure long term compatibility between the Project and Shamrock's industrial uses. We therefore request that the City include a condition of approval that requires the grant of an easement, to Shamrock and its successors, for noise, dust, odors, vapors, vibration, illumination, and other related external effects from the continued operation of Shamrock's industrial facility—provided, of course, that such activities are in compliance with all applicable regulations. Such an easement could be easily and properly included in the required CC&Rs. We understand that the Project developers and City staff are agreeable to such a requirement, based on our recent call.

Thank you for your consideration of this request. Please feel free to contact me by telephone at (530) 304-7970 or by e-mail at mharrison@hthglaw.com if you have any questions.

Very truly yours,
HARRISON, TEMBLADOR, HUNGERFORD & GUERNSEY

By



Mark Harrison, Esq.

cc: Keith McCoy, UrbanMix Development
Scott Ward, UrbanMix Development
Terry Marshall, Shamrock Materials Inc.
Mark Reardon, Esq. Vice-President and Assistant General Counsel, Vulcan Materials Company
Adam Guernsey, Esq., Harrison Temblador Hungerford & Guernsey LLP