

GENERAL INFORMATION ABOUT THE CONTENTS OF THIS FILE

Submissions by the public in compliance with the Commission Rules and Operating Procedures (ROPs), Rule 4.3, are distributed to the Commission and uploaded online. Please note that “compliance” means that the submission complies with deadline, delivery method (hard copy and/or electronic) AND the number of copies. Please review the Commission ROPs to ensure that you meet the submission requirements. The ROPs can be accessed at <http://planning.lacity.org>, by selecting “Commissions & Hearings” and selecting the specific Commission.

All compliant submissions may be accessed as follows:

- **“Initial Submissions”**: Compliant submissions received no later than by end of day Monday of the week prior to the meeting, which are not integrated by reference or exhibit in the Staff Report, will be appended at the end of the Staff Report. The Staff Report is linked to the case number on the specific meeting agenda.
- **“Secondary Submissions”**: Submissions received after the Initial Submission deadline up to 48-hours prior to the Commission meeting are contained in this file and bookmarked by the case number.
- **“Day of Hearing Submissions”**: Submissions after the Secondary Submission deadline up to and including the day of the Commission meeting will be uploaded to this file within two business days after the Commission meeting.

Material which does not comply with the submission rules is not distributed to the Commission.

ENABLE BOOKMARS ONLINE:

**If you are using Explorer, you need will need to enable the Acrobat  toolbar to see the bookmarks on the left side of the screen.

If you are using Chrome, the bookmarks are on the upper right-side of the screen. If you do not want to use the bookmarks, simply scroll through the file.

If you have any questions, please contact the Commission Office at (213) 978-1300.

SECONDARY SUBMISSIONS



Department of City Planning

City Hall, 200 N. Spring Street, Room 272, Los Angeles, CA 90012

October 22, 2021

TO: City Planning Commission

FROM: Jivar Afshar, Planning Assistant

TECHNICAL MODIFICATION AND CORRECTION TO THE STAFF RECOMMENDATION REPORT FOR CASE NO. CPC-2016-3689-GPA-VZC-HD-MCUP-DB-SPR and VTT-74550-CN-1A; 668-678 S. MATEO STREET, 669-679 S. IMPERIAL STREET

The following technical modifications and corrections are presented for incorporation into the Staff Recommendation Report to the City Planning Commission for the meeting of October 28, 2021, related to Item Nos. 7 and 8 on the agenda. Deleted text is shown in **~~strikethrough~~** and added text is shown in **underline**.

ITEM 7:

Erratum, dated October 22, 2021:

An Erratum to the Environmental Impact Report (EIR) was completed October 2021. To incorporate the document, the following modifications are recommended to the actions regarding the EIR adoption and certification.

RECOMMENDED ACTIONS:

1. **Find** that the City Planning Commission has reviewed and considered the information contained in the Environmental Impact Report No. ENV-2016-3691-EIR (SCH No. 2018021068), dated December 2020, the Final EIR, dated August 2021 (676 Mateo Street Project EIR), **and Erratum, dated October 2021,** as well as the whole of the administrative record.

CERTIFY the following:

- a. The 676 Mateo Street Project EIR has been completed in compliance with the California Environmental Quality Act (CEQA);
- b. The 676 Mateo Street Project EIR was presented to the City Planning Commission as a decision-making body of the lead agency; and
- c. The 676 Mateo Street Project EIR reflects the independent judgment and analysis of the lead agency.

ADOPT the following:

- a. The related and prepared 676 Mateo Street Project Environmental Findings;
- b. The Statement of Overriding Considerations contained in Environmental Findings; and
- c. The Mitigation Monitoring Program prepared for the 676 Mateo Street Project EIR.

ITEM 8:

Page Q-1 of the CPC Staff Report, Corrections related to Qualified Conditions:

1. Site Development. The use and development of the property shall be in substantial conformance with the plans submitted with the application and marked Exhibit A, dated October 15, 2021. No change to the plans will be made without prior review by the Department of City Planning, and written approval by the Director of Planning. Each change shall be identified and justified in writing. Minor deviations may be allowed in order to comply with the provisions of the Municipal Code or the project conditions. The Project shall be constructed in a manner consistent with the following:

- a. A maximum of ~~187~~ **185** live/work residential units, and a maximum of 23,380 square feet of art production and commercial floor area under the Project; or
- b. A maximum of 159 live/work residential units, and a maximum of 45,873 square feet of art production and commercial floor area under the Flexibility Option.

Page C-4 of the CPC Staff Report, Corrections related to Conditions of Approval:

3. Housing Requirements. Prior to issuance of a building permit, the owner shall execute a covenant to the satisfaction of the Los Angeles Housing and Community Investment Department (HCIDLA) to make 11 percent (21 units, or 18 units under the Flexibility Option) of the ~~187~~ **185** dwelling units (or ~~5~~ **159** units under the Flexibility Option) available to Very Low Income Households, for sale or rental as determined to be affordable to such households by HCIDLA for a period of 55 years. Enforcement of the terms of said covenant shall be the responsibility of HCIDLA. The applicant will present a copy of the recorded covenant to the Department of City Planning for inclusion in this file. The project shall comply with any monitoring requirements established by the HCIDLA.

Page C-6 of the CPC Staff Report, Corrections related to Conditions of Approval:

The following paragraph is to be updated to include the open space square footage for Flexibility Option:

- a. A minimum of 15,320 square feet of residential open space **(14,160 square feet under Flexibility Option)** shall be provided, and the design and placement of landscaping shall be in substantial conformance with the landscape plans stamped as a part of Exhibit A, dated October 15, 2021.

Page F-14 of the CPC Staff Report, Correction related to open space square footage for Flexibility Option:

The Project would include approximately 15,320 square feet of useable open space (approximately ~~14,870~~ **14,160** square feet under the Flexibility Option), of which approximately 9,290 square feet would be outdoor common space, including the pedestrian paseo.

Page F-24 of the CPC Staff Report, Correction related to open space square footage for Flexibility Option:

The new mixed-use building Project would provide approximately 15,320 square feet of usable open space (approximately ~~14,870~~ 14,160 square feet of open space under the Flexibility Option) in compliance with LAMC requirements, which would include landscaping, a ground floor public paseo, private residential balconies, rooftop amenities, and 46 new trees (40 new trees under Flexibility Option). As proposed, the Project would improve the livability and general welfare of the future residents of the development through the provision of open space, amenities, and commercial uses.

Page F-31 of the CPC Staff Report, Correction related to open space square footage for Flexibility Option:

The Project would provide approximately 15,320 square feet of usable open space and the Flexibility Option would provide approximately ~~14,870~~ 14,160 square feet of usable open space, which would include new landscaping, rooftop decks, a ground floor public paseo, private residential balconies, and planting of trees. As proposed, the Project would improve the livability and general welfare of the future residents and employees of the development. The Project would further promote foot traffic through the development new sidewalks and street trees, and a new ground floor public paseo that would provide pedestrian access from Mateo Street, and Imperial Street.

Page F-40 of the CPC Staff Report, Correction related to open space square footage for Flexibility Option:

Reduction in Required Open Space: The applicant has requested an On-Menu Incentive to allow a 20 percent reduction in required open space from approximately 19,150 square feet of open space (17,700 square feet of open space under the Flexibility Option) to approximately 15,320 square feet of open space (~~14,870~~ 14,160 square feet under Flexibility Option), as permitted under LAMC Section 12.22 A.25(f). LAMC Section 12.22 A.25 (f)(6) sets forth an on-menu incentive for “[a] 20% decrease from an open space requirement, provided that the landscaping for the Housing Development Project is sufficient to qualify for the number of landscape points equivalent to 10% more than otherwise required by Section 12.40 of this Code and Landscape Ordinance Guidelines “O”” The Project has been conditioned to provide landscape sufficient to qualify for the number of landscape points equivalent to 10% more than otherwise required.

Page F-45 of the CPC Staff Report, Correction related to open space square footage for Flexibility Option:

However, the Project includes a Density Bonus incentive to decrease the required open space by 20 percent. Therefore, the Project would provide a total of 15,320 square feet of open space (~~14,870~~ 14,160 square feet under Flexibility Option), and a total of 9,290 outdoor common space under both Project and Flexibility Option, 3,180 square feet of indoor common space under both Project and Flexibility Option and 2,850 square feet (2,400 square feet under Flexibility Option) of private open space.

Page F-46 of the CPC Staff Report, Correction related to open space square footage for Flexibility Option:

¹ Private open space under Flexibility option would be 2,400 square feet resulting in a total of ~~14,870~~ 14,160 square feet of Open Space.



ERRATUM No. 1 TO THE ENVIRONMENTAL IMPACT REPORT

676 Mateo Project

Case Number: ENV-2016-3691-EIR
State Clearinghouse: 2018021068

Project Location: 668-678 S. Mateo Street, 669-679 S. Imperial Street, Los Angeles, CA 90021

Community Plan Area: Central City North

Council District: 14 – de León

Project Description: The project would involve the demolition of the existing warehouse and surface parking lot, and the construction of an up to 197,355-square-foot mixed-use building including up to 185 live/work units (including 21 units for Very Low Income households), up to 23,380 square feet of art-production and commercial space, and associated parking facilities, on a 44,839 square foot lot. The proposed eight-story building would be up to 116 feet in height and would include three levels of subterranean parking.

The Project also proposes an increased commercial option (Flexibility Option) that would provide the Project the flexibility to increase the commercial square footage provided and reduce the amount of live/work units within the same building envelope. The increased commercial option of the Project would consist of up to 159 live/work units (including 18 units for Very Low Income households), up to 45,873 square feet of art-production and commercial space, and associated parking facilities.

PREPARED FOR:

The City of Los Angeles
Department of City Planning

PREPARED BY:

EcoTierra Consulting, LLC

APPLICANT:

District Centre, LP, and District Centre-GPA, LP

October 2021

TABLE OF CONTENTS

	<u>Page</u>
Introduction	3
Technical Corrections and Clarifications	4
Conclusion.....	5

1 INTRODUCTION

This Erratum includes clarifications and minor modifications to the Environmental Impact Report (EIR) for the Venice Place Project (Project). These modifications clarify and refine the EIR and provide supplemental information to the City decision-makers and the public. CEQA requires recirculation of a Draft EIR only when “significant new information” is added to a Draft EIR after public notice of the availability of the Draft EIR has occurred (refer to California Public Resources Code (PRC) Section 21092.1 and CEQA Guidelines Section 15088.5), but before the EIR is certified. CEQA Guidelines Section 15088.5 specifically states:

New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponents have declined to implement. “Significant new information” requiring recirculation includes, for example, a disclosure showing that:

- A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.*
- A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted to reduce the impact to a level of insignificance.*
- A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project’s proponents decline to adopt it.*
- The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.*

CEQA Guidelines Section 15088.5 also provides that “[r]ecirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR [...] A decision not to recirculate an EIR must be supported by substantial evidence in the administrative record.”

2 TECHNICAL CORRECTIONS AND CLARIFICATIONS

The City of Los Angeles (City) has prepared this Errata to the Environmental Impact Report (EIR), Case No. ENV-2016-3691-EIR, State Clearinghouse No. 2018021068, for the 676 Mateo Street Project (the Project). The Draft EIR was circulated on December 10, 2020, for a review period of 45 days, ending on January 25, 2021. The Final EIR was published on August 13, 2021.

The Draft EIR, in Table IV.H-7, page IV.H-17 and in Appendix I, indicates that noise measurements were taken on July 5, 2017, while the Final EIR, page II-44 indicates that noise measurements were taken on February 14, 2017. The reference to February 14, 2017, in the Final EIR is incorrect. Therefore, the following provides a minor correction to Section II of the Final EIR, with deletions presented as ~~strike through~~ and additional language presented in underline.

Section II, Responses to Comments

Pages II-43 and II-44, revise the first paragraph of Response to Comment No. 6-10 as follows:

“The City of Los Angeles CEQA Thresholds Guide does not specify a minimum number or frequency of ambient noise readings that should be taken at a project site or in the project vicinity⁸. The ambient noise readings for the Project, as detailed in Section IV.H, Noise, Table IV.H-7 on page IV.H-17 of the Draft EIR, were taken on ~~February 14, 2017~~ July 5, 2017 using the 3M SoundPro SP DL-1 sound level meter, which conforms to industry standards set forth in ANSI S1.4-1983 (R2006) – Specification for Sound Level Meters/Type 1, and is consistent with the requirements specified in LAMC Section 111.01(l) that the instruments be “Type S2A” standard instruments or better. This instrument was calibrated and operated according to the manufacturer’s written specifications. At the measurement sites, the microphone was placed at a height of approximately five feet above the ground. The sound level meter was programmed to record the average sound level (L_{eq}) over a period of 15 minutes in accordance with LAMC Section 111.01(a).”

⁸ *City of Los Angeles 2006 L.A. CEQA Thresholds Guide, Page I.1-4.*

This change does not affect the analysis of potential noise impacts of the Project and Cumulative Noise Impacts as presented in the Draft EIR, pages IV.H-23 through IV.H-35, and pages IV.H-43 through IV.H-47, respectively, because the correct date of the collection of baseline data was included in Section IV.H of the Draft EIR, where the analysis and conclusions regarding the potential noise impacts of the Project were presented. Moreover, the incorrect date of baseline data collection that was included in the Final EIR is not pertinent to the substance of Response to Comment 6-10, which addresses the accuracy of the ambient noise values included in the Draft EIR. The correction of this language makes the Draft and Final EIRs consistent with respect to the date of baseline noise data collection for the Project

3 CONCLUSION

Based on the analysis presented above, the changes to the EIR set forth in this Erratum do not result in any of the conditions set forth in Section 15088.5 of the CEQA Guidelines requiring recirculation of the Draft EIR. Specifically, the information included in this Erratum does not disclose any new significant impacts or a substantial increase in the severity of an impact already identified in the Draft EIR, nor does it contain significant new information that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the Project or a feasible alternative or mitigation measure that the Applicant has declined to adopt. All of the information added in this Erratum merely clarifies, corrects, adds to, or makes insignificant modifications to information in the EIR. The City has reviewed the information in this Erratum and has determined that it does not change any of the basic findings or conclusions of the EIR, does not constitute “significant new information” pursuant to CEQA Guidelines Section 15088.5, and does not require recirculation of the EIR.



Planning CPC <cpc@lacity.org>

A good Homeless solution

rodsnyder50@gmail.com <rodsnyder50@gmail.com>
To: cpc@lacity.org

Mon, Oct 25, 2021 at 11:57 PM

Homeless Solutions

An open letter to the Mayor and City Council of the City of Los Angeles.

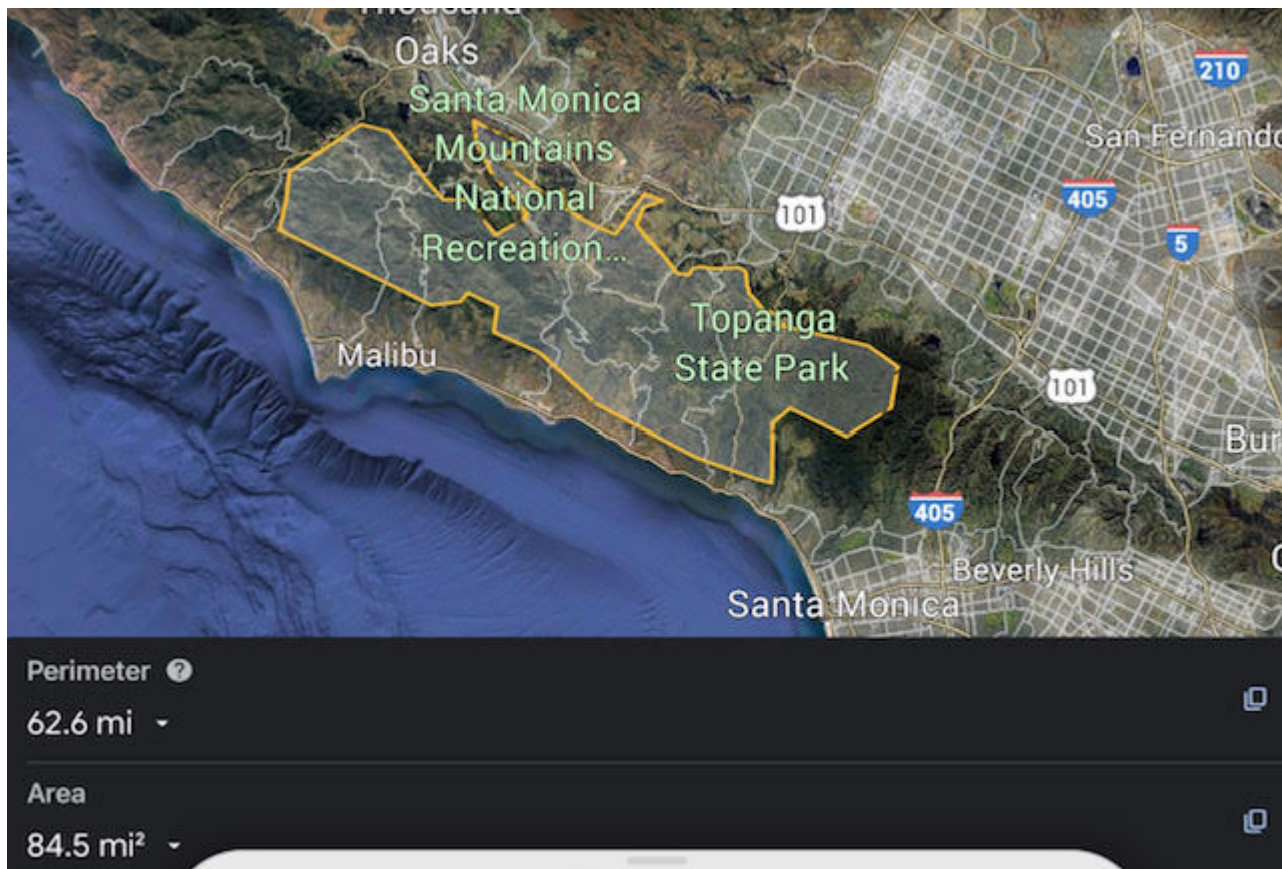
New Hope Campground.

A Transitional Facility.

There are approximately 4,300 acres in Griffith Park. When the Griffith family granted Griffith Park to the city of Los Angeles they had the stipulations that the park was to be freely used by all the people of Los Angeles, and if not it was to be returned to the Griffith family. In 1946 when the soldiers came home from World War II and they had no place to live, Roger Young Village was successfully set up as temporary housing in what is now the grounds of The Los Angeles City Zoo. There are currently large areas of Griffith Park that are not currently used that could serve as a homeless public campground.

However there is a better choice and much larger area of undeveloped public land in the Santa Monica Mountains. Between the 405 Freeway and Highway 23 to the west, there is approximately 84.5mi.² or 54,000 acres of 80% Undeveloped, Unused, Vacant Public land in the Santa Monica Mountains.

See map below.



For one possible location, I propose we use a small percentage of the funds that have been assessed to provide housing for the homeless to build a 40 acre tent city parkland campground in the Santa Monica Mountains called.....Camp New Hope.

New Hope Campground will have 2,500 to 5,000 individual campsites as an initial test program. Expansion of the facility to accommodate more campsites can be done as the program proves it's viability.

A large clear-cut fire break will incircle the campgrounds. Brush clearance will be taken care of when campsites are staked out and graded. Firefighting equipment will be strategically placed throughout the camp. No individual campsites will be allowed open camp fires.

Campgrounds will have Public Bathrooms, Showers and Regular Trash Collection. Campsites should have electrical outlets. Campsites will also be available for people living in their cars or RVs. They'll be RV trash and sanitary dump stations on the campgrounds. A store and commissary and free laundromat will be built. A large recreation area tent, gym, and outdoor community theater should be built for entertainment gathering and weekly or bi-weekly film projections.

Instead of food being distributed in several areas of the city it will be now centralized for the homeless in a large tent cafeteria with free food and three meals served every day. Healthy Snacks will be available between meals.

They'll be a medical facility tent with free medical and Covid vaccines and flu shots provided on site. Counseling and treatment will be available for substance abuse and mental health issues. Aptitude testing will be available. Guidance counselors will consult with resident on educational possibilities and career guidance.

Cell towers and free Wi-Fi will be provided along with US mail service. Inexpensive smart phones and tablets will be available with purchase and financing options through various carrier programs.

The New Hope Campground mobile application will enrolled residents, provide a community bulletin board, track job postings and community announcements. The application will include a calendar for booking appointments for Doctors, Counselors, Therapist visits and job interviews. The application will allow residents the ability to enroll in classes and track their class schedules, including the ability to transfer their transcripts.

Free Wifi Classes will also include Grammar School, Junior High, High School, Trade School Job Training and College level courses including courses in English for other languages, Gardening, Cooking, Farming, Ecology, Healthcare, Science, Physics, Architecture, Construction, Civil Engineering, Electrical Engineering, Aerospace

Engineering, Solar panel installation along with infrastructure rebuilding skills, for paid infrastructure jobs. Grades and Transcripts will be tracked for each student and the transcripts will be transferable to other schools.

School-age children will be enrolled in online classes. Preschool and Grammar School children will be cared for in separate tents when their parents are working or going for job interviews.

For the first three months of residency the facilities at New Hope Campground will be free to all residents. As a transitional facility it is expected that residents will sign up for classes and make progress to getting employment, and finding a rental near their work. Residents will be encouraged to find interim employment, so that they can move to their own housing. Starting with the fourth month there will be a \$200 charge for a standard campsite.

New Hope Campground is meant to be a transitional facility, to help people move ahead and transition from the streets to employment and to more permanent housing. Helping people to get on their feet with educational planning and career guidance and interim employment as they continue their online education to further develop their career skills.

The Los Angeles City Council will need to pass a new Ordinance making it illegal to spend the night on city streets, when other homeless facilities are available.

When there are vacancies at a New Hope Campground and other housing facilities, homeless individuals will be given a written notice citation and a choice to leave city street camps in 48 hours or have them self and their belongings transported for free to a New Hope Campground.

New Hope Campground is not a prison or a concentration camp. Residents will be free to come and go as they please. Free bus service will be provided a few times a day.

With over 60,000 homeless individuals in Los Angeles County, and 30,000 in Los Angeles City, New Hope Campground will provide A test facility to measure the relief that the New Hope Campground program provides for Los Angeles cities homeless.

Los Angeles has spent the last year dealing with a crisis of COVID-19. Hundreds and thousands of our citizens have lost their lives as well as their livelihoods and jobs. This is been a big factor in contributing to the homeless situation that we are now experiencing as another emergency crisis in our city.

Now it's up to the Mayor and The Los Angeles City Council to make the decision to move ahead to develop the plan, by appointing a New Hope Campground Committee, to be overseen by The Los Angeles City Council and for making funds available that have already been assessed on property owners to help house the homeless and for organizing the various city departments and coordinating their efforts.

Los Angeles City Planning and The Los Angeles Department of Building and Safety to work out the best logistical location and layout and planning. Bureau of Engineering, Department of Public Works. SMMC, Los Angeles Housing Authority. L.A. Health and Human Services Department, Los Angeles Public Library, Los Angeles Unified School District, On Line Learning Center, Los Angeles City and L.A. Valley College, California State Colleges, Food Bank, and other agencies will want to be involved as well.

The Forest Service and Forest Rangers will help administrators administer the campgrounds, with back up provided by Los Angeles County Sheriffs Department and Los Angeles Police Department by mounted officers on horseback.

New Hope Campground will not only help get the homeless off the streets of Los Angeles and into shelters, but it provides the homeless with the chance to get back on their feet and get the education they need to be able to get jobs and provide for their families so they can pay their own rent and buy their own homes.

Homeless individuals spending the night city wide on public sidewalks, effect access to business and without sanitary toilets, bath facilities and trash pickup they are a serious health hazard to them selfs and the general public as well. Centralized food distribution, medical help, guidance and job training counseling, and education, will go a along way in giving homeless individuals a new direction and a helping hand in moving ahead with their lives in a positive way. Housing is not the only problem facing the homeless. They need job skills so they can enter the labor market and eventually be able to rent, or afford to buy their own homes and also gain their own dignity, a sense of personal accomplishment, and self-esteem.

Where ever a New Hope Campground is established it is a rehabilitation model that should be considered by the Federal Government, the State Governments, County Governments, and City Governments alike.

Sincerely,
Rod Snyder
RodSnyder50@gmail.com

Please feel free to distribute this to anyone you feel may benefit from it.
Rod Snyder



October 22, 2021

Jivar Ashfar, City Planning Associate

jivar.afshar@lacity.org

Dear City Planning Commission,

We are writing to you in support of the proposed 185 live/work units (including 21 units for Very Low Income households) and up to 23,380 square feet of art-production and commercial space at 668-678 S. Mateo Street and 669-679 S. Imperial Street, cases CPC-2016-3689-GPA-ZCHD-MCUP-DB-SPR / ENV-2016-3691-EIR/VTT-74550-CN, -1A. We urge you to approve the CEQA exemption and the project's Density Bonus and Affordable Housing incentives. We also urge the commission to approve the plan with all 185 housing units instead of the plan that increases commercial space and reduces the number of housing units to 159.

The greater Los Angeles region is facing a severe housing shortage, and this project is another step towards addressing the overwhelming need for more housing across Los Angeles. By creating new housing in this neighborhood, it will help to reduce issues of gentrification and displacement in other parts of the region. Abundant Housing LA believes that these housing challenges can only be addressed if everyone in the region does their part. Los Angeles needs to focus more attention on this critical problem and developments like this one are part of the solution. By investing in more housing, we make our communities safer, healthier, and more inclusive.

This project is in a great location for housing. Multiple bus lines stop at its corner and many neighborhood amenities are in easy walking and bicycling distance.

It is great to see the developer bringing badly needed affordable housing to the city. Affordable housing programs that depend on a percentage of new construction being affordable need a lot of new construction to have an impact. This project is a good project for Los Angeles and for the region. Again, we urge the city to approve the incentives for the option with 185 units of housing and support the project's CEQA exemption.

Best Regards,

Leonora Camner

Leonora Camner
AHLA Executive Director

Jaime Del Rio

Jaime Del Rio
AHLA Field Organizer

Tami Kagan-Abrams

Tami Kagan-Abrams
AHLA Project Director

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037

TEL: (650) 589-1660
FAX: (650) 589-5062

khartmann@adamsbroadwell.com

SACRAMENTO OFFICE

520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721

TEL: (916) 444-6201
FAX: (916) 444-6209

KEVIN T. CARMICHAEL
CHRISTINA M. CARO
JAVIER J. CASTRO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
ANDREW J. GRAF
TANYA A. GULESSERIAN
KENDRA D. HARTMANN*
DARIEN K. KEY
RACHAEL E. KOSS
AIDAN P. MARSHALL
TARA C. MESSING

Of Counsel
MARC D. JOSEPH
DANIEL L. CARDOZO

*Not admitted in California.
Licensed in Colorado.

Agenda Item No. 7
Agenda Item No. 8

October 26, 2021

VIA ONLINE SUBMISSION

City Planning Commission
City of Los Angeles Planning Department
Email: cpc@lacity.org

VIA EMAIL

Jivar Afshar, Planner (jivar.afshar@lacity.org)

Re: Agenda Item No. 7: Appeal of Advisory Agency Certification, 676 Mateo Street (VTT-74550;SCH No. 2018021068;ENV-2016-3691-EIR)
Agenda Item No. 8: Approval of Remaining Entitlements Case No. CPC-2016-3689-GPA-ZC-HD-MCUP-DB-SPR)

Dear Commissioners, Ms. Afshar:

On behalf of the Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA"), we submit these comments in support of our appeal of the Advisory Agency's approval of the Vesting Tentative Tract Map ("VTTM") and certification of the Final Environmental Impact Report ("EIR") for the 676 Mateo Street Project (SCH No. 2018021068; Case No. ENV 2016-3691-EIR; CPC-2016-3689-GPA-ZC-HD-MCUP-DB-SPR; VTT-74550) ("Project"), proposed by District Centre, LP, & District Centre-GPA, LP (collectively, "Applicant") (Agenda Item 7), as well as on the City Planning Commission's ("Commission") proposed approval of the Project's remaining entitlements (Agenda Item 8).

On September 16, 2021, the Advisory Agency issued a Letter of Determination ("LOD") stating that it had certified and adopted the EIR and approved the VTTM for the Project. The LOD states that the Advisory Agency certified the EIR pursuant to CEQA, despite the fact that the Commission had not yet considered or approved the Project's remaining entitlements. This represented a premature and improper bifurcation of the Project's environmental review process. Furthermore, the EIR fails to comply with CEQA.

CREED LA is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental and public service impacts of the Project. The coalition includes the Sheet Metal Workers Local 105, International Brotherhood of Electrical Workers Local 11, Southern California Pipe Trades District Council 16, and District Council of Iron Workers of L4986-011acp

the State of California, along with their members, their families, and other individuals who live and work in the City of Los Angeles. Individual members of CREED LA and its member organizations include John Ferruccio, Jorge L. Aceves, John P. Bustos, Gerry Kennon, and Chris S. Macias. These individuals live, work, recreate, and raise their families in the City of Los Angeles and surrounding communities. Accordingly, they would be directly affected by the Project's environmental and health and safety impacts. Individual members may also work on the Project itself. They will be first in line to be exposed to any health and safety hazards that exist onsite.

For the reasons set forth below, in our prior comments, and in those of air quality expert James Clark, Ph.D. (Exhibit A), and acoustics expert Neil A. Shaw, FASA, FAES (Exhibit B), we urge the Commission to uphold our appeal and vacate the Advisory Agency's certification and adoption of the EIR and approval of the Vesting Tentative Tract Map.¹ We also urge the Commission to deny the Project's remaining entitlements and postpone certification of the EIR until it can be corrected and recirculated.

I. THE ADVISORY AGENCY'S EIR CERTIFICATION WAS PREMATURE

The City, in response to the assertion that it cannot certify the EIR prior to consideration and approval of all Project entitlements, stated,

The Advisory Agency, as a decision making body of the City, is authorized by the Los Angeles Municipal Code (LAMC) to approve subdivision maps (LAMC 17.03 A). As such, the Advisory Agency is required to certify the EIR before approving the Project's subdivision map, per CEQA Guidelines Section 15090. The EIR fully disclosed and analyzed the whole of the action, and identified the subdivision requests, as well as the General Plan Amendment, Vesting Zone and Height District change, and other associated entitlement requests.²

This statement confuses the EIR's description of the entitlements with the City's approval of the entitlements. An EIR may not be certified until *all* entitlements have been heard and considered by a decision-making body of the City.³ Until that time, the underlying project description remains uncertain and subject to modification. In order to certify an EIR, CEQA requires that the lead agency determine whether the EIR fully and accurately describes a specific development project that is "proposed to be carried out or approved by

¹ We reserve the right to submit additional comments and evidence at any subsequent hearings and proceedings related to the Project. Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

² VTT 74550 Appeal Staff Report, p. A-3.

³ 14 CCR § 15090(a)(2).

L4986-011acp

[the agency],”⁴ then make a mandatory finding that the EIR has been “completed in compliance with CEQA.”⁵ The Advisory Agency was not in a position to make either of those determinations when it approved the VTTM and “certified” the EIR in August because the Project’s future, scope, and the extent of its environmental impacts remain uncertain until the Commission acts on the remaining entitlements at this hearing.

The fact that the City’s municipal code provides a bifurcated approval process for entitlements does not authorize different decisionmakers to conduct piecemealed certification of the same EIR on multiple occasions. It is well-settled that notice of EIR certification cannot be issued before a project has been approved.⁶ This is consistent with the requirement to consider the “whole of an action,”⁷ including all reasonably foreseeable phases.⁸

Courts have held that environmental review and approval of a project cannot be separated in a bifurcation of proceedings. “A decision on both matters must be made by the same decisionmaking body because ‘...CEQA is violated when the authority to approve or disapprove the project is separated from the responsibility to complete the environmental review.’”⁹ As the court explained in *Clews Land & Livestock, LLC v. City of San Diego*, “for an environmental review document to serve CEQA’s basic purpose of informing governmental decision makers about environmental issues, that document must be reviewed and considered by the *same person or group of persons* who make the decision to approve or disapprove the project at issue.”¹⁰ In *California Clean Energy Committee v. City of San Jose*, the court held that a bifurcated proceeding, in which an EIR was certified prior to the decision-making body considering the adequacy of a project’s environmental review was a violation of CEQA’s mandate to provide the fullest possible protection to the environment.¹¹ The court clarified that bifurcation was improper because it could “produce a situation in which the city council could be bound by a finding that it finds flawed—that the final EIR is complete and in compliance with CEQA.”¹²

⁴ PRC § 21080(a).

⁵ 14 CCR § 15090(a)(1).

⁶ See, e.g., *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 963; *Coalition for an Equitable Westlake/MacArthur Park v. City of Los Angeles* (2020) 47 Cal.App.5th 368, 379; *Stockton Citizens for Sensible Planning v. City of Stockton*, 48 Cal. 4th 481, 489; *Coalition for Clean Air v. City of Visalia* (2012) 209 Cal.App.4th 408, 418-25.

⁷ 14 CCR § 15378; *Habitat & Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal.App.4th 1277, 1297.

⁸ *Id.*

⁹ *Citizens for the Restoration of L Street v. City of Fresno* (2014) 229 Cal.App.4th 340, 360, citing *POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4th 681, 731.

¹⁰ (2017) 19 Cal.App.5th 161, 188.

¹¹ *California Clean Energy Committee v. City of San Jose* (2013) 220 Cal.App.4th 1325, 1341.

¹² *Id.*

L4986-011acp

CEQA Guidelines section 15090 requires that prior to approval of a project, the lead agency must certify that (1) the final EIR is compliant with CEQA, (2) the final EIR was presented to the decisionmaking body of the lead agency and the decisionmaking body reviewed and considered the information in the final EIR prior to approving the project, and (3) the final EIR reflects the lead agency's independent judgment and analysis.¹³ The Advisory Agency's August 25, 2021 EIR certification was therefore premature because the majority of the Project's entitlements had not been considered by the Commission and will not be considered until October 28, 2021. The City is engaging in improper bifurcation of its duties under CEQA. The Advisory Agency's certification of the EIR must be vacated.

II. THE EIR FAILS TO COMPLY WITH CEQA

A. Air Quality

The City continues to repeat its claim that, in accordance with SCAQMD's methodology for determining cumulative impacts to air quality, a project that does not individually exceed SCAQMD thresholds of significance for emissions will not contribute to cumulatively considerable impacts from emissions. In its response to our appeal, the City asserts that we have provided "no evidence that the combined emissions from three related projects would have any significant cumulative effect on regional air quality. Rather the Appellant incorrectly asserts that there is a significant cumulative impact on regional air quality without substantial evidence."¹⁴ This approach has been rejected by the Courts, and fails to comply with CEQA's requirement that a project mitigate impacts that are "cumulatively considerable."¹⁵ "Proper cumulative impact analysis is vital 'because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.'"¹⁶

In *Friends of Oroville*, the City of Oroville prepared an EIR for a retail center. The EIR failed to analyze the project's cumulative contribution to GHG impacts by concluding, without analysis, that the project's "miniscule" GHG emissions were insignificant in light of the state's cumulative, state-wide GHG emissions. The EIR concluded that further analysis of the project's GHG impacts would result in "applying a meaningless, relative number to determine an insignificant impact."¹⁷ The court of appeal rejected this approach as an

¹³ CEQA Guidelines, § 15090, subd. (a).

¹⁴ Staff Report, p. A-4.

¹⁵ PRC § 21083(b)(2); 14 CCR § 15130; *Friends of Oroville v. City of Oroville* (2013) 219 Cal. App. 4th 832, 841-42; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal. App. 3d 692, 721.

¹⁶ *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214.

¹⁷ 219 Cal. App. 4th at 841-42.

L4986-011acp

outright dismissal of the City's obligation to analyze the project's cumulative GHG impacts.¹⁸

Similarly, in *Kings County Farm Bureau v. City of Hanford*,¹⁹ the city prepared an EIR for a 26.4-megawatt coal-fired cogeneration plant. Notwithstanding the fact that the EIR found that the project region was out of attainment for PM10 and ozone, the City failed to incorporate mitigations for the project's cumulative air quality impacts from project emissions because it concluded that the Project would contribute "less than one percent of area emissions for all criteria pollutants."²⁰ The city reasoned that, because the project's air emissions were small in ratio to existing air quality problems, that this necessarily rendered the project's "incremental contribution" minimal under CEQA. The court rejected this approach, finding it "contrary to the intent of CEQA."

The City made the same mistake here, assuming that because Project emissions will not exceed SCAQMD thresholds, the impacts will not be cumulatively considerable. Applying this definition of "cumulative" would produce an absurd result: cumulatively considerable impacts would never be generated, no matter how many projects were considered together, as long as they all had individually insignificant impacts. This lack of analysis is precisely what the courts have rejected as inconsistent with the concept that "environmental damage often occurs incrementally from a variety of small sources."²¹ The City must prepare a revised DEIR to analyze and mitigate the Project's cumulative impacts.

B. Noise

We previously commented that, in rerouting the haul truck route to Imperial Street and Santa Fe Avenue, the EIR had not disclosed or mitigated the noise impacts the new haul route would have on the residents along those streets. In response, the City stated that new calculations of noise impacts were made by consultant Eco Tierra on September 13, 2021 to confirm that impacts to those residents would not be significant.²² The calculations showed that, "at a distance of 37.22 feet, the instantaneous noise level generated by a haul truck passing by the Amp Lofts would be a maximum of 78.56 dBA."²³ The measured maximum ambient noise at the Amp Lofts, according to the Draft EIR, is 86.7 dBA.²⁴ The City concluded that the haul truck noise impacts, therefore, "would not exceed the ambient maximum noise level already experienced at the Amp Lofts location."²⁵

¹⁸ *Id.*

¹⁹ (1990) 221 Cal. App. 3d 692, 721.

²⁰ *Id.* at 719.

²¹ *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214.

²² VTT 74550 Appeal Staff Report, p. A-8.

²³ *Id.*, p. A-9.

²⁴ DEIR, IV.H Noise, p. IV.H-17.

²⁵ Appeal Staff Report, p. A-9.

L4986-011acp

Closer inspection, however, reveals that the City relied on baseline conditions that are not representative of normal ambient noise in the Project vicinity. The ambient maximum noise levels at the Amp Lofts were measured in July 2017—during construction of the Amp Lofts, which lasted from early 2017 until 2020.²⁶ During that period, noise levels were elevated as haul trucks were in operation. The relative increase in ambient noise levels from Project construction was therefore assumed to be smaller than they would be when compared to normal baseline conditions that did not have ongoing construction as a baseline.

The City's assumption that the Project's noise impacts to residents of the Amp Lofts are "already experienced at the Amp Lofts location" is similarly unsupported because the residents of Amp Lofts did not yet occupy the building when the baseline noise measurements were taken. Noise impacts from the Project's new haul route will represent a significant increase in existing noise levels to these residents. This impact was not disclosed or mitigated in the EIR. Furthermore, the change in haul routes constitutes a significant revision to the Draft EIR which requires recirculation as required by CEQA Guidelines section 15088.5. The City claims that "since noise generated by haul trucks would be lower than the ambient noise conditions on each of these streets ... the revised haul route would not represent a new significant environmental impact, and would not constitute significant new information requiring recirculation of the EIR."²⁷ This conclusion is unsupported due to the City's reliance on erroneous baseline measurements.

C. Health Risk

The City continues to assert that it is not required to analyze the human health effects of the Project's direct or indirect emissions on local sensitive receptors or future Project residents, and that it has followed the guidance of SCAQMD in determining that a health risk analysis is not required. The City's position is contrary to law. An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.²⁸ These standards apply to an EIR's analysis of public health impacts of a project.

In *Sierra Club v. County of Fresno*, the Supreme Court affirmed CEQA's mandate to protect public health and safety by holding that an EIR fails as an informational document when it fails to disclose the public health impacts from air pollutants that would be generated by a development project.²⁹ The Court held that the EIR for a 942-acre mixed-use development was deficient as a matter of law because it lacked an informational discussion of air quality impacts as they connect to adverse human health effects.³⁰ As the Court

²⁶ See, e.g., <https://urbanize.city/la/post/arts-districts-amp-lofts-heads-towards-finish-line>.

²⁷ Appeal Staff Report, p. A-9.

²⁸ *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 732.

²⁹ *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 518–522.

³⁰ *Id.* at 507–508, 518–522.

L4986-011acp

explained, “a sufficient discussion of significant impacts requires not merely a determination of whether an impact is significant, but some effort to explain the nature and magnitude of the impact.”³¹ The EIR failed to comply with CEQA because the public, after reading the EIR, “would have no idea of the health consequences that result when more pollutants are added to a nonattainment basin.”³² CEQA mandates discussion, supported by substantial evidence, of the nature and magnitude of impacts of air pollution on public health.³³

The City’s claim that a health risk analysis is not required also runs counter to recent guidance provided by SCAQMD, as pointed out by Dr. Clark. In that recent guidance, SCAQMD stated: “If the Proposed Project generates diesel emissions from long-term construction or attracts diesel-fueled vehicular trips, especially heavy-duty diesel-fueled vehicles, it is recommended that the Lead Agency perform a mobile source health risk assessment.”³⁴ Here, the City acknowledges that the Project will result in diesel emissions.³⁵ Therefore, a health risk analysis must be prepared.

III. CONCLUSION

CREED LA respectfully requests that the Commission uphold its appeal, vacate the Advisory Agency’s certification and adoption of the EIR and approval of the Vesting Tentative Tract Map, and prepare and circulate a legally revised Draft EIR. If a Statement of Overriding Considerations is adopted for the Project, we urge the City to consider whether the Project will result in employment opportunities for highly trained workers.

Sincerely,



Kendra Hartmann

KDH:acp

³¹ *Id.* at 519, citing *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 514–515.

³² *Id.* at 518. CEQA’s statutory scheme and legislative intent also include an express mandate that agencies analyze human health impacts and determine whether the “**environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.**” (Public Resources Code § 21083(b)(3) (emphasis added).) Moreover, CEQA directs agencies to “take immediate steps to identify any critical thresholds for the **health and safety of the people** of the state and take all coordinated actions necessary to prevent such thresholds being reached.” (Public Resources Code § 21000(d) (emphasis added).)

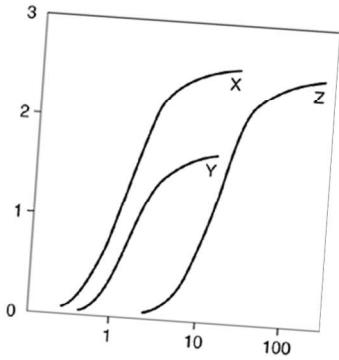
³³ *Sierra Club*, 6 Cal.5th at 518–522.

³⁴ Site Plan Consultation for the MA21269. Letter from Lijin Sun, SCAQMD Program Supervisor CEQA IGR to Rocio Lopez, Senior Planner, City of Jurupa Valley, Planning Department. 10/19/2021.

³⁵ Clark Comments, p. 2.

L4986-011acp

Exhibit A



October 22, 2021

Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080

Attn: Ms. Kendra Hartmann

Clark & Associates
Environmental Consulting, Inc.

OFFICE

12405 Venice Blvd
Suite 331
Los Angeles, CA 90066

PHONE

310-907-6165

FAX

310-398-7626

EMAIL

jclark.assoc@gmail.com

Subject: Response To City Of Los Angeles Department Of City Planning Appeal Report For Draft Environmental Impact Report (DEIR) Of 676 Mateo Street Project, Los Angeles, CA CEQA Number ENV-2016-3691-EIR

Dear Ms. Hartmann:

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has prepared the following response to the City Planning Commission's review of the appeal filed regarding the above referenced EIR.

Responses:

The City's analysis of the impacts of toxic air contaminants appears to contradict guidance from SCAQMD regarding CEQA analyses. According to the City's response (pg A-5), "In determining whether a quantitative health risk assessment of the Project's construction and operational emissions would be required, the City relied on the guidance of the SCAQMD and the State Office of Environmental Health Hazard Assessment (OEHHA), the regulatory agencies that are legally required to provide the appropriate expertise to determine the likelihood of impacts from construction and operational activities (See Final EIR, page II-75 and II-76), as a screening threshold." This response contradicts recent guidance from SCAQMD. In its 2021 Site Plan Consultation for the MA21269 to the City of Jurupa Valley, SCAMQD states that "If the Proposed Project generates diesel emissions from long-term construction or attracts diesel-fueled vehicular trips, especially heavy-duty diesel-fueled vehicles, it is recommended that the Lead Agency perform a mobile source health risk assessment⁵." ¹

According to the City's analysis of air quality, which used the CalEEMOD model, the construction emission of exhaust PM_{2.5} (a surrogate for diesel particulate matter, a known human carcinogen and

¹ SCAQMD. 2021. Site Plan Consultation for the MA21269. Letter from Lijin Sun, SCAQMD Program Supervisor CEQA IGR to Rocio Lopez, Senior Planner, City of Jurupa Valley, Planning Department. Dated 10/19/2021.

toxic air contaminant) would reach almost 1 pound per day during the initial phase of the construction project.

Mitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2021	3.0089	63.6555	22.7512	0.1752	5.6285	1.0539	6.6825	2.0200	0.9839	2.8165	0.0000	18,806.0670	18,806.0670	1.6218	0.0000	18,846.6118
2022	30.6373	18.3936	23.9840	0.0608	2.8062	0.6977	3.5040	0.7503	0.6758	1.4262	0.0000	5,921.5086	5,921.5086	0.5014	0.0000	5,934.0447
2023	30.4126	16.5023	23.1013	0.0595	2.0062	0.6000	3.4142	0.7503	0.5887	1.3390	0.0000	5,794.4011	5,794.4011	0.4770	0.0000	5,006.3267
Maximum	30.6373	63.6555	23.9840	0.1752	5.6285	1.0539	6.6825	2.0200	0.9839	2.8165	0.0000	18,806.0670	18,806.0670	1.6218	0.0000	18,846.6118

During the operational phase the exhaust PM_{2.5} will reach approximately 0.1 lbs per day.

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	3.2299	12.6807	33.5254	0.1185	9.5193	0.0891	9.6084	2.5474	0.0828	2.6302		12,085.5173	12,085.5173	0.6118		12,100.8112
Unmitigated	3.7542	15.2696	47.4022	0.1762	14.6450	0.1297	14.7747	3.9191	0.1206	4.0397		17,955.1198	17,955.1198	0.8685		17,976.8332

During the operation phase of the project the City's air quality analysis shows that approximately 3.1% of the vehicles using the Project site would be heavy duty vehicles that use diesel.

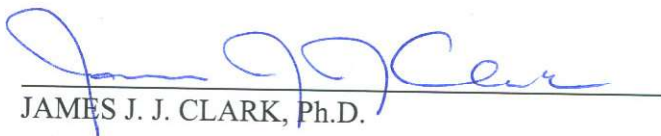
4.4 Fleet Mix

Land Use	LDA	LDT1	LDT2	MDV	LHD1	LHD2	MHD	HHD	OBUS	UBUS	MCY	SBUS	MH
Apartments Mid Rise	0.545842	0.044768	0.205288	0.119317	0.015350	0.006227	0.020460	0.031333	0.002546	0.002133	0.005184	0.000692	0.000862
Enclosed Parking with Elevator	0.545842	0.044768	0.205288	0.119317	0.015350	0.006227	0.020460	0.031333	0.002546	0.002133	0.005184	0.000692	0.000862
General Office Building	0.545842	0.044768	0.205288	0.119317	0.015350	0.006227	0.020460	0.031333	0.002546	0.002133	0.005184	0.000692	0.000862
High Turnover (Sit Down Restaurant)	0.545842	0.044768	0.205288	0.119317	0.015350	0.006227	0.020460	0.031333	0.002546	0.002133	0.005184	0.000692	0.000862
Regional Shopping Center	0.545842	0.044768	0.205288	0.119317	0.015350	0.006227	0.020460	0.031333	0.002546	0.002133	0.005184	0.000692	0.000862

The City's assertion that there is no need to perform a health risk analysis is not supported by the guidance from SCAQMD nor the data from the City.

The facts identified and referenced in this letter lead me to reasonably conclude that the Project could result in significant unmitigated impacts and that the City should re-evaluate in a recirculated/revised DEIR.

Sincerely,


JAMES J. J. CLARK, Ph.D.

26 October 2021

Ms. Christina Caro
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080

Subject: **Rebuttal to Staff Report Responses to Appeal of 676 Mateo Street Project**
ENV-2016-3691-EIR - Noise Impacts

1. Methodology for Measuring Ambient Noise

The Staff Report notes “Ambient Noise,” according to LAMC 111.01(a), is “the composite of noise from all sources near and far in a given environment, exclusive of occasional and transient intrusive noise sources and of the particular noise source or sources to be measured. Ambient noise shall be averaged over a period of at least 15 minutes at a location and time of day comparable to that during which the measurement is taken of the particular noise source being measured.”

Average noise is understood to be the equivalent continuous sound level, L_{eq} , which is the time-averaged sound level over a specified time period. Noise generated over the course of an entire day must be fully assessed to accurately characterize ambient noise and evaluate a project’s impacts. The Report appears to conflate ambient (or average) noise levels with maximum noise levels, and fails to justify or validate its noise measurements, making all subsequent analysis and projections suspect.

2. Haul Truck Noise and Mitigation Measures

- The Report does not account for the number of daily haul truck trips expected during construction. The analysis measures the “instantaneous noise impact” of one truck passing by, thereby underestimating true impacts that will be felt during construction. It compares this noise level with the maximum level previously measured at Amp Lofts during the construction there, creating the illusion of lower impacts.
- Impacts are measured against the “Existing Ambient Noise Levels” listed in DEIR Table IV.H-7. The primary sources of noise measured are listed as “Traffic and hauling activity (i.e., increased number of haul trucks traveling around Project Site) along Imperial Street.” This indicates that the measurement was taken during construction activity at the location. The AMP Lofts, which were being constructed at the time the noise levels were taken, and the data presented do not reflect the typical noise levels at the location without construction. It is more likely that the noise levels are similar to the lower levels presented for Location 1. The impact of the haul trucks will exceed the ambient levels for every trip, and the frequency of these exceedances is not discussed.
- The Project’s noise impacts will likely be significant and unmitigated. The Report indicates that construction noise will be mitigated via “source control measures” and will be forthcoming when a contractor is selected. What these measures will be are not disclosed so their effectiveness cannot be evaluated.

Sincerely,
MENLO SCIENTIFIC ACOUSTICS, INC.



Neil A. Shaw, FASA, FAES

NAS:sk

Mayer Brown LLP
350 South Grand Avenue
25th Floor
Los Angeles, CA 90071-1503
United States of America
T: +1 213 229 9500
F: +1 213 625 0248
mayerbrown.com

October 22, 2021

Edgar Khalatian

Partner

228053

T: 213.229.9548

ekhalatian@mayerbrown.com

City of Los Angeles
City Planning Commission
200 N Spring Street
Los Angeles, CA 90012

VIA EMAIL

Re: 646 Mateo Street Project
VTT 74550-CN and ENV-2016-3691-EIR

This firm represents District Centre, LP (the “**Applicant**”) in the above-referenced matter. The Applicant is proposing to demolish the existing underutilized warehouse and surface parking lot located at 646-678 South Mateo Street and 669-679 South Imperial Street, and the construction of an up to 197,355-square-foot mixed-use building with (i) 185 live/work units, 21 of which (11 percent) would be deed-restricted for Very-Low Income Households, (ii) approximately 15,320 square feet of open space, and (iii) up to 23,380 square feet of art-production and commercial space (the “**Project**”). The Project also includes an “Increased Commercial Flexibility Option” that would allow the Project the flexibility to increase the commercial square footage from 23,380 square feet to 45,873 square-feet within the same building envelope (i.e., same square footage, massing, and height) by reducing the number of live/work units from 185 to 159 (would still include 11 percent on-site affordable).

On August 25, 2021, Advisory Agency held a duly-noticed public hearing on Vesting Tentative Tract Map No. 74550-CN (the “**VTT**”) and Environmental Impact Report, ENV-2016-3691-EIR, (the “**EIR**”) for the Project. On September 16, 2021, the Advisory Agency issued its letter of determination (the “**LOD**”) on the VTT and certified the EIR. On September 23, 2021, the Coalition for Responsible Equitable Economic Development (the “**CREED**”) appealed the Advisory Agency’s certification of the EIR and approval of the VTT (the “**Appeal**”).

The Appeal is primarily based on CREED’s comment letter dated August 24, 2021. The Appeal alleges that the EIR is inadequate and that the Advisory Agency did not have the legal authority to certify the EIR prior to Project approval. While the responses to the Appeal submitted by EcoTierra Consulting, Inc. (“**EcoTierra**”) on October 6, 2021, as well as the response to comments contained in the City’s Final EIR and the LOD address the issues of the alleged inadequacies in the EIR, to assist in your deliberations, below is a brief analysis of certain legal issues raised in the Appeal.

I. The Advisory Agency Was Authorized to Certify the EIR Prior to Consideration of the Entire Project by the City

CREED incorrectly contends that it was legally improper for the Advisory Agency to certify the EIR before approving all of the Project's entitlements. CREED supports this contention with case law that is simply not applicable to the City's actions approving the LOD and certifying the EIR. The citations in the Appeal discuss the legal principles that a notice of determination, or notice of exemption, which trigger the statute of limitation, cannot be filed prior to approval of a project; that the EIR must analyze the entire project, including a finite project description and project objectives; and, that define a project¹. However, in this matter, the City has not filed a notice of determination, nor will it file one prior to approval of the Project and, therefore, the statute of limitations is not running on challenging the City's certification of the EIR. Further, the Appeal does not contend that the Advisory Agency's certification of the EIR and approval of the VTT was done to avoid going through the entire approval process, nor that the EIR failed to include the entirety of the Project, which further evidences the inapplicability of the case law.

The legal process for certification of EIRs is set forth in the California Code of Regulations, Title 4, Chapter 3 (the "**CEQA Guidelines**"), Section 15090. As stated in Section 15090(a), the lead agency shall certify the EIR prior to approval of a project, not after project approval, as CREED's contention seems to imply. However, as is clear from CEQA Guidelines Section 15090(b), a non-elected decision-making body within the lead agency has the authority to certify the EIR subject to appeal to the city council. In the City of Los Angeles (the "**City**"), the Advisory Agency is the final decision maker on subdivision maps subject to appeal to the Appeal Board, and appeal of the Appeal Board's decision to the City Council. (Los Angeles Municipal Code ["**LAMC**"] Sections 17.03.A and 17.06.A) As such, the Advisory Agency is required to certify the EIR before approving the Project's subdivision map, pursuant to CEQA Guidelines Section 15090.

Accordingly, CREED's contention that the Advisory Agency's certification of the EIR was premature is without merit.

¹ Cases cited in the appeal: *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 963 (a notice of exemption cannot be filed until after the project is approved); *Coalition for an Equitable Westlake/MacArthur Park v. City of Los Angeles* (2020) 47 Cal.App.5th 368, 379 (a notice of determination does not trigger the statute of limitations if it is filed before a decision-making body has approved the project); *Stockton Citizens for Sensible Planning v. City of Stockton*, 48 Cal. 4th 481, 489 (a claim that a notice of exemption filed after an alleged faulty approval of a project did not commence the statute of limitations was rejected by the California Supreme Court: "[PRC] Section 21167(d) makes clear that suits claiming a project was 'improperly' approved as exempt from CEQA must be brought within the 35-day period after an NOE [notice of exemption] is filed and posted." Id. at page 505); *Coalition for Clean Air v. City of Visalia* (2012) 209 Cal.App.4th 408, 418-25 (a notice of exemption is to be filed after the project has been approved); CEQA Guidelines Section 15378 (definition of Project); *Habitat & Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal.App.4th 1277, 1297 (inadequate project objectives discussion violated CEQA requirement that an EIR inform the public) and *Endangered Habitats League, Inc. v. State Water Resources Control Bd.* (1997) 63 Cal.App.4th 227, 242 (an EIR must have a stable, finite, final project description).

II. The Final EIR Does Not Require Recirculation

CREED contends that the Final EIR contains significant new information, and therefore must be recirculated. As stated in CEQA Guidelines Section 15088.5(a), recirculation is only required when significant new information is added to the EIR after the public review period. However, “[n]ew information added to an EIR is not ‘significant’ unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect...”

Specifically, CREED contends that the change in the truck haul route, which the City changed in response to public comments made during the EIR circulation period, is new information that requires recirculation of the Draft EIR. CREED alleges that the Final EIR does not analyze the impacts of the new haul route or change or impose new mitigation measures. As explained in EcoTierra’s October 6, 2021 letter, additional calculations were conducted and impacts were determined to be less than significant. As such, no mitigation measures were required, or even legally allowed, under CEQA. Therefore, CREED’s contention that the EIR has no substantial evidence of the impacts of this change is without merit.

Moreover, inclusion and discussion of the new haul route in the Final EIR and in the LOD provided the public adequate notice of the change and the determination that this change would not result in noise levels above ambient levels. Therefore, the public has not been denied a meaningful opportunity to comment on the haul route. These opportunities have been evidenced by CREED itself since it has commented on the new haul route multiple times, including in its August 24, 2021 letter that was submitted to the City prior to the August 25th public hearing, commented during the hearing, and commented again in the September 23, 2021 Appeal. CREED cites no authority for the proposition that changes that do not create a significant impact must be recirculated.

As correctly stated by EcoTierra, since both the identified noise impacts from haul trucks for the revised haul route would be less than significant, the revised haul route analysis would not represent a new significant environmental impact that would constitute significant new information requiring recirculation of the Draft EIR as defined in CEQA Guidelines Section 15088.5. Therefore, recirculation of the Draft EIR is not required.

III. The EIR Adequately Discloses, Analyzes and Mitigates the Project’s Potentially Significant Impacts

CREED contends that the EIR fails to adequately disclose, analyze, and mitigate the Project’s noise, cumulative air quality, and risk to public health impacts. As stated in EcoTierra’s October 6, 2021 letter, the Draft EIR, the Final EIR and the LOD all contain substantial evidence that the EIR properly and fully analyzed all of the Project’s potential impacts, including incorporating appropriate mitigation measures and project alternatives. As explained by EcoTierra, each of CREED’s contentions of inadequacies in the EIR are without merit for various reasons, including, but not limited to: failure to provide evidence that the EIR’s analysis is inaccurate; failure to

provide relevant information to substantiate a differing opinion from the City's experts; or, proposal of mitigation measures for environmental impacts that are less than significant without mitigation.

For example, CREED contends that the City should have prepared a health risk assessment for the Project. However, as explained in the EIR, the City properly relied on the guidance of the South Coast Air Quality Management District (the "SCAQMD") and the State Office of Environmental Health Hazard Assessment (the "OEHHA") to determine whether a health risk analysis was necessary. (Final EIR, page II-75 and II-76) Pursuant to this screening criteria, the City was not required to prepare an operational quantitative health risk assessment because the Project does not include a use that would be a substantial source of the emissions that could result in such health risks. (Final EIR, page II-72) CREED's reliance on *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 518–522, is misplaced. Unlike the County of Fresno, here the EIR provides more than a few sentences for each pollutant; the EIR explains the air quality impacts with specificity and relies on threshold criteria established by the SCAQMD and the OEHHA, the regulatory agencies that are legally required to provide the appropriate expertise to determine the likelihood of impacts from construction and operational activities and to develop thresholds. (See, pages IV.A-2 through IV.A-8 of the Draft EIR on health impacts; IV.A-30 through IV.A-40 of the Draft EIR on not conflicting with or obstructing the 2016 Air Quality Management Plan or the Air Quality of Element of the City's General Plan; pages IV.A-40 through IV.A-46 of the Draft EIR on the less-than-significant impact from increase in criteria pollutants; pages IV.A-47 through IV.A-55 of the Draft EIR on the less-than-significant exposure to sensitive receptors; and, Responses to Comments No. 6-16, No. 6-30 and No. 6-31 of the Final EIR on need for a health risk assessment. See also, EcoTierra letter of October 6, 2021, pages 3 and 4 on the need for a health risk assessment.)

Similarly, CREED's contention that the cumulative air quality impacts are inadequately analyzed is without merit. For all the reasons set forth in EcoTierra's letter dated October 6, 2021, CREED seeks to redefine cumulative air quality impacts to something other than what the SCAQMD has determined to be the appropriate analysis. As explained in the Draft EIR, the SCAQMD does not recommend, and the SCAQMD methodology does not contain, quantified analyses of the emissions generated by a set of cumulative development projects (Draft EIR, pages IV.A-40 and IV.A-41). Case law does not support the contention that the EIR cannot rely on the established guidelines provided by the governmental agencies with the expertise to determine the appropriate thresholds. Since the EIR contains substantial evidence that the Project would not exceed SCAQMD thresholds (Draft EIR, pages IV.A-41 through IV.A-47) and since the City lawfully relied on SCAQMD's expertise for the methodology to determine the Project's potential cumulative air quality impacts, coupled with the fact that the Appeal does not provide any evidence of an inadequacy in the cumulative air quality impact analysis, the analysis is compliant with CEQA.

CREED also is seeking to change how the City analyzes potential noise impacts. CREED challenges to the City's adopted methodology and conclusions reached in the EIR. CREED also contends that the EIR must analyze speculative noise that could result from unlawfully excessive

noise from the outdoor uses due to the consumption of alcohol. In fact, as explained in the Final EIR, the Draft EIR incorporates source levels for speech that allow for wide variations in the speech levels of individuals (60-65 dBA at three feet, Draft EIR, page IV.H-33) and concludes that the noise levels from these outdoor activities would result in noise levels at sensitive receptors that are below ambient noise levels (Final EIR, page II-39). CREED speculates that consumption of alcohol would result in louder noise and that reliance on the LAMC regarding excessive regulations is prohibited by case law. However, the cases² relied on by CREED do not stand for the proposition that speculative impacts are required to be analyzed in an EIR in contradiction of the clear language of CEQA Guidelines Section 15145, which states that a speculative impact should not be discussed in an EIR and Section 15064(f)(5), which states that argument or speculation shall not constitute substantial evidence. Therefore, the appeal fails to establish that the EIR's analysis is inadequate.

IV. Conclusion

For all the foregoing reasons, and those set forth in EcoTierra's October 6, 2021 letter and the LOD, we respectfully submit that the appeal is without merit and should be denied.

Sincerely,



Edgar Khalatian
Partner

cc: Jivar Afshar (jivar.afshar@lacity.org)
Commission Executive Assistant (cpc@lacity.org)

² *Keep our Mountains Quiet v. Santa Clara* (2015) 236 Cal.App.4th 714, 733 (a mitigated negative declaration is not appropriate when it relies on legal noise limits as threshold of significance when there is a fair evidence that noise would be significant; that is, an EIR is required. Here, the City did prepare an EIR which included substantial evidence that noise impacts from operation of the Project and the Flexibility Option would be less than significant); *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 115-16 (issue of whether a potential cumulative impact requires an EIR on the actual impacts rather than reliance on a regulatory standard); *King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 893, as modified on denial of reh'g (Mar. 20, 2020) (involving exclusive reliance on a cumulative metric that did not provide a complete picture of the project's noise impacts. Here, as discussed in pages II-39 through II-41 of the Final EIR, the noise analysis relied on established methodology for determining noise impacts and cited to LAMC noise violations to explain what would happen if the CREED's speculative excessive noise due to alcohol were to occur).

DAY OF HEARING SUBMISSIONS



Planning CPC <cpc@lacity.org>

CPC-2020-6050-CU-ZV-F-WDI

Aksel Palacios <aksel.palacios@lacity.org>

Tue, Oct 26, 2021 at 11:17 AM

To: Planning CPC <cpc@lacity.org>

Chair City Planning Commission Members,

My name is Aksel Palacios. I am Councilman Buscaino's Planning & Economic Development Deputy, I am submitting this statement in lieu of a verbal statement at the City Planning Commission Meeting set for Thursday, October 28, 2021. Council District 15 has worked diligently with the applicant for the Scholarship Preparatory Project located at [24910 S. Avalon Street](#) in the Wilmington Community of our District. The project applicants have made the required outreach and have worked to create a design for their institution that is both in line with community design requests and safety requirements for students. It is for these reasons that Council District 15 is in support of the project as currently proposed, please feel free to contact me if you have any questions or concerns aksel.palacios@lacity.org.

best,

Aksel

Aksel Palacios, MPA**Planning & Economic Development Deputy**

Office of Councilman Joe Buscaino

15th District, City of Los Angeles

[200 N. Spring St Los Angeles, CA 90012](#)

(213) 473-7015



MEMORANDUM

To: Alan Como & Jivar Afshar, Department of City Planning

From: Craig Fajnor, Principal & Katie Wilson, Senior Air Quality/Noise Specialist

Date: October 27, 2021

**RE: 676 Mateo Project – October 28, 2021 City Planning Commission Meeting Items 7 & 8
VTT-74550 & CPC-2016-3689-GPA-ZC-HD-MCUP-DB-SPR**

1. On behalf of the 676 Mateo Project Team, **EcoTierra Consulting, Inc. (EcoTierra)** is providing the following responses to issues raised in the October 26, 2021 letter from Adams Broadwell Joseph & Cardozo on behalf of CREED LA (Appellant) commenting on Agenda Item Nos. 7 and 8 for the October 28, 2021 meeting of the City Planning Commission (Letter).
2. The Letter raises similar issues to those raised by the Appellant in their comment letters on the Draft EIR dated January 26, 2021 and February 8, 2021, letter to the Deputy Advisory Agency dated August 24, 2021, and appeal dated September 23, 2021. These include the following:

- a. Advisory Agency's Certification of the EIR was Premature

The Appellant again asserts that the Advisory Agency prematurely certified the EIR when it approved the Project's Vesting Tentative Tract (VTT) map. As a decision-making body of the City vested with approval authority by the LAMC, CEQA Guidelines Section 15090 required the Deputy Advisory Agency (DAA) to certify the EIR before it could approve the VTT map. Moreover, Appellant's seeming assertion that approvals have environmental impacts of their own is incorrect. The potential environmental impacts of a project are related to the characteristics of the project. The EIR evaluated the potential environmental effects of the whole of the 676 Mateo Project and therefore provided the DAA with sufficient basis to consider the information contained in the final EIR prior to approving the VTT Map for the Project (CEQA Guidelines Section 15090(b)). Moreover, issuing the Letter of Determination (LOD) did not commence the statute of limitations running on approval of the Project, therefore, the cases cited by the Appellant do not support the contention that the DAA had no authority to certify the EIR prior to the hearing on the balance of the Project approvals or that the Appellant is prejudiced by the LOD.

- b. Cumulative Air Quality Impact

The Appellant again asserts that when two or more projects generate emissions, a cumulatively considerable air quality impact would occur. As discussed in the EIR, the response to comments and the LOD, SCAQMD has determined that an individual project

only has the potential to contribute to a cumulatively considerable impact if it exceeds the SCAQMD's regional thresholds of significance. The City properly relied on this methodology.

c. Noise Measurements

The Appellant again contends that the ambient noise measurements used in the EIR are inaccurate. As noted in the EIR and in responses to comments on the EIR, the measurements were taken in accordance with City requirements and accepted methodologies. The Appellant now contends that the measurements were inaccurate because they were taken when construction of the Amp Lofts was underway and haul trucks were being operated. However, even with this being the case, the Project Site is located in an industrial area where truck traffic is common, and where Imperial Street and Santa Fe Avenue are wide streets that can, and do, accommodate trucks. This traffic pattern was part of the baseline conditions that were measured as part of the EIR noise analysis. The EIR shows that baseline noise levels at the Amp Lofts (69.3 dBA) were higher than at the Biscuit Company Lofts/Toy Factory Lofts on Mateo Street (66.4 dBA). The Project Site and Amp Lofts are both located mid-block between Jesse Street and 7th Street, which are major thoroughfares for trucks servicing the various warehouse and industrial uses in the area and they continue to be sources of traffic noise that could affect noise levels at the Amp Lofts from the high volumes of truck traffic. Even though haul trucks specifically from the construction of the Amp Lofts may no longer be in operation, other heavy duty truck traffic uses these streets, with resulting noise levels similar to a haul truck. The analysis of haul truck traffic impacts compares the calculated noise level of a haul truck with the highest instantaneous noise levels (Lmax) experienced at a sensitive receptor. As such, the noise analysis in the EIR complies with CEQA.

d. Health Risk Assessment

The Appellant again contends that the EIR should have included a health risk assessment that evaluates potential impacts from toxic air contaminants emitted during construction and operations. As previously noted, SCAQMD only recommends that a health risk assessment be prepared for certain uses that result in high levels of diesel emissions, including: Truck idling and movement (such as, but not limited to, truck stops, warehouse/distribution centers or transit centers); Ship hotelling at ports; and Train idling.

The Appellant quotes a Site Plan Consultation prepared by SCAQMD that states that, if a project generates diesel emissions from long term construction or attracts diesel-fueled vehicular trips, especially heavy-duty diesel fueled vehicles, it is recommended that the lead agency prepare a mobile source health risk assessment. The 676 Mateo Project includes neither of these. The Project's construction schedule is 24 months, only a portion of which involves the use of heavy duty diesel-fueled construction equipment, and would

therefore not be a source of long term diesel emissions, nor would the Project attract heavy-duty diesel fueled vehicles during its operation. As an urban mixed-use project, non-automobile traffic accessing the Project would be primarily limited to delivery vehicles and waste collection trucks, neither of which is a major source of diesel emissions.

Exhibit A of the Letter notes that construction exhaust PM_{2.5} (which is part of the total PM_{2.5} emissions) will reach a maximum of approximately 1 pound per day. As addressed in the EIR, per SCAQMD methodology for addressing localized impacts of construction activity (Localized Significance Thresholds – LST), the threshold level for emissions that would result in health effects is 5 pounds per day. As stated in the EIR: “LSTs represent the maximum emissions from a project that are not expected to cause or contribute to an exceedance of the most stringent applicable federal or state ambient air quality standard and are developed based on the ambient concentrations of that pollutant for each source receptor area and distance to the nearest sensitive receptor. These ambient air quality standards were established at levels that provide public health protection and allow adequate margin of safety, including protecting the health of sensitive populations such as asthmatics, children, and the elderly.” Accordingly, the potential health impacts to nearby receptors from construction activities (including emissions from diesel exhaust) are already addressed in the EIR.

In addition, the Appellant notes that the Project would generate 0.1 pounds per day of PM_{2.5} exhaust during operation. This value includes all the operational mobile source emissions (both the on-site emissions and off-site emissions together); therefore, use of PM_{2.5} exhaust to calculate the operational health risk from on-site activities is incorrect methodology per SCAQMD guidance. In addition, per the Project Traffic Study, the Project would generate 1,972 net daily trips. Assuming that three percent of those daily trips are heavy duty truck trips (HHDT) (which is a default value from the CalEEMod model), this would equal 59 HHDT. This would be a substantial over-estimation as the Project only has a limited loading area for accommodating heavy duty trucks. Moreover, the CARB and SCAQMD screening threshold for performing an operational HRA is 100 HHDT trips per day. Even with the vast over-estimation of HHDTs, the Project would not exceed this threshold.

In determining whether a quantitative health risk assessment of the Project’s construction and operational emissions would be required, the City correctly relied on the SCAQMD guidance.

3. If you have any questions on any of the above, please feel free to contact me.