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SECONDARY SUBMISSIONS



Department of City Planning

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

October 23, 2023

TO: City Planning Commission

FROM: Sheila Toni, City Planning Associate

ADDITIONAL INFORMATION TO THE STAFF RECOMMENDATION REPORT FOR CASE NO. AA-2020-5375-PMLA-VHCA-1A and DIR-2020-5379-SPP-VHCA-1A; 6100 NORTH CANOGA AVENUE

Transmitted herewith, is the Eyestone Environmental – Response to Appeals with Appendices, which includes an analysis of the Project's consistency with California Air Resource Board's 2022 Scoping Plan Update (provided in Appendix B) to be included as part of Exhibit C – Environmental Clearance: CEQA Guidelines Section 15168(c) Clearance City Planning Commission meeting of October 26, 2023, related to Item No. 9 and 10 on the meeting agenda.

EXHIBIT C

Environmental Clearance: CEQA Guidelines Section
15168(c) Clearance



TO: Sheila Toni
Department of City Planning

DATE: October 19, 2023

RE: District at Warner Center Project—Responses to Appeals

The City of Los Angeles (City) Department of City Planning prepared environmental documentation to address the environmental effects of the proposed District at Warner Center Project (Project) located at 6100 Canoga Avenue (Project Site) under Section 15168(c) of the California Environmental Quality Act (CEQA) Guidelines. Section 15168(c) of the CEQA Guidelines sets forth criteria to utilize a program EIR for “later activities” within the scope of a program environmental impact report (EIR). The City certified a programmatic EIR to evaluate the potential environmental impacts of approving the Warner Center Regional Core Comprehensive Specific Plan (Warner Center 2035 Specific Plan or Warner Center Plan) in 2013. The Warner Center 2035 Specific Plan Program EIR (State Clearinghouse No. 1990011055) (Programmatic EIR or Certified PEIR) evaluated the anticipated development within the Warner Center Plan area, including the anticipated development on the Project Site, which is located within the Downtown District of the Warner Center Plan area.

Based on the Warner Center 2035 Specific Plan Program EIR’s analysis and pursuant to CEQA Guidelines Section 15168(c), the City prepared a written checklist to evaluate the Project-specific environmental impacts and determine whether the Project-specific environmental effects would be within the scope of the Warner Center 2035 Specific Plan Program EIR. As analyzed therein, the City determined that the Project is “within the scope” of the Warner Center 2035 Specific Plan’s Program EIR pursuant to CEQA Guidelines Section 15168(c)(2).

On December 12, 2022, the Deputy Advisory Agency approved a Parcel Map in Case No. AA-2020-5375-PMLA-VHCA for the subdivision of the Project Site into three parcels. Channel Law Group, LLP representing West Valley Alliance for Optimal Living (Appellant) appealed the Parcel Map approval on December 27, 2022 (First Appeal). On April 26, 2023, the Director of Planning approved Project Permit Compliance Review (PPCR) in Case No. DIR-2020-5379-SPP-VHC, finding the Project in compliance with the Warner Center Specific Plan. Appellants appealed the PPCR approval on May 11, 2023 (Second Appeal). In both cases, the decision maker found that the Project was within the scope of the Warner Center 2035 Specific Plan Program EIR and no subsequent EIR or



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negative declaration is required for the Project. As demonstrated below, the appeals do not contain any substantial evidence that would change the City's conclusion that the Project is within the scope of the certified EIR. Provided below are responses to each of the topics raised in the First and Second Appeal.

FIRST APPEAL

Comment No. 1-1

This firm represents Jeff Bornstein ("Appellant"). On or about December 12, 2022, the Advisory Agency issued a Letter of Determination for the development project located at 21300 W. Oxnard Street ("Project"). The Advisory Agency also issued an environmental clearance for the Project under the California Environmental Quality Act ("CEQA"). Appellant hereby appeals the Preliminary Parcel Map as well as the environmental clearance approved for the Project. Appellant's justifications are outlined below.

Response to Comment No. 1-1

This introductory comment does not raise any substantive issues regarding the adequacy of the City's environmental clearance for the Project. No further response is warranted.

Comment No. 1-2

I. IMPACTS TO PARKS AND RECREATIONAL FACILITIES

Appellant is a citizen of the West Valley that is affected by the Project's impacts to park and recreational facilities. Condition 18 require [sic] payments of in-lieu fees. Appellant contends that the payment of these fees will not mitigate the Project's impacts to parks because the City may choose to utilize this money to create parks and/or recreational facilities far away from the project site. A superior condition would require the dedication of land on site or in close proximity to the project site. Appellant also contends that the environmental clearance document for the Project was legally insufficient because the City has failed to fully mitigate the Project's impacts to parks and recreational facilities by authorizing the payment of fees.

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Response to Comment No. 1-2

The commenter contends that the City has failed to fully mitigate the Project's impact to parks and recreational facilities because the City may choose to utilize the park fees paid by the Project far away from the Project Site.

As evaluated in the Certified PEIR, due to the amount of open space amenities to be provided within the Warner Center 2035 Specific Plan area, implementation of the Warner Center 2035 Specific Plan would not cause or accelerate substantial physical deterioration of any off-site local or regional park or recreational facilities. Similarly, implementation of the Warner Center 2035 Specific Plan would not substantially increase the use of off-site neighborhood and regional parks and recreational facilities, nor would it substantially increase demand for recreation programs. The PEIR concluded that impacts to parks and recreation were determined to be less than significant with implementation of Mitigation Measure P-21 which provides that:

The City shall require that project applicants comply with the open space regulations of the WCRCCSP and, for projects that involve a residential subdivision, also undertake one of the following: (1) dedicate additional parkland to meet the requirements of Los Angeles Municipal Code Section 17.12; (2) pay in-lieu fees for any land dedication requirement shortfall; or (3) provide on-site improvements equivalent in value to said in lieu fees. If any fees are collected, they should be spent within the WCRCCSP area including for example within opportunity areas along the Los Angeles River.

The Project would provide a variety of open space and recreational amenities to comply with the LAMC requirements and the requirements of the Warner Center 2035 Specific Plan. Specifically, the Project would provide a total of 121,073 square feet of common open space, including 84,566 square feet of PAOS. In addition, the Project would include 43,861 square feet of private balcony/deck open space. Pursuant to Section 6.2.2.3.2 of the Warner Center 2035 Specific Plan, the Project Site would be required to dedicate 15 percent of its land area as PAOS, equivalent to 57,523 square feet. As such, the Project's provision of 84,566 square feet of PAOS at buildout would exceed this requirement. In addition, the Project's PAOS would be required to provide a minimum of 50 percent landscaped area or approximately 28,761 square feet. The Project would provide approximately 29,150 square feet of landscaped area within the required PAOS areas, thereby exceeding the requirement of the Warner Center 2035 Specific Plan.

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In compliance with Mitigation Measure PS-21 of the Certified PEIR and the Parks Fee Ordinance, the City may either require a dedication of land, pay an in-lieu fee, or provide onsite improvements equivalent in value to said in lieu fees. On January 21, 2021, the City's Recreation and Parks Board approved Board Report 21-013 and recommended that the Advisory Agency require the Project to pay in-lieu fee under provisions of LAMC 12.33 (Parks Fee Ordinance). In approving the Parcel Map, the Advisory Agency concurred with the recommendation of the Recreation and Parks Board and required the payment of in-lieu fees. Thus, the Project complies with Mitigation Measure PS-21 of the Certified PEIR.

In addition, Subsection I.3(a) of LAMC Section 12.33, which codifies the City's park fee ordinance (No. 184505) provides:

a) Park fees collected pursuant to this section shall be committed by the City within five years of receipt of payment for a residential development project to serve or benefit residents of the project for which the fees were collected.

LAMC Section 12.33 J further provides:

1. The dedicated lands or park fees collected pursuant to this section shall be used for the acquisition, improvement and expansion of public parks and recreational facilities.

...

4. The park or recreational facilities acquired, improved or expanded shall be publicly accessible and serve or benefit the project that dedicated the land or paid the fees.

Therefore, the Project's park fees cannot be utilized far away from the Project Site. Further, in compliance with State law, the park fee is based on the Park and Recreation Site and Facility Fee Study, Rami & Associates, June 23, 2015, which identified the need for new park and recreational facilities and provided the technical analysis and nexus findings to support the parks fee to pay for these new facilities. The time for challenging the adequacy of this nexus study and the parks fee ordinance has long since passed.



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Comment No. 1-3

II. CONCLUSION

Appellant respectfully request that the West Valley Area Planning Commission, after reviewing this appeal and its records, revoke and set-aside the approval of the project approvals, rescind the environmental clearances for the Project and order further environmental review under CEQA. Appellant reserves the right to supplement the bases for appeal presented.

Response to Comment No. 1-3

This comment is noted for the record and will be forwarded to the City decision-makers for their review and consideration.



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SECOND APPEAL

Comment No. 2-1

This firm represents West Valley Alliance for Optimal Living ("Appellant"). On or about January 13, 2020 [sic], the Planning Director ("Director") issued a Letter of Determination (LOD) for the mixed-use development project located at 6100 Canoga Avenue ("Project"). Appellant hereby appeals the Project Permit Compliance Review as well as the environmental clearance approved for the Project under the California Environmental Quality Act ("CEQA"). The City has failed to address whether there are changes in circumstances or new information that has become available since the preparation of the WC2035 EIR, that would result in new or more severe impacts from this proposed project and the Warner Center 2035 Plan. The Director also abused his discretion in determining that the project substantially complied with the applicable regulations, findings, standards and provisions of the specific plan.

Response to Comment No. 2-1

As discussed above, the City Department of City Planning prepared environmental documentation to address the environmental effects of the Project under Section 15168(c) of the CEQA Guidelines. Section 15168(c) of the CEQA Guidelines sets forth criteria to utilize a program EIR for "later activities" within the scope of a program environmental impact report (EIR). The City certified a programmatic EIR to evaluate the potential environmental impacts of approving the Warner Center Regional Core Comprehensive Specific Plan (Warner Center 2035 Specific Plan or Warner Center Plan) in 2013. The Warner Center 2035 Specific Plan Program EIR (State Clearinghouse No. 1990011055) (Programmatic EIR or Certified PEIR) evaluated the anticipated development within the Warner Center Plan area, including the anticipated development on the Project Site.

As analyzed in the environmental document for the Project, which was based on technical documentation from qualified experts, the City determined that the Project is "within the scope" of the Warner Center 2035 Specific Plan's Program EIR pursuant to CEQA Guidelines Section 15168(c)(2). In addition, as demonstrated by the analysis included in the environmental document for the Project, impacts associated with the Project would be within the scope of impacts addressed in the Certified PEIR. Moreover, the environmental document concluded that there have been no changes with respect to the circumstances under which the Project is undertaken, which would be expected to result in new or more severe significant impacts. The commenter provides no evidence



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demonstrating there have been changes to the Specific Plan project analyzed in the Certified PEIR, changed circumstances, or significant new information that would result in new or more severe significant impacts.

This comment is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment No. 2-2

I. NON-COMPLIANCE WITH SPECIFIC PLAN

Appellant is a citizen of the West Valley that is affected by the Project's impacts to park and recreational facilities. Condition No. 12 is entitled "Publicly Available Open Space" and details the PAOS provided the Project. The Director determined that the Project complied with Section 6.2.2 of the Specific Plan. See LOD at pages 56-57. The Director concluded the Project would provide 84,566 square feet of PAOS for the entire Project. However, there is no guarantee that this will be provided if Phases 2 and 3 are not implemented, which would leave only 39,513 square feet of PAOS upon completion of Phase 1 (below the 57,523 square feet of PAOS minimally required). Additionally, the Director erred when he determined that the size of the park proposed by the applicant was sufficient to meet the needs of this large, dense Project. The proposed park is an inadequate "focal point or gathering space" pursuant to Section 6.2.2.4.3.

Response to Comment No. 2-2

As discussed in the environmental document for the Project, the Project would provide a variety of open space and recreational amenities to comply with the LAMC requirements and the requirements of the Warner Center 2035 Specific Plan. Specifically, the Project would provide a total of 121,073 square feet of common open space, including 84,566 square feet of PAOS. In addition, the Project includes 43,861 square feet of private balcony/deck open space. Pursuant to Section 6.2.2.3.1 of the Warner Center 2035 Specific Plan, the Project Site would be required to dedicate 15 percent of its land area as PAOS, equivalent to 57,523 square feet. As such, the Project's provision of 84,566 square feet of PAOS at buildout would exceed this requirement. In addition, the Project's PAOS would be required to provide a minimum of 50 percent landscaped area or approximately 28,761 square feet. The Project would provide approximately 29,150 square feet of landscaped area within the required PAOS areas, thereby exceeding the requirement of

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the Warner Center 2035 Specific Plan. In addition, the Project would be required to pay an in-lieu Parks Fee payment to the City consistent with LAMC Section 12.33 and Ordinance 184505. As such, the Project would exceed the required open space requirements.

Warner Center 2035 Specific Plan Section 5.3.3.1 permits multi-phased projects which is defined as “A Project constructed in multiple phases. All Projects in the Plan may be permitted to develop in stages or phases over specified time periods.” In compliance with the Specific Plan, the Project provides phasing documentation that describes the sequence of development including, but not limited to, the “anticipated internal physical improvements for each phase of the Project, including internal streets, sidewalks, private walkways, open spaces, landscaping, lighting, and other amenities supporting these improvements.” In compliance with Specific Plan Section 5.3.3.2.3 and Condition 12.c.x.iv of the Project Permit Compliance Review determination, the applicant will be required to record a covenant prior to the issuance of a permit for the first phase obligating the owner to compliance with the phasing conditions, including implementation of the PAOS in the future phases.

Warner Center 2035 Specific Plan Section 6.2.2.4.3 requires that within the PAOS, the Project must provide one focal point or gathering space with a minimum of 500 square feet. The proposed park open space area is approximately 4,300 square feet and includes a large gathering lawn, shade structures, and seating areas and thus complies with the focal point requirements.

Comment No. 2-3

II. THE PROPOSED PROJECT

The proposed project is described in the Letter of Determination as follows:

The proposed project involves a Project Permit Compliance Review for the demolition of a 114,057 square foot one-story commercial retail building and surface parking, and for the construction of a 1,163,048 square foot Master-Planned, Multiple-Phased, mixed-use development consisting of a hotel and two multifamily residential buildings housed over three parcels pursuant to Preliminary Parcel Map, AA-2020-5375-PLMLA-VHCA on an 8.8 acre lot (after dedications). The Project will provide 859,551 square feet of Residential Floor Area and 303,497 square feet of Non-Residential Floor Area, and 84,566 square feet of Publicly Accessible Open Space (PAOS).



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Phase 1 encompasses construction of the North Building, an eleven-story, 156 foot high multifamily residential building consisting of 445 multifamily dwelling units, including 158 work-live units, and associated residential amenities comprising of 521,302 square feet of Residential Floor Area.

The North Building also includes ground floor resident serving amenities and a 2,171 square foot market retail store. Parking will be housed over eight-stories wrapped by residential units and one below-grade providing 717 parking spaces: 709 residential spaces and eight commercial spaces.

Phase 2 involves construction of the South Building, an eleven-story, 152 foot high multifamily residential building with 407 multifamily dwelling units, inclusive of 158 designated for work-live units, and associated residential amenities comprising of 479,234 square foot of Residential Floor Area. Parking will consist of 673 residential parking spaces housed within one subterranean level and eight parking levels wrapped by residential units.

Phase 3 involves construction of a twelve-story, 154 foot high Hotel Building with 204 guest rooms aggregating to 160,341 square feet of floor area. The hotel will provide ground floor non-residential uses such as a lobby, bar and outdoor patio, and bistro. One hundred and twelve valet parking spaces will be provided over two parking levels: 58 spaces in one subterranean level and 54 spaces on the second level.

Bicycle parking for the Project will consist of 385 long term and 59 short term bicycle parking spaces: 363 long term spaces for the Residential use and 22 long term spaces for the Non-Residential uses; and 37 short term spaces for the Residential uses and 22 short term spaces for the Non-Residential uses.

The Project will also provide 84,566 square feet of Publicly Accessible Open Space (PAOS), which will include a variable 33 foot–40 foot wide Pedestrian Adapted Pathway (PAP) surrounding the perimeter of the site and featuring a park with a multi-purpose lawn and seating areas.

The Project will also provide 84,566 square feet of Publicly Accessible Open Space (PAOS), which will include a variable 33 foot–40 foot wide Pedestrian Adapted Pathway



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(PAP) surrounding the perimeter of the site and featuring a park with a multi-purpose lawn and seating areas.

The proposed project is thus a very large-scale phased project.

Response to Comment No. 2-3

This comment summarizes the proposed Project improvements and provides the opinion of the commenter that the Project is a very large-scale phased project. As this comment does not raise any substantive issues regarding the adequacy of the City's environmental clearance for the Project, no further response is warranted.

Comment No. 2-4

The City is Utilizing a 10-Year-Old EIR

The proposed project is located within the Warner Center 2035 (WC2035) Plan area. The WC2035 Plan became effective December 25, 2013. An EIR for WC2035 was prepared. The Final Environmental Impact Report for the WC2035 Plan (ENV-2008-3471-EIR; SCH No. 1990011055 was certified by the Los Angeles City Council on October 23, 2013 (WC2035 Plan FEIR) (Council File No. 13- 0197).¹ The City is inappropriately using a 10 year old EIR as the environmental clearance document for the Project.

¹ EIR No. ENV-2008-3471-EIR, CPC 2008-3470-SP-GPA-ZC-SUD State Clearinghouse No.1990011055 [sic] Available at: https://planning.lacity.org/eir/WarnerCntrRegionalCore/WarnerCntr_coverpg.htm

Response to Comment No. 2-4

As previously discussed above in Response to Comment No. 2-1, Section 15168(c) of the CEQA Guidelines sets forth criteria to utilize a program EIR for "later activities" within the scope of a program environmental impact report (EIR). The City certified a programmatic EIR to evaluate the potential environmental impacts of approving the Warner Center Regional Core Comprehensive Specific Plan (Warner Center 2035 Specific Plan or Warner Center Plan) in 2013. The Warner Center 2035 Specific Plan Program EIR (State Clearinghouse No. 1990011055) (Programmatic EIR or Certified PEIR) evaluated the anticipated development within the Warner Center Plan area, including the anticipated development on the Project Site.

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Under CEQA, reliance on a certified EIR for a subsequent approval does not reopen the adequacy of the certified Warner Center 2035 Specific Plan EIR. Also, under CEQA, courts have established a deferential test for an agency's reliance on a prior EIR. (*Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 944.) Specifically, the EIR only has to "retain some relevance" and/or "some informational value" to the subject project. Courts may only reject an agency's use of a previously certified EIR or adopted (M)ND if it is "wholly irrelevant." (Id.)

As analyzed in the environmental document for the Project, the City determined that the Project is "within the scope" of the Warner Center 2035 Specific Plan's Program EIR pursuant to CEQA Guidelines Section 15168(c)(2). In addition, as demonstrated by the analysis included in the environmental document for the Project, impacts associated with the Project would be within the scope of impacts addressed in the Certified PEIR and that there have been no changes with respect to the circumstances under which the Project is undertaken, which would be expected to result in new or more severe significant impacts. Contrary to the comment, there is no time limit on the use of program EIRs. Moreover, the commenter provides no evidence that the analysis or conclusions in the Certified PEIR are no longer valid and cites to no alleged impacts associated with the Project.

This comment is noted for the record and will be forwarded to the decision-makers for their review and consideration.

Comment No. 2-5

III. CHANGES IN CIRCUMSTANCE AND NEW INFORMATION THAT HAS BECOME KNOWN SINCE ADOPTION OF THE WC2035 FEIR NECESSITATE PREPARATION OF A SUBSEQUENT EIR FOR THE WARNER CENTER 2035 PLAN

The City of Los Angeles prepared a Program EIR for the Warner Center 2035 Plan, as required by CEQA Guidelines Section 15165 for multiple and phased projects. Pursuant to CEQA Guidelines Section 15162, a Subsequent EIR is required, if on the basis of substantial evidence, it is shown that:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

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- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Response to Comment No. 2-5

This comment summarizing the CEQA Guidelines does not raise any substantive issues regarding the adequacy of the City's environmental clearance for the Project. No further response is warranted.

Comment No. 2-6

In this case, new information and changes in circumstances necessitating the preparation of a Subsequent EIR includes the fact that:

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- In 2013, the State of California signed Senate Bill (SB) 743 into law requiring analysis of whether land use projects result in an increase in Vehicle Miles Traveled (VMT) in excess of an applicable threshold of significance. Compliance with CEQA Guidelines Section 15065.3 became mandatory on July 1, 2020 and the City requires that projects that have not been adopted and have not completed the appeal period prior to the State deadline of July 1, 2020 are required to prepare a VMT analysis.² (See **Attachment A**). The WC2035 FEIR does not include a VMT analysis. Given the large scale of both the WC2035 Plan and the proposed project, there is a clear potential for significant VMT impacts.

² https://appladotwebprod.azurewebsites.net/sites/default/files/2020-04/faq_transportation-sectionupdate_aug2019_0.pdf

Response to Comment No. 2-6

The comment incorrectly states that the Warner Center 2035 Specific Plan PEIR does not include a VMT analysis. While the PEIR was adopted in 2012, prior to the adoption (2013) and implementation (2020) of California Senate Bill 743 (SB 743), PEIR Section 4.12 presented an analysis of Vehicle Miles Traveled (VMT) and Vehicle Hours Traveled (VHT) at a systemwide level to assess the performance of the Warner Center Specific Plan area. This analysis was based on the SCAG Regional Travel Demand Forecasting Model and included the relevant projections and assumptions to adjust for future conditions without and with implementation of the Warner Center 2035 Specific Plan.

The EIR found that the 2035 No Project condition was anticipated to result in an arterial VMT increase (5.25 percent), based on a 23.75 percent increase in development over the existing conditions. The 2035 With Project (Warner Center 2035 Specific) conditions were also anticipated to result in an arterial VMT increase (11.58 percent), based on a 148 percent increase in development over the existing conditions; this was found to not increase proportionately to the anticipated increase in development.

The Warner Center 2035 Specific Plan PEIR concluded that the “comparison highlights the increased efficiency achieved by the new development under the [Warner Center 2035 Specific Plan]. 2035 With Project growth in development is more than six times that of the 2035 No Project, yet results in only about twice the VMT/VHT growth. This increase in efficiency is a direct benefit of the high-density mixed-use development of the anticipated [WC2035 plan] buildout. It indicates that trips generated by [WC2035 Plan]

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development are far shorter in both distance and time spent traveling than those generated without [WC2035 Plan] update (No Project conditions, and Existing 2008 conditions)."

The Certified EIR concluded that although the relative contribution of the Warner Center 2035 Specific Plan development to VMT and VHT would be significantly reduced by the benefits of the proposed Warner Center 2035 Specific Plan, it would not likely compensate for the total contribution to cumulative VMT and VHT growth. Therefore, impacts were determined to be significant and unavoidable.

LADOT and the Planning Department issued an inter-departmental policy memorandum, *Vehicle Miles Traveled Analysis within the Warner Center 2035 Specific Plan's Environmental Impact Report* (March 17, 2021), that addressed "how the WC2035 Plan supports the reduction of VMT and the reasons for not requiring a project-level VMT analysis for projects entitled within the scope of, or tiering from, the WC2035 Environmental Impact Report (EIR)."

The memorandum identified that LADOT's travel demand simulation model "was calibrated to simulate existing conditions and develop the City's VMT thresholds and estimation tools." The developed tools indicate that the South Valley Area Planning Commission generates a lower VMT per capita and VMT per employee than the SCAG regional average for the respective metric. The Warner Center 2035 Specific Plan includes policies that require most projects to either submit a Transportation Demand Management (TDM) Plan or join a Transportation Management Organization (TMO) as a means of reducing overall vehicular trips within Warner Center. With adoption in 2013, the efficacy of the Warner Center 2035 Specific Plan's TDM policies was reviewed with travel behavior datasets from 2019 that compared Warner Center with the rest of the West San Fernando Valley. The review found that the average VMT in Warner Center was lower when compared against LADOT's West Valley area as well as the North Valley and South Valley Area Planning Commission (APC) areas. The memorandum concludes that:

...the objectives of the Plan are being realized with implementation of projects that are consistent with the provision and terms of the Plan's EIR and Specific Plan... These comparisons highlight the increased efficiency and internal trip-making achieved by the anticipated new development under the Plan... as the various mobility enhancements of the Plan are implemented, as the TMO builds up membership, and as TDM plans of individual projects are

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processed, the Plan's VMT figures should see further reductions. For these reasons, LADOT recommends that development proposals that are consistent with the Plan should not be required to prepare a VMT analysis per LADOT's Transportation Assessment Guidelines. Demonstrating consistency with the Plan already points to the desired VMT outcomes of the new LADOT guidelines and VMT thresholds.

As the Project is consistent with the Specific Plan, no additional VMT analysis was required as set forth in LADOT's assessment letter dated May 11, 2022. For informational purposes, however, the Project was evaluated using the *City of Los Angeles VMT Calculator Version 1.4* (LADOT, June 2023) which is specified in LADOT's *Transportation Analysis Guidelines [TAG]* (2023) as an appropriate tool to estimate a project's VMT.¹

The calculation methodology is detailed in *City of Los Angeles VMT Calculator Documentation* (LADOT and LADCP, May 2020). The VMT Calculator considers the trip type, travel behavior, development setting, trip length, population and employment assumptions, and incorporation of TDM strategies in the calculation of VMT and also estimates the daily VMT on a per capita basis for household trips and a per employee basis for employment trips. These metrics are compared against the VMT impact thresholds identified in the TAG, which are specific to each APC. Warner Center is located in the South Valley APC; the daily household VMT per capita impact threshold is 9.4 and the daily work VMT per employee impact threshold is 11.6. A significant VMT impact occurs when the applicable thresholds are exceeded.

Based on the VMT Calculator, the Project is estimated to generate a total of 5,425 daily vehicle trips with 44,460 daily VMT; the VMT Calculator further estimates an 8.0 daily household per capita VMT and 11.5 daily work VMT per employee for the Project. These VMT values are based on the Project's proposed land uses and conservatively does not include the incorporation of any additional TDM strategies as required by the Warner Center 2035 Specific Plan.

¹ As the City certified the Warner Center 2035 Specific Plan PEIR prior to the CEQA Guidelines amendments changing the standard for transportation analyses to vehicle miles traveled in December 2018, no VMT analysis is required. *Olen Properties Corp. v. City of Newport Beach* (2023) 93 Cal.App.5th 270; *Citizens for Positive Growth & Preservation v. City of Sacramento* (2019) 43 Cal.App.5th 609.

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Compared against the impact thresholds of the South Valley APC, the Project is estimated to generate lower household per capita and work per employee daily VMT values. This informational evaluation was performed consistent with current LADOT methodology, and supports the conclusion that the Project would not result in significant VMT impacts.

Lastly, even if the Warner Center 2035 Specific Plan PEIR did not include a VMT analysis, the adoption of a new significance threshold or revisions to certain methodologies does not, in and of itself, necessarily require the City to prepare a subsequent or supplemental EIR. Therefore, the State Legislature's adoption of a new threshold of significance, such as for greenhouse gas analysis or VMT, is not on its own, new information requiring a subsequent EIR under PRC 21166. (See *Citizens for Responsible Equitable Environmental Development v. City of San Diego Redevelopment Agency* (2005) 134 Cal.App.4th 598, 610 [the court upheld a local agency's determination that "new information" about GHG emissions did not require supplemental EIR under PRC 21166 even though the 1994 EIR relied on did not analyze GHG emissions because the court found "information on the effect of greenhouse gas emissions on climate was known long before the City approved the 1994 EIR"]; see also, *Concerned Dublin Citizens v. City of Dublin* (2013) 214 Cal.App.4th 1301, 1320 [the court found a supplemental EIR was not required for a 2002 Supplemental Approval where the EIR did not study previously study GHG impacts because the court concluded that the new GHG threshold did not amount to new information because the potential effects of GHG's were known and could have been addressed in conjunction with the certification of the EIR in 2002].)

Comment No. 2-7

- In November 2016, Measure JJJ was passed by Los Angeles City voters. As a result, the City Adopted Transit Oriented Community Affordable Housing Incentive Guidelines (TOC Guidelines) which became effective on September 22, 2017.³ This resulted in a defacto [sic] up-zoning of a substantial portion of the City of Los Angeles, including the Warner Center area (see Map 1 in the TOC Guidelines).⁴ The cumulative impact analyses in the WC2035 FEIR are therefore outdated and understate the potential for cumulative traffic and other impacts.

³ <https://planning.lacity.org/odocument/39fae0ef-f41d-49cc-9bd2-4e7a2eb528dd/TOCGuidelines.pdf>

⁴ See Map on page 6 of the TOC Guidelines available at: <https://planning.lacity.org/odocument/39fae0ef-f41d-49cc-9bd2-4e7a2eb528dd/TOCGuidelines.pdf>

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Response to Comment No. 2-7

As set forth in the environmental document prepared for the Project, page 264, overall, in each of the analyses provided in the environmental document, impacts associated with the Project would be within the scope of impacts evaluated in the Certified PEIR, and as such, the Project's contribution to potential cumulative impacts would remain unchanged from those previously evaluated. Accordingly, the Project would not result in any new significant cumulative impacts, nor would it substantially increase the severity of any significant cumulative impacts previously identified in the Certified PEIR.

The TOC Guidelines permits increased residential density and floor area along with additional incentives, such as increased height, for eligible sites located within 0.5 mile of a Major Transit Stop. The Project Site is not located within a transit priority area, and only a small portion of the Specific Plan area is within a transit priority area based on proximity to Metro's Orange Line busway stop. One of the main goals of the Specific Plan is permit higher intensity development which is reflected in the development standards in the Specific Plan, including permitting a 4.5:1 FAR (up to 5:1 on the Project Site), unlimited density, and unlimited height for most properties. As such, to date, there has not been a TOC case approved in the Specific Plan area. In the situation where a project used TOC, that project would need to prepare site-specific analyses to determine if there are any environmental impacts associated with increased development from the TOC.

Comment No. 2-8

- The WC2035 FEIR identified Greenhouse Gas (GHG) emissions as significant and unavoidable. In 2015 the City released its first Sustainable City pLAN. The plan was updated in 2019 with the City's Green New Deal.⁵ The WC2035the [sic] does not analyze consistency with the City's Green New Deal, including compliance with the following targets:
 - All new buildings will be net zero carbon by 2030; and 100% of buildings will be net zero carbon by 2050
 - Reduce building energy use per sq.ft. for all building types 22% by 2025; 34% by 2035; and 44% by 2050
 - Increase tree canopy in areas of greatest need by at least 50% by 2028

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- The WC2035 EIR does not address consistency with GHG-related legislation that has passed in the last eight years. The WC2035 EIR does not require mitigation measures for GHG-related impacts contained in State and local plans, which have become common practice in the intervening years.

⁵ Available at: https://plan.lamayor.org/sites/default/files/pLAn_2019_final.pdf

Response to Comment No. 2-8

An analysis of the Project's potential impacts regarding GHG emissions in accordance with current standards was included as part of the environmental documentation prepared for the Project, beginning on page 114. As set forth therein, since publication of the Certified PEIR, the regulatory environment pertaining to GHG emissions has continued to evolve. Consistent with CEQA Guidelines Section 16064.4 to analyze the Project's GHG impacts under these thresholds, the City utilized a qualitative analysis that analyzed the Project's consistency with the plans, policies and regulations adopted to reduce GHG emissions.

In particular, the environmental analysis states that the Project would incorporate or support measures detailed in the Sustainable City pLAn/LA Green New Deal and the LA Green Plan, such as increasing renewable energy usage; reducing per capita water usage; promoting walking and biking; promoting of high density uses close to major transportation stops; and various recycling and trash diversion goals. The benefits described above, combined with compliance with the Los Angeles Green Building Code and other relevant Title 24 requirements, would render the Project consistent with the various plans and policies designed to reduce GHG emissions and attain the reduction targets established in AB 32 and Executive Order S-3-05. More importantly, there is nothing about the Project that would increase GHG emissions from those anticipated for the approved Specific Plan. The Project does not include features that would make GHG emissions worse for the Specific Plan, and, as noted above, the Project would comply with applicable laws and regulations that would reduce GHG emissions, including a more stringent version of the Green Building Code than the one in effect at the time of the Certified PEIR.

As further discussed in the environmental document prepared for the Project on page 124, although mitigation measures specific to GHG emissions were not previously adopted in the Certified PEIR, implementation of many of the adopted air quality mitigation measures in the Certified PEIR would serve to reduce GHG impacts. The same mitigation

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measures recommended to reduce construction and operational air quality impacts set forth in the Certified PEIR and the associated PEIR MMRP would apply to the Project.

Also refer to Response to Comment No. 2-6, above. In addition, for informational purposes, an analysis of the Project's consistency with CARB's 2022 Scoping Plan Update is provided in Appendix B.

Comment No. 2-9

- There have been changes in the WC2035 land uses since the FEIR for the WC2035 Plan FEIR was certified. Much more is known about proposed projects in the Plan area. At the time the traffic study for the plan was done, the trip generation was done for the 26 Transportation Analysis Zones (TAZs) that made up the Plan area based on only the following land use categories: dwelling units, regional retail, other retail, and office. (See **Attachment B** which includes the trip generation from Appendix G of the WC2035 DEIR, and a map showing the location of the TAZs from page 375 of the pdf for the DEIR). Much more is now known about proposed uses in the Plan area. (See **Attachment C**, showing cumulative development in the Plan area as of March of 2019, as detailed in the Five-Year Status Report for the Warner Center Specific Plan⁶).

Changes to the Warner Center 2035 mix of assumed land uses and similar information for the cumulative projects identified in the Five-Year Status Report for the Warner Center Specific Plan support the need for a Subsequent EIR for the Warner Center 2035 Plan. In the absence of a showing that trip generation and distribution for cumulative projects in the plan area is consistent with the trip distribution and generation in the WC2035 EIR, the potential for impacts remains. This is particularly important given that the numerous intersection and other traffic impacts of the WC2035 Plan are addressed via a Traffic Impact Fee. An assessment of traffic impacts and fee structure based on an eight-year-old traffic study with a more general mix of land uses is likely to result in a failure to either fully mitigate impacts or a failure to mitigate impacts in a timely manner.

⁶ The Five Year Status Report is incorporated herein by reference and is available at: [https://planning.lacity.org/StaffRpt/InitialRpts/CPC-2008-3470%20\(2\).pdf](https://planning.lacity.org/StaffRpt/InitialRpts/CPC-2008-3470%20(2).pdf)

Response to Comment No. 2-9

The appellant maintains that there have been changes in the land uses that have been built since the PEIR was certified that differ from the land uses identified in the traffic

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analysis and Appendix G of the Warner Center 2035 Specific Plan Draft EIR. The commenter cites the Five-Year Status Report for the Warner Center Specific Plan and a map showing a list of approved projects as evidence that the land uses have changed since the PEIR was certified. However, the Five-Year Status Report and reference map simply comprises a compiled list to show which projects have been approved since adoption of the Specific Plan that are in compliance with the uses permitted by the Specific Plan.

The Warner Center 2035 Specific Plan EIR developed and utilized a geographically focused travel demand forecasting model (WC2035 Model) from the larger-scale Regional Travel Demand Model in SCAG's *2008 Regional Transportation Plan (RTP): Making the Connections* (Southern California Association of Governments, May 2008) (SCAG Model). The development of trip generation in the WC2035 Model is based on socioeconomic data (SED) inputs and not trip generation rates. This SED based trip generation is consistent with the SCAG Model, as the WC2035 Model is derived from the regional SCAG Model.

In order to compare and validate the trip generation output from the WC2035 Model to a trip rate-based trip generation estimate, a comparison methodology was identified in Section 4.12 "Transportation, Circulation, and Parking" of the Warner Center 2035 Specific Plan PEIR, which is reflected in Appendix G.6 of the PEIR titled:

Warner Center Theoretical ITE Trip Generation Estimated by TAZ-Compared to Model Results (For Comparison Purposes Only—ITE Results Not Used in Warner Center Specific Plan Traffic Analysis).

The comparison methodology in Appendix G.6 utilizes the preparation of a rate-based trip estimate along with the identification of applicable trip reductions and adjustment factors. As such, both the land use categories and trip rates are provided for reference only to provide a comparison to the trip generation estimates using the travel demand forecasting model (WC2035 Model) and the land uses listed in the Appendix G.6 are not intended to list every permitted use in the Specific Plan.

The WC2035 Model includes 26 TAZs within the Specific Plan area. Trip generation was developed for each TAZ based on the total anticipated development from SED projections for the build out of the Warner Center 2035 Specific Plan. The trip estimates were prepared for the morning and afternoon peak hours and based on the SED

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assumptions specific to each TAZ. The TAZ trip tables identify the total trip allocation for Year 2035 with completion of the Warner Center 2035 Specific Plan and implementation of all TOD/TDM strategies.

These trip generation estimates effectively represent a trip allocation/guideline for each TAZ, where the total TAZ trip generation should not exceed that identified allocation. LADOT has indicated that some flexibility exists relative to the TAZ trip allocation where excessive trips may be “borrowed” from neighboring TAZs. However, TAZ trip generation that significantly exceeds its trip allocation may result in additional transportation analysis not originally addressed in the Warner Center 2035 Specific Plan PEIR.

The Project Site is located on Canoga Avenue between Erwin Street and Oxnard Street. Per Warner Center 2035 Specific Plan PEIR Figure 4.12-8: *Warner Center TAZs*, this area is identified as part of TAZ 11 within the WC2035 Model. The TAZ trip tables indicate that during Year 2035 with the completion of the Warner Center 2035 Specific Plan and implementation of all TOD/TDM strategies, a total of 1,428 morning peak hour and 1,860 afternoon peak hour trips are identified for TAZ 11 where the Project Site is located. As set forth in the Technical Memorandum prepared by Gibson Transportation (refer to Appendix H of the CEQA Clearance document prepared for the Project), the Project is anticipated to generate approximately 277 morning peak hour trips and 129 afternoon peak hour trips, which is 1,151 fewer morning peak hour trips and 1,731 fewer afternoon peak hour trips than the TAZ 11 trip allocation at full buildout. This level of trip generation is approximately 20 percent and 7 percent, respectively, of the trips assumed by the Warner Center 2035 Specific Plan PEIR for the TAZ during the morning and afternoon peak hours. The Project is estimated to generate fewer trips than the TAZ trip allocation and, therefore, is consistent with the Warner Center 2035 Specific Plan and TAZ trip generation assumptions.

Pursuant to Section 5.3.3.1.3 and Section 7.3 of the Warner Center 2035 Specific Plan, the applicant must pay or guarantee a Mobility Fee to LADOT prior to issuance of any building permit which is intended to fund transit and roadway improvements in the Specific Plan. The Mobility Fee is not based on a Project’s trip generation but on land uses (as permitted by the Specific Plan) and intensity of development (square footage).

As determined by LADOT, the Project is consistent with the analysis requirements and is subject to the collection of Mobility Fees as prescribed by the Warner Center 2035



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Specific Plan (refer to Appendix H.2 of the CEQA Clearance document prepared for the Project).

Comment No. 2-10

IV. CONCLUSION—AN EIR IS REQUIRE [sic] FOR THE PROPOSED PROJECT

Both CEQA Guidelines Section 15070 and 15165 mandate the preparation of the EIR for the proposed project.

An EIR is Required Pursuant to CEQA Guidelines Section 15165

CEQA Guidelines Section 15165 addresses the requirements for phased project, and makes clear that an EIR is required for this type of project; reliance on an 8-year old WC2035 EIR is not sufficient:

15165. MULTIPLE AND PHASED PROJECTS

Where individual projects are, **or a phased project is, to be undertaken and where the total undertaking comprises a project with significant environmental effect, the Lead Agency shall prepare a single program EIR for the ultimate project as described in Section 15168...**⁷

As demonstrated in this letter, the proposed project has the potential to result in significant unmitigated impacts.

Attachments

Exhibit A City of Los Angeles Department of City Planning (DCP) and Transportation (LADOT)—CEQA Transportation Analysis Update Frequently Asked Questions—August 2019 [5 pages]

Exhibit B Appendix G.6 Model Data and Figure 4.12-8 [3 pages]

Exhibit C Significant Approved and Proposed Projects—Warner Center 2024 Plan and Significant Projects Under Construction—Warner Center 2024 Plan [3 pages]

⁷ Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21061, 21100, and 21151, Public Resources Code; Whitman v. Board of Supervisors (1979) 88 Cal. App. 3d 397.



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Response to Comment No. 2-10

As previously discussed above in Response to Comment No. 1, Section 15168(c) of the CEQA Guidelines sets forth criteria to utilize a program EIR for “later activities” within the scope of a program environmental impact report (EIR). The City certified a programmatic EIR to evaluate the potential environmental impacts of approving the Warner Center Regional Core Comprehensive Specific Plan (Warner Center 2035 Specific Plan or Warner Center Plan) in 2013. The Warner Center 2035 Specific Plan Program EIR (State Clearinghouse No. 1990011055) (Programmatic EIR or Certified PEIR) evaluated the anticipated development within the Warner Center Plan area, including the anticipated development on the Project Site.

Once an EIR is certified for a project, Public Resources Code Section 21166 (PRC 21166) provides that an agency shall not require an EIR for a subsequent approval for the project which has already been assessed unless one of three particular triggering events is met. Examples of such triggers that would meet this threshold include a showing that (i) the project will have one or more new significant effects, (ii) significant effects will be substantially more severe; (iii) mitigation measures or alternatives found infeasible are now feasible, and would substantially reduce significant effects, but the project proponents decline to adopt; and (iv) mitigation measures or alternatives that are considerably different from those analyzed in the previous EIR would reduce one or more significant effects. The appellant has not met its burden to show that any of the above-mentioned events have occurred.

As analyzed in the environmental document for the Project, the City determined that the Project is “within the scope” of the Warner Center 2035 Specific Plan’s Program EIR pursuant to CEQA Guidelines Section 15168(c)(2). In addition, as demonstrated by the analysis included in the environmental document for the Project, impacts associated with the Project would be within the scope of impacts addressed in the Certified PEIR. The commenter provides no evidence demonstrating there have been changes to the Specific Plan project analyzed in the Certified PEIR, changed circumstances, or significant new information that would result in new or more severe significant impacts.

Appendices

Appendix A

Appeals



APPLICATIONS:

APPEAL APPLICATION

Instructions and Checklist

Related Code Section: Refer to the City Planning case determination to identify the Zone Code section for the entitlement and the appeal procedure.

Purpose: This application is for the appeal of Department of City Planning determinations authorized by the Los Angeles Municipal Code (LAMC).

A. APPELLATE BODY/CASE INFORMATION

1. APPELLATE BODY

- ☒ Area Planning Commission ☐ City Planning Commission ☐ City Council ☐ Director of Planning
☐ Zoning Administrator

Regarding Case Number: AA-2020-5375-PMLA-VHCA

Project Address: 21300 W. Oxnard Street

Final Date to Appeal: 12/27/2022

2. APPELLANT

Appellant Identity:
(check all that apply)

- ☐ Representative ☐ Property Owner
☐ Applicant ☐ Operator of the Use/Site

☒ Person, other than the Applicant, Owner or Operator claiming to be aggrieved
Jeff Bornstein

☐ Person affected by the determination made by the **Department of Building and Safety**

- ☐ Representative ☐ Owner ☒ Aggrieved Party
☐ Applicant ☐ Operator

3. APPELLANT INFORMATION

Appellant's Name: Jeff Bornstein

Company/Organization: _____

Mailing Address: 7507 Winnetka Avenue

City: Los Angeles State: CA Zip: 91306

Telephone: (818) 348-0229 E-mail: powcp@aol.com

a. Is the appeal being filed on your behalf or on behalf of another party, organization or company?

☒ Self ☐ Other: _____

b. Is the appeal being filed to support the original applicant's position? ☐ Yes ☒ No

4. REPRESENTATIVE/AGENT INFORMATION

Representative/Agent name (if applicable): Jamie T. Hall

Company: Channel Law Group, LLP

Mailing Address: 8383 Wilshire Blvd., Suite 750

City: Beverly Hills State: CA Zip: 90211

Telephone: (310) 982-1760 E-mail: jamie.hall@channellawgroup.com

5. JUSTIFICATION/REASON FOR APPEAL

a. Is the entire decision, or only parts of it being appealed? ☒ Entire ☐ Part

b. Are specific conditions of approval being appealed? ☐ Yes ☒ No

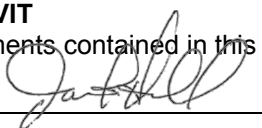
If Yes, list the condition number(s) here: _____

Attach a separate sheet providing your reasons for the appeal. Your reason must state:

- ☒ The reason for the appeal ☒ How you are aggrieved by the decision
☒ Specifically the points at issue ☒ Why you believe the decision-maker erred or abused their discretion

6. APPLICANT'S AFFIDAVIT

I certify that the statements contained in this application are complete and true:

Appellant Signature:  Date: 12/27/2022

GENERAL APPEAL FILING REQUIREMENTS

B. ALL CASES REQUIRE THE FOLLOWING ITEMS - SEE THE ADDITIONAL INSTRUCTIONS FOR SPECIFIC CASE TYPES

1. Appeal Documents

a. **Three (3) sets** - The following documents are required for each appeal filed (1 original and 2 duplicates)
Each case being appealed is required to provide three (3) sets of the listed documents.

- ☒ Appeal Application (form CP-7769)
☒ Justification/Reason for Appeal
☒ Copies of Original Determination Letter

b. Electronic Copy

- ☒ Provide an electronic copy of your appeal documents on a flash drive (planning staff will upload materials during filing and return the flash drive to you) or a CD (which will remain in the file). The following items must be saved as individual PDFs and labeled accordingly (e.g. "Appeal Form.pdf", "Justification/Reason Statement.pdf", or "Original Determination Letter.pdf" etc.). No file should exceed 9.8 MB in size.

c. Appeal Fee

- ☐ Original Applicant - A fee equal to 85% of the original application fee, provide a copy of the original application receipt(s) to calculate the fee per LAMC Section 19.01B 1.
☒ Aggrieved Party - The fee charged shall be in accordance with the LAMC Section 19.01B 1.

d. Notice Requirement

- ☐ Mailing List - All appeals require noticing per the applicable LAMC section(s). Original Applicants must provide noticing per the LAMC
☐ Mailing Fee - The appeal notice mailing fee is paid by the project applicant, payment is made to the City Planning's mailing contractor (BTC), a copy of the receipt must be submitted as proof of payment.

SPECIFIC CASE TYPES - APPEAL FILING INFORMATION

C. DENSITY BONUS / TRANSIT ORIENTED COMMUNITES (TOC)

1. Density Bonus/TOC

Appeal procedures for Density Bonus/TOC per LAMC Section 12.22.A 25 (g) f.

NOTE:

- Density Bonus/TOC cases, only the *on menu or additional incentives* items can be appealed.
- Appeals of Density Bonus/TOC cases can only be filed by adjacent owners or tenants (must have documentation), and always only appealable to the Citywide Planning Commission.
- ☐ Provide documentation to confirm adjacent owner or tenant status, i.e., a lease agreement, rent receipt, utility bill, property tax bill, ZIMAS, drivers license, bill statement etc.

D. WAIVER OF DEDICATION AND OR IMPROVEMENT

Appeal procedure for Waiver of Dedication or Improvement per LAMC Section 12.37 I.

NOTE:

- Waivers for By-Right Projects, can only be appealed by the owner.
- When a Waiver is on appeal and is part of a master land use application request or subdivider's statement for a project, the applicant may appeal pursuant to the procedures that governs the entitlement.

E. TENTATIVE TRACT/VESTING

1. Tentative Tract/Vesting - Appeal procedure for Tentative Tract / Vesting application per LAMC Section 17.54 A.

NOTE: Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the Area or City Planning Commission must be filed within 10 days of the date of the written determination of said Commission.

- ☐ Provide a copy of the written determination letter from Commission.

F. BUILDING AND SAFETY DETERMINATION

- ☐ **1.** Appeal of the Department of Building and Safety determination, per LAMC 12.26 K 1, an appellant is considered the **Original Applicant** and must provide noticing and pay mailing fees.

a. Appeal Fee

- ☐ Original Applicant - The fee charged shall be in accordance with LAMC Section 19.01B 2, as stated in the Building and Safety determination letter, plus all surcharges. (the fee specified in Table 4-A, Section 98.0403.2 of the City of Los Angeles Building Code)

b. Notice Requirement

- ☐ Mailing Fee - The applicant must pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of receipt as proof of payment.

- ☐ **2.** Appeal of the Director of City Planning determination per LAMC Section 12.26 K 6, an applicant or any other aggrieved person may file an appeal, and is appealable to the Area Planning Commission or Citywide Planning Commission as noted in the determination.

a. Appeal Fee

- ☐ Original Applicant - The fee charged shall be in accordance with the LAMC Section 19.01 B 1 a.

b. Notice Requirement

- ☐ Mailing List - The appeal notification requirements per LAMC Section 12.26 K 7 apply.
- ☐ Mailing Fees - The appeal notice mailing fee is made to City Planning's mailing contractor (BTC), a copy of receipt must be submitted as proof of payment.

G. NUISANCE ABATEMENT

1. Nuisance Abatement - Appeal procedure for Nuisance Abatement per LAMC Section 12.27.1 C 4

NOTE:

- Nuisance Abatement is only appealable to the City Council.

a. Appeal Fee

- ☐ Aggrieved Party the fee charged shall be in accordance with the LAMC Section 19.01 B 1.

2. Plan Approval/Compliance Review

Appeal procedure for Nuisance Abatement Plan Approval/Compliance Review per LAMC Section 12.27.1 C 4.

a. Appeal Fee

- ☐ Compliance Review - The fee charged shall be in accordance with the LAMC Section 19.01 B.
- ☐ Modification - The fee shall be in accordance with the LAMC Section 19.01 B.

NOTES

A Certified Neighborhood Council (CNC) or a person identified as a member of a CNC or as representing the CNC may not file an appeal on behalf of the Neighborhood Council; persons affiliated with a CNC may only file as an individual on behalf of self.

Please note that the appellate body must act on your appeal within a time period specified in the Section(s) of the Los Angeles Municipal Code (LAMC) pertaining to the type of appeal being filed. The Department of City Planning will make its best efforts to have appeals scheduled prior to the appellate body's last day to act in order to provide due process to the appellant. If the appellate body is unable to come to a consensus or is unable to hear and consider the appeal prior to the last day to act, the appeal is automatically deemed denied, and the original decision will stand. The last day to act as defined in the LAMC may only be extended if formally agreed upon by the applicant.

This Section for City Planning Staff Use Only		
Base Fee:	Reviewed & Accepted by (DSC Planner):	Date:
Receipt No:	Deemed Complete by (Project Planner):	Date:
☐ Determination authority notified		☐ Original receipt and BTC receipt (if original applicant)

Channel Law Group, LLP

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JULIAN K. QUATTLEBAUM, III
JAMIE T. HALL *
CHARLES J. McLURKIN

Writer's Direct Line: (310) 982-1760
jamie.hall@channellawgroup.com

*ALSO Admitted in Texas

December 27, 2022

VIA ELECTRONIC MAIL

City of Los Angeles
200 N. Spring Street
Los Angeles, CA 90012

Re: Appeal Justification Letter for AA-2020-5375-PMLA-VHCA; ENV-2008-3471-EIR; 21300 W. Oxnard Street

Honorable Members of the West Valley Area Planning Commission:

This firm represents Jeff Bornstein ("Appellant"). On or about December 12, 2022, the Advisory Agency issued a Letter of Determination for the development project located at 21300 W. Oxnard Street ("Project"). The Advisory Agency also issued an environmental clearance for the Project under the California Environmental Quality Act ("CEQA"). Appellant hereby appeals the Preliminary Parcel Map as well as the environmental clearance approved for the Project. Appellant's justifications are outlined below.

I. IMPACTS TO PARKS AND RECREATIONAL FACILITIES

Appellant is a citizen of the West Valley that is affected by the Project's impacts to park and recreational facilities. Condition 18 require payments of in-lieu fees. Appellant contends that the payment of these fees will not mitigate the Project's impacts to parks because the City may choose to utilize this money to create parks and/or recreational facilities far away from the project site. A superior condition would require the dedication of land on site or in close proximity to the project site. Appellant also contends that the environmental clearance document for the Project was legally insufficient because the City has failed to fully mitigate the Project's impacts to parks and recreational facilities by authorizing the payment of fees.

II. CONCLUSION

Appellant respectfully request that the West Valley Area Planning Commission, after reviewing this appeal and its records, revoke and set-aside the approval of the project approvals,

rescind the environmental clearances for the Project and order further environmental review under CEQA. Appellant reserves the right to supplement the bases for appeal presented.

Sincerely,

A handwritten signature in black ink, appearing to read "J. T. Hall", written in a cursive style.

Jamie T. Hall



APPLICATIONS:

APPEAL APPLICATION

Instructions and Checklist

Related Code Section: Refer to the City Planning case determination to identify the Zone Code section for the entitlement and the appeal procedure.

Purpose: This application is for the appeal of Department of City Planning determinations authorized by the Los Angeles Municipal Code (LAMC).

A. APPELLATE BODY/CASE INFORMATION

1. APPELLATE BODY

- ☒ Area Planning Commission ☐ City Planning Commission ☐ City Council ☐ Director of Planning
☐ Zoning Administrator

Regarding Case Number: DIR-2020-5379-SPP-VHCA

Project Address: 6100 N CANOGA AVE

Final Date to Appeal: 05/11/2023

2. APPELLANT

Appellant Identity:
(check all that apply)

- ☐ Representative ☐ Property Owner
☐ Applicant ☐ Operator of the Use/Site

☒ Person, other than the Applicant, Owner or Operator claiming to be aggrieved
West Valley Alliance for Optimal Living

☐ Person affected by the determination made by the **Department of Building and Safety**

- ☐ Representative ☐ Owner ☐ Aggrieved Party
☐ Applicant ☐ Operator

3. APPELLANT INFORMATION

Appellant's Name: West Valley Alliance for Optimal Living

Company/Organization: _____

Mailing Address: 7507 Winnetka Avenue

City: Winnetka State: CA Zip: 91306

Telephone: (818) 348-0229 E-mail: powcp@aol.com

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☒ Specifically the points at issue ☒ Why you believe the decision-maker erred or abused their discretion

6. APPLICANT'S AFFIDAVIT

I certify that the statements contained in this application are complete and true:

Appellant Signature: Jeff Bornstein Date: May 11, 2023

Jeff Bornstein

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c. **Appeal Fee**

- ☐ Original Applicant - A fee equal to 85% of the original application fee, provide a copy of the original application receipt(s) to calculate the fee per LAMC Section 19.01B 1.
☒ Aggrieved Party - The fee charged shall be in accordance with the LAMC Section 19.01B 1.

d. **Notice Requirement**

- ☐ Mailing List - All appeals require noticing per the applicable LAMC section(s). Original Applicants must provide noticing per the LAMC
☐ Mailing Fee - The appeal notice mailing fee is paid by the project applicant, payment is made to the City Planning's mailing contractor (BTC), a copy of the receipt must be submitted as proof of payment.

SPECIFIC CASE TYPES - APPEAL FILING INFORMATION

C. DENSITY BONUS / TRANSIT ORIENTED COMMUNITES (TOC)

1. Density Bonus/TOC

Appeal procedures for Density Bonus/TOC per LAMC Section 12.22.A 25 (g) f.

NOTE:

- Density Bonus/TOC cases, only the *on menu or additional incentives* items can be appealed.
- Appeals of Density Bonus/TOC cases can only be filed by adjacent owners or tenants (must have documentation), and always only appealable to the Citywide Planning Commission.
- ☐ Provide documentation to confirm adjacent owner or tenant status, i.e., a lease agreement, rent receipt, utility bill, property tax bill, ZIMAS, drivers license, bill statement etc.

D. WAIVER OF DEDICATION AND OR IMPROVEMENT

Appeal procedure for Waiver of Dedication or Improvement per LAMC Section 12.37 I.

NOTE:

- Waivers for By-Right Projects, can only be appealed by the owner.
- When a Waiver is on appeal and is part of a master land use application request or subdivider's statement for a project, the applicant may appeal pursuant to the procedures that governs the entitlement.

E. TENTATIVE TRACT/VESTING

1. Tentative Tract/Vesting - Appeal procedure for Tentative Tract / Vesting application per LAMC Section 17.54 A.

NOTE: Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the Area or City Planning Commission must be filed within 10 days of the date of the written determination of said Commission.

- ☐ Provide a copy of the written determination letter from Commission.

F. BUILDING AND SAFETY DETERMINATION

- ☐ **1.** Appeal of the Department of Building and Safety determination, per LAMC 12.26 K 1, an appellant is considered the **Original Applicant** and must provide noticing and pay mailing fees.

a. Appeal Fee

- ☐ Original Applicant - The fee charged shall be in accordance with LAMC Section 19.01B 2, as stated in the Building and Safety determination letter, plus all surcharges. (the fee specified in Table 4-A, Section 98.0403.2 of the City of Los Angeles Building Code)

b. Notice Requirement

- ☐ Mailing Fee - The applicant must pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of receipt as proof of payment.

- ☐ **2.** Appeal of the Director of City Planning determination per LAMC Section 12.26 K 6, an applicant or any other aggrieved person may file an appeal, and is appealable to the Area Planning Commission or Citywide Planning Commission as noted in the determination.

a. Appeal Fee

- ☐ Original Applicant - The fee charged shall be in accordance with the LAMC Section 19.01 B 1 a.

b. Notice Requirement

- ☐ Mailing List - The appeal notification requirements per LAMC Section 12.26 K 7 apply.
- ☐ Mailing Fees - The appeal notice mailing fee is made to City Planning's mailing contractor (BTC), a copy of receipt must be submitted as proof of payment.

G. NUISANCE ABATEMENT

1. Nuisance Abatement - Appeal procedure for Nuisance Abatement per LAMC Section 12.27.1 C 4

NOTE:

- Nuisance Abatement is only appealable to the City Council.

a. Appeal Fee

- ☐ Aggrieved Party the fee charged shall be in accordance with the LAMC Section 19.01 B 1.

2. Plan Approval/Compliance Review

Appeal procedure for Nuisance Abatement Plan Approval/Compliance Review per LAMC Section 12.27.1 C 4.

a. Appeal Fee

- ☐ Compliance Review - The fee charged shall be in accordance with the LAMC Section 19.01 B.
- ☐ Modification - The fee shall be in accordance with the LAMC Section 19.01 B.

NOTES

A Certified Neighborhood Council (CNC) or a person identified as a member of a CNC or as representing the CNC may not file an appeal on behalf of the Neighborhood Council; persons affiliated with a CNC may only file as an individual on behalf of self.

Please note that the appellate body must act on your appeal within a time period specified in the Section(s) of the Los Angeles Municipal Code (LAMC) pertaining to the type of appeal being filed. The Department of City Planning will make its best efforts to have appeals scheduled prior to the appellate body's last day to act in order to provide due process to the appellant. If the appellate body is unable to come to a consensus or is unable to hear and consider the appeal prior to the last day to act, the appeal is automatically deemed denied, and the original decision will stand. The last day to act as defined in the LAMC may only be extended if formally agreed upon by the applicant.

This Section for City Planning Staff Use Only		
Base Fee:	Reviewed & Accepted by (DSC Planner):	Date:
Receipt No:	Deemed Complete by (Project Planner):	Date:
☐ Determination authority notified		☐ Original receipt and BTC receipt (if original applicant)

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*ALSO Admitted in Texas

May 11, 2023

VIA ELECTRONIC UPLOAD

Area Planning Commission
200 N. Spring Street
Los Angeles, CA 90012

Re: Appeal Justification Letter for DIR-2020-5379-SPP-VHCA; ENV-2008-3471-EIR; 6100 Canoga Avenue

Honorable Members of the Area Planning Commission:

This firm represents West Valley Alliance for Optimal Living ("Appellant"). On or about January 13, 2020, the Planning Director ("Director") issued a Letter of Determination (LOD) for the mixed-use development project located at 6100 Canoga Avenue ("Project"). Appellant hereby appeals the Project Permit Compliance Review as well as the environmental clearance approved for the Project under the California Environmental Quality Act ("CEQA"). The City has failed to address whether there are changes in circumstances or new information that has become available since the preparation of the WC2035 EIR, that would result in new or more severe impacts from this proposed project and the Warner Center 2035 Plan. The Director also abused his discretion in determining that the project substantially complied with the applicable regulations, findings, standards and provisions of the specific plan.

I. NON-COMPLIANCE WITH SPECIFIC PLAN

Appellant is a citizen of the West Valley that is affected by the Project's impacts to park and recreational facilities. Condition No. 12 is entitled "Publicly Available Open Space" and details the PAOS provided the Project. The Director determined that the Project complied with Section 6.2.2 of the Specific Plan. See LOD at pages 56-57. The Director concluded the Project would provide 84,566 square feet of PAOS for the entire Project. However, there is no guarantee that this will be provided if Phases 2 and 3 are not implemented, which would leave only 39,513 square feet of PAOS upon completion of Phase 1 (below the 57,523 square feet of PAOS minimally required). Additionally, the Director erred when he determined that the size of the

park proposed by the applicant was sufficient to meet the needs of this large, dense Project. The proposed park is an inadequate “focal point or gathering space” pursuant to Section 6.2.2.4.3.

II. THE PROPOSED PROJECT

The proposed project is described in the Letter of Determination as follows:

The proposed project involves a Project Permit Compliance Review for the demolition of a 114,057 square foot one-story commercial retail building and surface parking, and for the construction of a 1,163,048 square foot Master-Planned, Multiple-Phased, mixed-use development consisting of a hotel and two multifamily residential buildings housed over three parcels pursuant to Preliminary Parcel Map, AA-2020-5375-PLMLA-VHCA on an 8.8 acre lot (after dedications). The Project will provide 859,551 square feet of Residential Floor Area and 303,497 square feet of Non-Residential Floor Area, and 84,566 square feet of Publicly Accessible Open Space (PAOS).

Phase 1 encompasses construction of the North Building, an eleven-story, 156 foot high multifamily residential building consisting of 445 multifamily dwelling units, including 158 work-live units, and associated residential amenities comprising of 521,302 square feet of Residential Floor Area.

The North Building also includes ground floor resident serving amenities and a 2,171 square foot market retail store. Parking will be housed over eight-stories wrapped by residential units and one below-grade providing 717 parking spaces: 709 residential spaces and eight commercial spaces.

Phase 2 involves construction of the South Building, an eleven-story, 152 foot high multifamily residential building with 407 multifamily dwelling units, inclusive of 158 designated for work-live units, and associated residential amenities comprising of 479,234 square foot of Residential Floor Area. Parking will consist of 673 residential parking spaces housed within one subterranean level and eight parking levels wrapped by residential units.

Phase 3 involves construction of a twelve-story, 154 foot high Hotel Building with 204 guest rooms aggregating to 160,341 square feet of floor area. The hotel will provide ground floor non-residential uses such as a lobby, bar and outdoor patio, and bistro. One hundred and twelve valet parking spaces will be provided over two parking levels: 58 spaces in one subterranean level and 54 spaces on the second level.

Bicycle parking for the Project will consist of 385 long term and 59 short term bicycle parking spaces: 363 long term spaces for the Residential use and 22 long term spaces for the Non-Residential uses; and 37 short term spaces for the Residential uses and 22 short term spaces for the Non-Residential uses.

The Project will also provide 84,566 square feet of Publicly Accessible Open Space (PAOS), which will include a variable 33 foot – 40 foot wide

Pedestrian Adapted Pathway (PAP) surrounding the perimeter of the site and featuring a park with a multi-purpose lawn and seating areas.

The Project will also provide 84,566 square feet of Publicly Accessible Open Space (PAOS), which will include a variable 33 foot – 40 foot wide Pedestrian Adapted Pathway (PAP) surrounding the perimeter of the site and featuring a park with a multi-purpose lawn and seating areas.

The proposed project is thus a very large-scale phased project.

The City is Utilizing a 10-Year-Old EIR

The proposed project is located within the Warner Center 2035 (WC2035) Plan area. The WC2035 Plan became effective December 25, 2013. An EIR for WC2035 was prepared. The Final Environmental Impact Report for the WC2035 Plan (ENV-2008-3471-EIR; SCH No. 1990011055) was certified by the Los Angeles City Council on October 23, 2013 (WC2035 Plan FEIR) (Council File No. 13- 0197).¹ The City is inappropriately using a 10 year old EIR as the environmental clearance document for the Project.

III. CHANGES IN CIRCUMSTANCE AND NEW INFORMATION THAT HAS BECOME KNOWN SINCE ADOPTION OF THE WC2035 FEIR NECESSITATE PREPARATION OF A SUBSEQUENT EIR FOR THE WARNER CENTER 2035 PLAN

The City of Los Angeles prepared a Program EIR for the Warner Center 2035 Plan, as required by CEQA Guidelines Section 15165 for multiple and phased projects. Pursuant to CEQA Guidelines Section 15162, a Subsequent EIR is required, if on the basis of substantial evidence, it is shown that:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:

¹ EIR No. ENV-2008-3471-EIR, *CPC 2008-3470-SP-GPA-ZC-SUD State Clearinghouse No.1990011055* Available at: https://planning.lacity.org/eir/WarnerCntrRegionalCore/WarnerCntr_coverpg.htm

- (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
- (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
- (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

In this case, new information and changes in circumstances necessitating the preparation of a Subsequent EIR includes the fact that:

- In 2013, the State of California signed Senate Bill (SB) 743 into law requiring analysis of whether land use projects result in an increase in Vehicle Miles Traveled (VMT) in excess of an applicable threshold of significance. Compliance with CEQA Guidelines Section 15065.3 became mandatory on July 1, 2020 and the City requires that projects that have not been adopted and have not completed the appeal period prior to the State deadline of July 1, 2020 are required to prepare a VMT analysis.² (See **Attachment A**). The WC2035 FEIR does not include a VMT analysis. Given the large scale of both the WC2035 Plan and the proposed project, there is a clear potential for significant VMT impacts.
- In November 2016, Measure JJJ was passed by Los Angeles City voters. As a result, the City Adopted Transit Oriented Community Affordable Housing Incentive Guidelines (TOC Guidelines) which became effective on September 22, 2017.³ This resulted in a defacto up-zoning of a substantial portion of the City of Los Angeles, including the Warner Center area (see Map 1 in the TOC Guidelines).⁴ The cumulative impact analyses in the WC2035 FEIR are therefore outdated and understate the potential for cumulative traffic and other impacts.
- The WC2035 FEIR identified Greenhouse Gas (GHG) emissions as significant and unavoidable. In 2015 the City released its first Sustainable City pLAn. The plan was updated in 2019 with the City's Green New Deal.⁵ The WC2035the

² https://appladotwebprod.azurewebsites.net/sites/default/files/2020-04/faq_transportation-section-update_aug2019_0.pdf

³ <https://planning.lacity.org/odocument/39fae0ef-f41d-49cc-9bd2-4e7a2eb528dd/TOCGuidelines.pdf>

⁴ See Map on page 6 of the TOC Guidelines available at: <https://planning.lacity.org/odocument/39fae0ef-f41d-49cc-9bd2-4e7a2eb528dd/TOCGuidelines.pdf>

⁵ Available at: https://plan.lamayor.org/sites/default/files/pLAn_2019_final.pdf

does not analyze consistency with the City's Green New Deal, including compliance with the following targets:

- All new buildings will be net zero carbon by 2030; and 100% of buildings will be net zero carbon by 2050
 - Reduce building energy use per sq.ft. for all building types 22% by 2025; 34% by 2035; and 44% by 2050
 - Increase tree canopy in areas of greatest need by at least 50% by 2028
- The WC2035 EIR does not address consistency with GHG-related legislation that has passed in the last eight years. The WC2035 EIR does not require mitigation measures for GHG-related impacts contained in State and local plans, which have become common practice in the intervening years.
- There have been changes in the WC2035 land uses since the FEIR for the WC2035 Plan FEIR was certified. Much more is known about proposed projects in the Plan area. At the time the traffic study for the plan was done, the trip generation was done for the 26 Transportation Analysis Zones (TAZs) that made up the Plan area based on only the following land use categories: dwelling units, regional retail, other retail, and office. (See **Attachment B** which includes the trip generation from Appendix G of the WC2035 DEIR, and a map showing the location of the TAZs from page 375 of the pdf for the DEIR). Much more is now known about proposed uses in the Plan area. (See **Attachment C**, showing cumulative development in the Plan area as of March of 2019, as detailed in the Five-Year Status Report for the Warner Center Specific Plan⁶).

Changes to the Warner Center 2035 mix of assumed land uses and similar information for the cumulative projects identified in the Five-Year Status Report for the Warner Center Specific Plan support the need for a Subsequent EIR for the Warner Center 2035 Plan. In the absence of a showing that trip generation and distribution for cumulative projects in the plan area is consistent with the trip distribution and generation in the WC2035 EIR, the potential for impacts remains. This is particularly important given that the numerous intersection and other traffic impacts of the WC2035 Plan are addressed via a Traffic Impact Fee. An assessment of traffic impacts and fee structure based on an eight-year-old traffic study with a more general mix of land uses is likely to result in a failure to either fully mitigate impacts or a failure to mitigate impacts in a timely manner.

⁶ The Five Year Status Report is incorporated herein by reference and is available at: [https://planning.lacity.org/StaffRpt/InitialRpts/CPC-2008-3470%20\(2\).pdf](https://planning.lacity.org/StaffRpt/InitialRpts/CPC-2008-3470%20(2).pdf)

IV. CONCLUSION – AN EIR IS REQUIRE FOR THE PROPOSED PROJECT

Both CEQA Guidelines Section 15070 and 15165 mandate the preparation of the EIR for the proposed project.

An EIR is Required Pursuant to CEQA Guidelines Section 15165

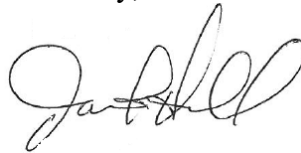
CEQA Guidelines Section 15165 addresses the requirements for phased project, and makes clear that an EIR is required for this type of project; reliance on an 8-year old WC2035 EIR is not sufficient:

15165. MULTIPLE AND PHASED PROJECTS

Where individual projects are, or a phased project is, to be undertaken and where the total undertaking comprises a project with significant environmental effect, the Lead Agency shall prepare a single program EIR for the ultimate project as described in Section 15168. . .⁷

As demonstrated in this letter, the proposed project has the potential to result in significant unmitigated impacts.

Sincerely,



Jamie T. Hall

Attachments

- A. City of Los Angeles Requirements for Preparation of a VMT Analysis
- B. WC2035 Trip Generation
- C. Cumulative Development – City of Los Angeles Five Year Status Report

⁷ Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21061, 21100, and 21151, Public Resources Code; Whitman v. Board of Supervisors (1979) 88 Cal. App. 3d 397.

Exhibit A

CITY OF LOS ANGELES DEPARTMENTS OF CITY PLANNING (DCP) AND TRANSPORTATION (LADOT)

CEQA TRANSPORTATION ANALYSIS UPDATE

FREQUENTLY ASKED QUESTIONS – August 2019



SUMMARY

In 2013, the State of California signed Senate Bill (SB) 743 into law, which requires a shift in the way cities measure environmental impacts. The Los Angeles Departments of City Planning (DCP) and Transportation (LADOT) updated the City's California Environmental Quality Act (CEQA) Transportation Thresholds to comply with and implement SB 743. LADOT also revised its Transportation Assessment Guidelines for evaluating project-level transportation review outside of the requirements under CEQA.

BACKGROUND

On July 30, 2019, the Los Angeles City Council unanimously voted to update the City of Los Angeles CEQA Transportation Thresholds to comply with SB 743 and implement the policies of the Mobility Plan 2035 and LA's Green New Deal.

FREQUENTLY ASKED QUESTIONS

How is Vehicle Miles Traveled (VMT) measured?

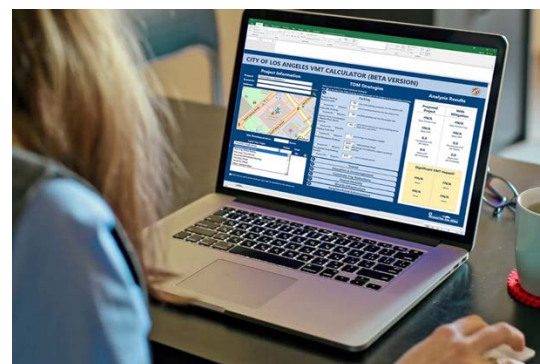
VMT captures the automobile trips generated by a proposed development, multiplied by the estimated number of miles driven for each trip. This figure is divided by the number of residents (VMT per capita) or employees (VMT per employee). Typically, development located farther from key destinations, such as job centers or transit, may result in longer distance driving. Development located closer to job centers and transit may result in lower VMT due to shorter driving distances.

Which projects will have to measure transportation-related impacts under CEQA?

Any discretionary land use project that is estimated to surpass the screening criteria, is required to analyze environmental impacts related to transportation.

How will a land use project's transportation impacts be measured under CEQA?

If a development project exceeds the screening criteria, the applicant must evaluate the VMT impact of a proposed project. The VMT Calculator, a spreadsheet-based tool available for download on LADOT's website, is one method of conducting this analysis. To initiate a VMT analysis using the VMT Calculator, input the project's address, land use mix, and intensity. The tool then assigns trip generation and travel characteristics, derived from



VMT Calculator

local travel data, to estimate the VMT (per capita or per employee) generated by people

CITY OF LOS ANGELES DEPARTMENTS OF CITY PLANNING (DCP) AND TRANSPORTATION (LADOT)

CEQA TRANSPORTATION ANALYSIS UPDATE

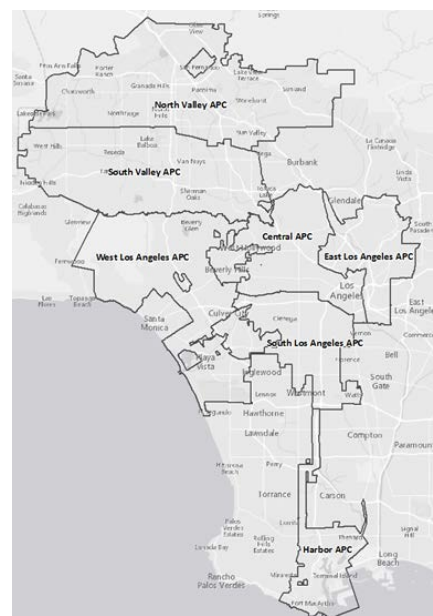
FREQUENTLY ASKED QUESTIONS – August 2019



traveling to and from the project site. If the project's VMT exceeds the significant impact criteria threshold for the project area, the new tool offers a menu of mitigation measures to select from that have been proven to reduce VMT.

What are the CEQA impact criteria thresholds for land use projects?

The land use project threshold compares the estimated VMT of a project to the average VMT per capita observed within the boundaries of their respective Area Planning Commission (APC). A project must perform at least 15% below the average of the APC area, per capita and per employee. The APC area boundaries represent a land area equivalent to a medium-size California city and captures consistent travel behavior zones and geographies in the City of Los Angeles. The map displays APC boundaries and table summarizes the thresholds.



Area Planning Commission boundary map

Recommended Threshold by Area Planning Commission		
Area Planning Commission	VMT per capita	VMT per employee
Central	6.0	7.6
East LA	7.2	12.7
Harbor	9.2	12.3
North Valley	9.2	15.0
South LA	6.0	11.6
South Valley	9.4	11.6
West LA	7.4	11.1

How can a project with a significant transportation impact mitigate VMT impacts?

If a proposed project exceeds the significant impact criteria threshold for the APC in which it is located, a menu of mitigation measure options is available within the VMT Calculator. Mitigation measures were selected for inclusion based on available evidence of demonstrated ability to reduce VMT. Examples of measures include transit incentives,

CITY OF LOS ANGELES DEPARTMENTS OF CITY PLANNING (DCP) AND TRANSPORTATION (LADOT) CEQA TRANSPORTATION ANALYSIS UPDATE FREQUENTLY ASKED QUESTIONS – August 2019



education and marketing, commute trip reductions, parking management, improved neighborhood connectivity, and shared mobility options.

How does this affect projects that have initiated their transportation analysis process and/or are going through the entitlement process?

As previously described during the project open houses and public hearings and at City Planning Commission on February 28, 2019, upon adoption by City Council the updated transportation thresholds became effective and a transition period started. During this transition, projects that already have a signed memorandum of understanding (MOU) with LADOT and have filed an application with DCP may continue analyzing transportation impacts with level of service (LOS), as long as the project will be adopted and through any appeal period prior to the State deadline of July 1, 2020. It is strongly recommended that these projects analyze transportation impacts with VMT, or at a minimum complete a parallel review process with both LOS and VMT, in the case that they are not able to complete approval prior to the State deadline. All land use development projects must measure transportation-related CEQA impacts with VMT starting on July 1, 2020, as required by state legislation.

Will projects that do not have transportation impacts be required to make improvements?

Projects that have impacts in other CEQA categories outside of transportation will have to mitigate impacts in each respective category. The updated City of Los Angeles Transportation Assessment Guidelines may also include requirements for projects that propose physical street modifications or introduce new travel demand. Projects will be required to assess potential effects on pedestrian, bicycle, and transit facilities in the project vicinity, in addition to the review required under CEQA. A delay-based analysis may be needed to evaluate if the project would contribute to potential circulation and access deficiencies that require specific operational improvements to the circulation system. Proposed projects may be required to upgrade pedestrian crossings, install safety countermeasures, or optimize traffic signal performance if the project would foreseeably affect the performance of existing facilities.

Will level of service (LOS) still be measured?

LADOT may require proposed projects to evaluate scenarios outside of CEQA through vehicle LOS to identify circulation and access deficiencies that may require specific operational improvements. CEQA analysis for other subject areas, such as air quality analysis, may also continue to rely on vehicle LOS analysis to inform emissions modeling.

Does my ability to engage in land use and transportation decisions change?

No. The City's planning process will continue to allow and encourage community members to weigh in on land use changes and transportation projects through existing venues and

**CITY OF LOS ANGELES DEPARTMENTS OF CITY
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methods, including opportunities to provide comments, speak at public hearings, and contact elected representatives on proposed new development.

What other cities have updated their CEQA evaluation process to include vehicle miles traveled (VMT) as a transportation performance metric?

Upon adoption on July 30, 2019, Los Angeles became the fifth city in California to align procedures with State law, along with Pasadena, San Francisco, San Jose, and Oakland. All California cities must update the way transportation impacts are analyzed under CEQA before the deadline of July 1, 2020.

Where can I learn more?

Additional resources are available on the [DCP](#) and [LADOT](#) project websites.

Who can I contact for more information?

Questions can be directed to ladot.vmt@lacity.org

Exhibit B

APPENDIX G.6 MODEL DATA

Warner Center Theoretical ITE Trip Generation Estimates by TAZ - Compared to Model Results (For Comparison Purposes Only - ITE Results Not Used in Warner Center Specific Plan Traffic Analysis)

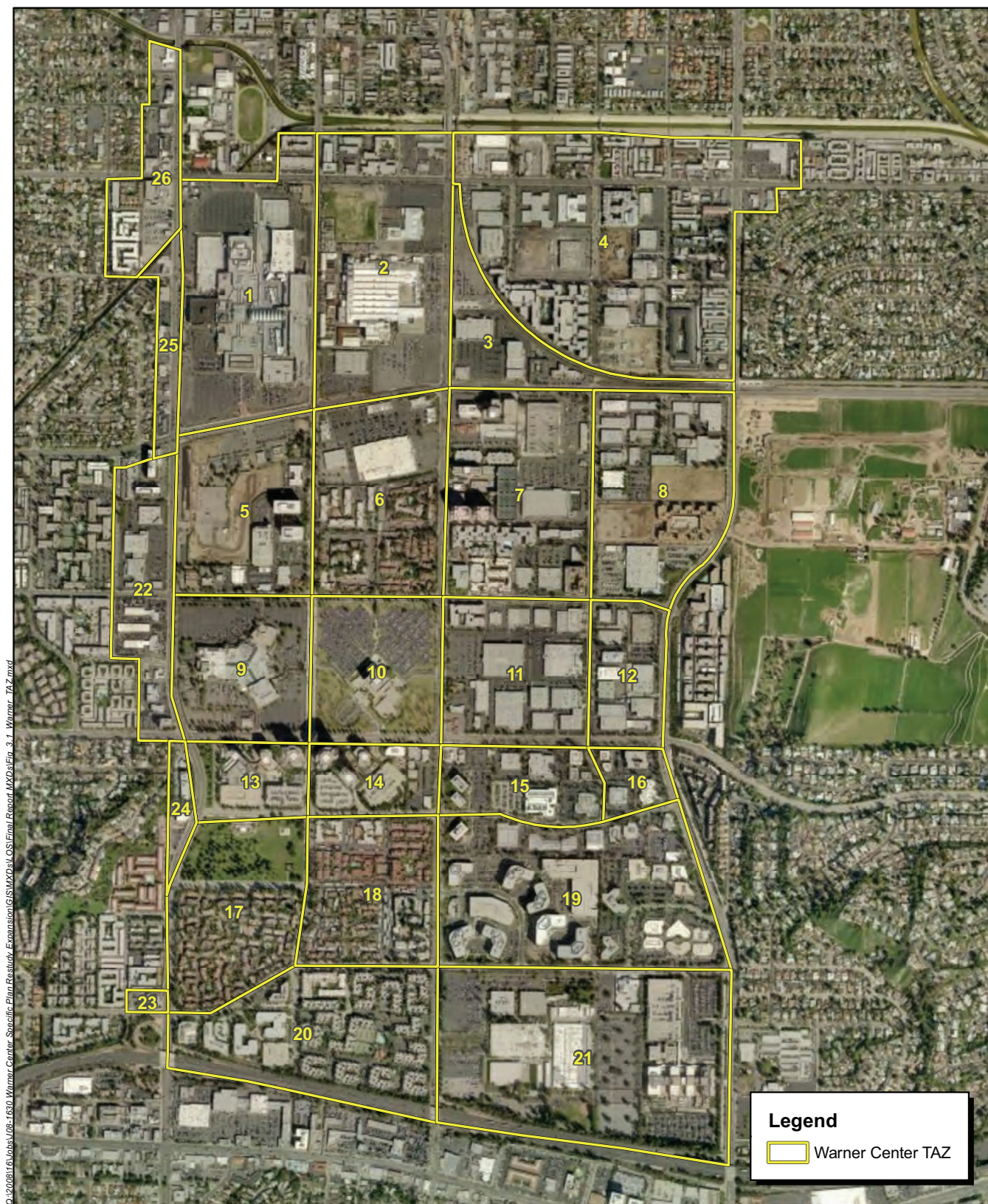
TAZ	2035 Market Demand Land Use				ITE Trip Generation					TDM + Pass By Trip Reductions						TOD Trip Reductions			
	Dwelling Units	Regional Retail	Other Retail	Office	Dwelling Units	Regional Retail	Other Retail	Office	Total Raw ITE Trips	Pass By Reduction						TOD Trip Reduction by TAZ	TOD Trips Reduced	4% Model TAZ Internal Capture	Final Trips After TOD+TDM and 4% Internal Capture
										6%	3%	3%	11%	Total TDM Trip Reduction	Total Trips w/ TDM Reduction				
1	1,597	1,787,000	0	0	831	6,666	0	0	7,496	50	2,533	0	0	2,583	4,913	0%	0	300	4,614
2	4,104	0	150,000	1,060,614	2,134	0	228	1,580	3,942	128	0	87	174	389	3,854	0%	0	158	3,996
3	1,333	0	382,000	11,249	693	0	581	17	1,291	42	0	221	2	284	1,027	15%	194	52	781
4	4,089	0	79,254	225,169	2,116	0	120	336	2,572	127	0	46	37	210	2,362	15%	386	103	1,874
5	594	0	64,400	644,000	309	0	98	960	1,366	19	0	37	106	161	1,205	14%	191	55	960
6	1,379	0	200,000	1,379,739	717	0	304	2,056	3,077	43	0	116	226	385	2,692	5%	152	123	2,417
7	2,176	0	25,000	1,177,182	1,132	0	38	1,754	2,924	68	0	14	193	275	2,648	11%	325	117	2,297
8	1,774	0	50,000	954,981	922	0	76	1,423	2,421	55	0	29	157	241	2,180	6%	151	97	1,933
9	952	1,000,000	50,000	2,570,994	495	3,730	76	3,831	8,132	30	1,417	29	421	1,897	6,234	12%	999	325	4,911
10	556	0	50,000	605,564	289	0	76	902	1,267	17	0	29	99	145	1,122	15%	190	51	881
11	1,441	95,336	190,672	1,716,048	749	356	290	2,557	3,952	45	135	110	281	571	3,380	15%	593	158	2,629
12	977	38,428	76,856	691,700	508	143	117	1,031	1,799	30	54	44	113	243	1,556	15%	277	72	1,297
13	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	15%	0	0	0
14	0	0	50,000	118,255	0	0	76	176	252	0	0	29	19	48	204	15%	38	10	156
15	643	37,934	75,869	682,820	334	141	115	1,017	1,609	20	54	44	112	230	1,379	15%	241	64	1,073
16	387	0	0	456,706	201	0	0	680	882	12	0	0	75	87	795	15%	132	35	627
17	432	0	0	0	225	0	0	0	225	13	0	0	0	13	211	15%	34	9	168
18	732	0	0	0	381	0	0	0	381	23	0	0	0	23	358	8%	30	15	312
19	1,531	90,345	160,000	1,846,893	796	337	243	2,454	3,830	48	128	92	270	538	3,292	16%	607	153	2,832
20	1,372	0	0	0	713	0	0	0	713	43	0	0	0	43	671	10%	71	29	571
21	0	67,598	200,000	1,151,968	0	252	304	1,716	2,273	0	96	116	189	400	1,872	0%	0	91	1,782
22	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0%	0	0	0
23	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0%	0	0	0
24	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0%	0	0	0
25	0	0	300,000	1,020,738	0	0	456	1,521	1,977	0	0	173	167	341	1,636	0%	0	79	1,557
26	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0%	0	0	0
	26,048	3,116,641	2,104,050	16,114,620	13,545	11,625	3,198	24,011	52,379	813	4,418	1,215	2,641	9,087	43,292		4,609	2,095	36,588

AGGREGATE ITE TRIP RATES

Land Use	Trip Rate	% Entering	% Exiting	Source
DUs	0.52	84%	36%	ITE 230 Condominium
Regional Retail	3.73	49%	51%	ITE 820 Shopping Center
Retail	1.52	44%	56%	ITE 814 Special Retail
Office	1.49	17%	83%	ITE 710 Office

ITE/MODEL RESULT COMPARISON

Model Data Used for Traffic Analysis					ITE Estimate for Comparison	Model & ITE Difference	Difference %
TOTAL TRIPS					34,535	36,588	2,053 5.6%

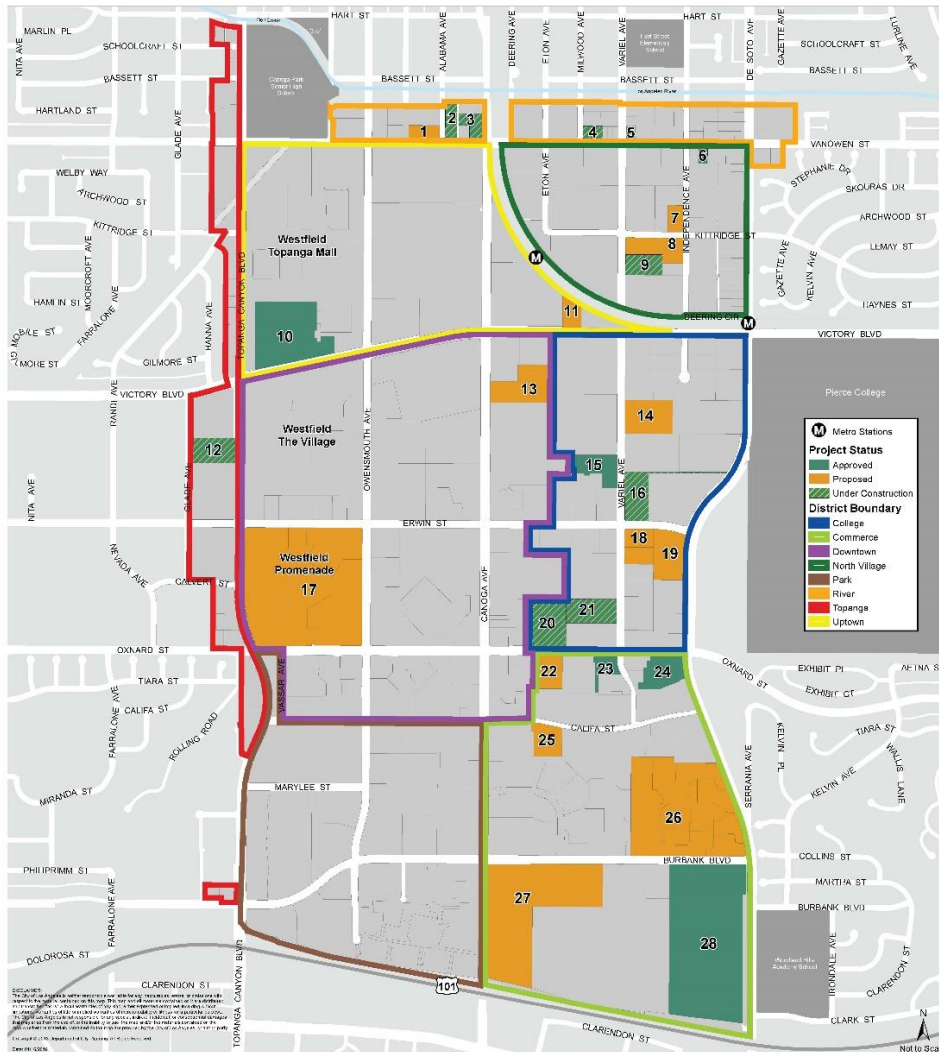


**Figure 4.12-8
 Warner Center TAZs**

Exhibit C

SIGNIFICANT APPROVED AND PROPOSED PROJECTS

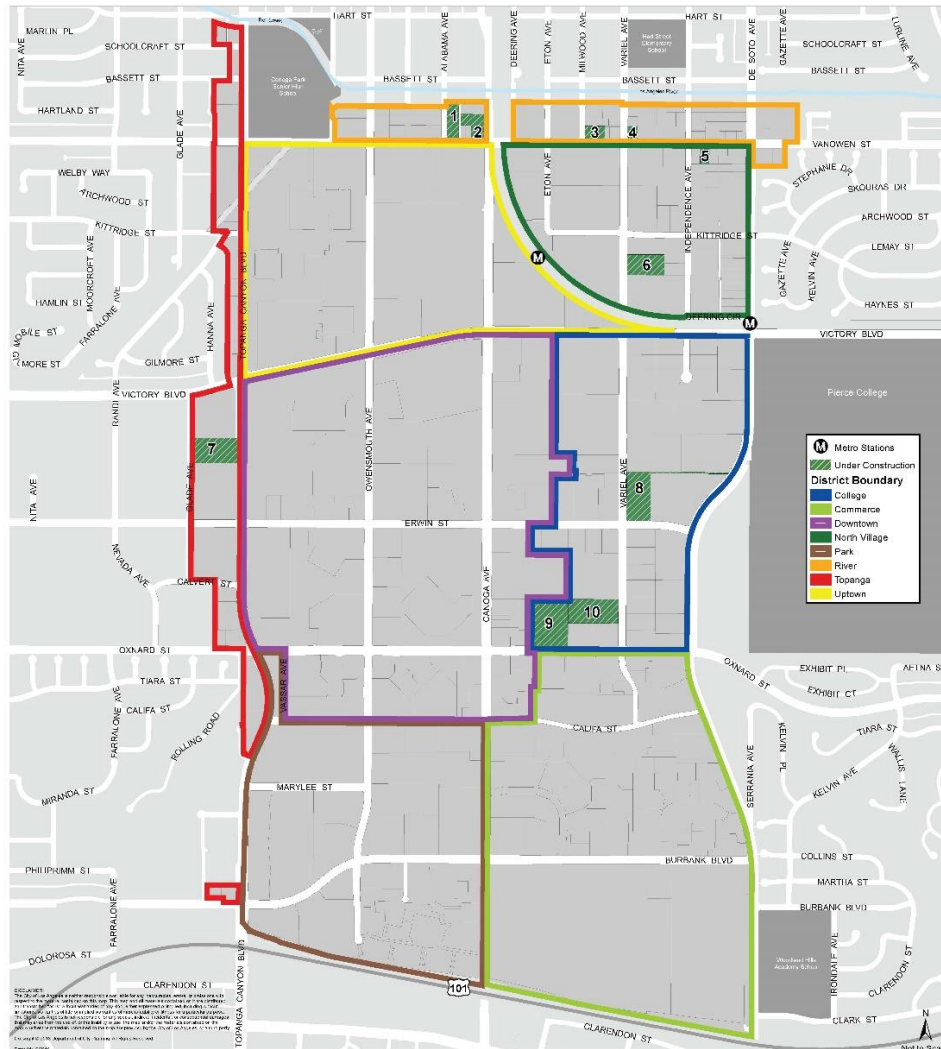
WARNER CENTER 2035 PLAN



Address	Status	Residential Units	Residential Floor Area	Non-Residential Floor Area	Residential Parking	Non-Residential Parking	Total Bicycle Parking	Publicly Accessible Open Space (PAOS) Square-feet
1 21515 Varowen	Proposed	184	184,368	0	Pending	Pending	Pending	Pending
2 21426 Varowen	Approved	141	141,368	0	240	0	192	8,135
3 6801 Canoga	Approved	149	143,356	10,277	190	0	174	6,515
4 21421 Varowen	Approved	101	93,402	3,777	121	0	140	3,943
5 6800 Varie	Approved	18	35,116	0	30	0	8	0
6 20944 Varowen	Approved	38	46,970	1,250	48	0	8	2,276
7 21001 Ktridga	Proposed	275	310,490	0	Pending	Pending	Pending	Pending
8 21050 Ktridga	Proposed	391	438,750	0	Pending	Pending	Pending	Pending
9 6800 Varie	Approved	277	308,009	0	309	0	305	12,288
10 21851 Victory	Approved	0	0	215,607	0	0	0	0
11 21201 Victory	Proposed	244	185,253	50,650	Pending	Pending	Pending	Pending
12 62601 Topanga Canyon	Approved	347	360,115	24,649	580	57	404	1,778
13 6360 Canoga	Proposed	613	610,865	505,460	Pending	Pending	Pending	Pending
14 6330 Varie	Proposed	400	437,517	88,911	Pending	Pending	Pending	Pending
15 6279 Varie	Approved	215	401,778	0	275	0	122	24,258
16 6200 Varie	Approved	241	257,890	50,335	511	174	279	45,779
17 6100 Topanga Canyon	Proposed	1,432	1,545,000	1,726,050	Pending	Pending	Pending	Pending
18 6140 Varie	Proposed	260	299,577	51,684	Pending	Pending	Pending	Pending
19 6109 De Soto	Proposed	358	291,122	69,596	Pending	Pending	Pending	Pending
20 21221 Oxnard	Approved	379	415,780	125,402	601	79	438	32,700
21 8001 Varie	Approved	271	255,797	74,701	405	70	328	21,062
22 21000 Oxnard	Proposed	134	188,802	144,824	Pending	Pending	Pending	Pending
23 5807 Varie	Approved	0	0	93,641	0	93	34	7,374
24 5055 De Soto	Approved	170	176,564	162,332	174	400	254	37,820
25 21300 Canoga	Proposed	194	210,988	210,991	Pending	Pending	Pending	Pending
26 21041 Burbank	Proposed	1,029	1,197,012	1,451,617	Pending	Pending	Pending	Pending
27 5500 Canoga	Proposed	566	1,038,407	231,184	Pending	Pending	Pending	Pending
28 5601 De Soto	Approved	0	0	45,290	0	0	0	26,200

SIGNIFICANT PROJECTS UNDER CONSTRUCTION

WARNER CENTER 2035 PLAN



1 21425 Vanowen Street



2 6801 Canoga Avenue



3 21121 Vanowen Street



4 6800 Variel Avenue



5 20944 Vanowen Street



6 6606 Variel Avenue



7 6263 Topanga Canyon Boulevard



8 6200 Variel Avenue



9 21221 Oxnard Street



10 6041 Variel Avenue

Appendix B

2022 GHG Scoping Plan Consistency Analysis

District at Warner Center Project

2022 GHG Scoping Plan Consistency Analysis

Introduction

The Scoping Plan is a greenhouse gas emission (GHG) reduction roadmap developed and updated by the California Air Resources Board (CARB) at least once every five years, as required by Assembly Bill (AB) 32. It lays out the transformations needed across various sectors to reduce GHG emissions and reach the State's climate targets. CARB published the Final 2022 Scoping Plan for Achieving Carbon Neutrality (2022 Scoping Plan Update) in November 2022, as the third update to the original plan that was adopted in 2008. The initial Scoping Plan laid out a path to achieve the AB 32 2020 limit of returning to 1990 levels of GHG emissions, a reduction of approximately 15 percent below business as usual activities.¹ The 2008 Scoping Plan included a mix of incentives, regulations, and carbon pricing, laying out the portfolio approach to addressing climate change and clearly making the case for using multiple tools to meet California's GHG targets. The 2013 Scoping Plan Update assessed progress toward achieving the 2020 limit and made the case for addressing short-lived climate pollutants (SLCPs).² The second update, the 2017 Scoping Plan Update,³ shifted focus to the newer Senate (SB) 32 goal of a 40-percent reduction below 1990 levels by 2030 by laying out a detailed cost-effective and technologically feasible path to this target, and also assessed progress toward achieving the AB 32 goal of returning to 1990 levels by 2020. The 2020 goal was ultimately reached in 2016, four years ahead of the schedule called for under AB 32.

The 2022 Scoping Plan Update is the most comprehensive and far-reaching Scoping Plan developed to date. It identifies a technologically feasible, cost-effective, and equity-focused path to achieve carbon neutrality by 2045 and to reduce anthropogenic GHG emissions to at least 85 percent below 1990 levels, while also assessing the progress

¹ CARB. 2008. *Climate Change Scoping Plan*. ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/document/adopted_scoping_plan.pdf.

² CARB. 2014. *First Update to the Climate Change Scoping Plan*. ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/2013_update/first_update_climate_change_scoping_plan.pdf.

³ CARB. 2017. *California's 2017 Climate Change Scoping Plan*. ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/scoping_plan_2017.pdf.

California is making toward reducing its GHG emissions by at least 40 percent below 1990 levels by 2030, as called for in SB 32 and laid out in the 2017 Scoping Plan.⁴ The 2030 target is an interim but important stepping stone along the critical path to the broader goal of deep decarbonization by 2045. The relatively longer path assessed in the 2022 Scoping Plan Update incorporates, coordinates, and leverages many existing and ongoing efforts to reduce GHGs and air pollution, while identifying new clean technologies and energy. Given the focus on carbon neutrality, the 2022 Scoping Plan Update also includes discussion for the first time of the natural and working lands sectors as sources for both sequestration and carbon storage, and as sources of emissions as a result of wildfires. A summary of the GHG emissions reductions and targets set forth under the 2022 Scoping Plan Update is provided in Table 1 on page 3.

The 2022 Scoping Plan Update reflects existing and recent direction in the Governor's Executive Orders and Statutes, which identify policies, strategies, and regulations in support of and implementation of the Scoping Plan. Among these include Executive Order B-55-18 and AB 1279 (The California Climate Crisis Act), which identify the 2045 carbon neutrality and GHG reduction targets required for the Scoping Plan. Table 2 on page 4 provides a summary of major climate legislation and executive orders issued since the adoption of the 2017 Scoping Plan.

The 2022 Scoping Plan Scenario identifies the need to accelerate AB 32's 2030 target from 40 percent to 48 percent below 1990 levels. Cap-and-Trade regulation continues to play a large factor in the reduction of near-term emissions for meeting the 2030 reduction target. Every sector of the economy will need to begin to transition in this decade to meet our GHG reduction goals and achieve carbon neutrality no later than 2045. The 2022 Scoping Plan Update approaches decarbonization from two perspectives, managing a phasedown of existing energy sources and technologies, as well as increasing, developing, and deploying alternative clean energy sources and technology. The Scoping Plan Scenario is summarized in Table 2-1 starting on page 72 of the Scoping Plan. It includes references to relevant statutes and Executive Orders, although it is not comprehensive of all existing new authorities for directing or supporting the actions described. Table 2-1 of the Scoping Plan identifies actions related to a variety of sectors such as: smart growth and reductions in Vehicle Miles Traveled (VMT); light-duty vehicles (LDV) and zero-emission vehicles (ZEV); truck ZEVs; reduce fossil energy, emissions, and GHGs for aviation ocean-going vessels, port operations, freight and passenger rail, oil and gas extraction; and petroleum refining; improvements in electricity generation; electrical appliances in new and existing residential and commercial buildings; electrification and

⁴ CARB, *California's 2017 Climate Change Scoping Plan*, 2017, ww2.arb.ca.gov/sites/default/files/classic/cc/scopingplan/scoping_plan_2017.pdf.

Table 1
Estimated Statewide Greenhouse Gas Emissions Reductions in the 2022 Scoping Plan

Emissions Scenario	GHG Emissions (MMTCO ₂ e)
2019	
2019 State GHG Emissions	404
2030	
2030 BAU Forecast	312
2030 GHG Emissions without Carbon Removal and Capture	233
2030 GHG Emissions with Carbon Removal and Capture	226
2030 Emissions Target Set by AB 32 (i.e., 1990 level by 2030)	260
Reduction below Business-As-Usual necessary to achieve 1990 levels by 2030	52 (16.7%) ^a
2045	
2045 BAU Forecast	266
2045 GHG Emissions without Carbon Removal and Capture	72
2045 GHG Emissions with Carbon Removal and Capture	(3)
MMTCO₂e = million metric tons of carbon dioxide equivalents; parenthetical numbers represent negative values ^a $312 - 260 = 52 / 312 = 16.7\%$ Source: CARB, Final 2022 Climate Change Scoping Plan, November 2022.	

Table 2
Major Climate Legislation and Executive Orders Enacted Since the 2017 Scoping Plan

Bill/Executive Order	Summary
AB 1279 (Muratsuchi, Chapter 337, Statutes of 2022) <i>The California Climate Crisis Act</i>	AB 1279 establishes the policy of the state to achieve carbon neutrality as soon as possible, but no later than 2045; to maintain net negative GHG emissions thereafter; and to ensure that by 2045 statewide anthropogenic GHG emissions are reduced at least 85 percent below 1990 levels. The bill requires CARB to ensure that Scoping Plan updates identify and recommend measures to achieve carbon neutrality, and to identify and implement policies and strategies that enable CO₂ removal solutions and carbon capture, utilization, and storage (CCUS) technologies. This bill is reflected directly in the 2022 Scoping Plan Update.
SB 905 (Caballero, Chapter 359, Statutes of 2022) <i>Carbon Capture, Removal, Utilization, and Storage Program</i>	SB 905 requires CARB to create the Carbon Capture, Removal, Utilization, and Storage Program to evaluate, demonstrate, and regulate CCUS and carbon dioxide removal (CDR) projects and technology. The bill requires CARB, on or before January 1, 2025, to adopt regulations creating a unified state permitting application for approval of CCUS and CDR projects. The bill also requires the Secretary of the Natural Resources Agency to publish a framework for governing agreements for two or more tracts of land overlying the same geologic storage reservoir for the purposes of a carbon sequestration project. The 2022 Scoping Plan Update modeling reflects both CCUS and CDR contributions to achieve carbon neutrality.
SB 846 (Dodd, Chapter 239, Statutes of 2022) <i>Diablo Canyon Powerplant: Extension of Operations</i>	SB 846 extends the Diablo Canyon Power Plant's sunset date by up to five additional years for each of its two units and seeks to make the nuclear power plant eligible for federal loans. The bill requires that the California Public Utilities Commission (CPUC) not include and disallow a load-serving entity from including in their adopted resource plan, the energy, capacity, or any attribute from the Diablo Canyon power plant. The 2022 Scoping Plan Update explains the emissions impact of this legislation.
SB 1020 (Laird, Chapter 361, Statutes of 2022) <i>Clean Energy, Jobs, and Affordability Act of 2022</i>	SB 1020 adds interim renewable energy and zero carbon energy retail sales of electricity targets to California end-use customers set at 90 percent in 2035 and 95 percent in 2040. It accelerates the timeline required to have 100 percent renewable energy and zero carbon energy procured to serve state agencies from the original target year of 2045 to 2035. This bill requires each state agency to individually achieve the 100 percent goal by 2035 with specified requirements. This bill requires the CPUC, California Energy Commission (CEC), and CARB, on or before December 1, 2023, and annually thereafter, to issue a joint reliability progress report that reviews system and local reliability. The bill also modifies the requirement for CARB to hold a portion of its Scoping Plan workshops in regions of the state with the most significant exposure to air pollutants by further specifying that this includes communities with minority populations or low-income communities in areas designated as being in extreme federal non-attainment. The 2022 Scoping Plan Update describes the implications of this legislation on emissions.

Table 2 (Continued)
Major Climate Legislation and Executive Orders Enacted Since the 2017 Scoping Plan

Bill/Executive Order	Summary
SB 1137 (Gonzales, Chapter 365, Statutes of 2022) <i>Oil & Gas Operations:</i> <i>Location Restrictions: Notice of Intention: Health protection zone: Sensitive receptors</i>	SB 1137 prohibits the development of new oil and gas wells or infrastructure in health protection zones, as defined, except for purposes of public health and safety or other limited exceptions. The bill requires operators of existing oil and gas wells or infrastructure within health protection zones to undertake specified monitoring, public notice, and nuisance requirements. The bill requires CARB to consult and concur with the California Geologic Energy Management Division (CalGEM) on leak detection and repair plans for these facilities, adopt regulations as necessary to implement emission detection system standards, and collaborate with CalGEM on public access to emissions detection data.
SB 1075 (Skinner, Chapter 363, Statutes of 2022) <i>Hydrogen: Green Hydrogen: Emissions of Greenhouse Gases</i>	SB 1075 requires CARB, by June 1, 2024, to prepare an evaluation that includes: policy recommendations regarding the use of hydrogen, and specifically the use of green hydrogen, in California; a description of strategies supporting hydrogen infrastructure, including identifying policies that promote the reduction of GHGs and short-lived climate pollutants; a description of other forms of hydrogen to achieve emission reductions; an analysis of curtailed electricity; an estimate of GHG and emission reductions that could be achieved through deployment of green hydrogen through a variety of scenarios; an analysis of the potential for opportunities to integrate hydrogen production and applications with drinking water supply treatment needs; policy recommendations for regulatory and permitting processes associated with transmitting and distributing hydrogen from production sites to end uses; an analysis of the life-cycle GHG emissions from various forms of hydrogen production; and an analysis of air pollution and other environmental impacts from hydrogen distribution and end uses. This bill would inform the production of hydrogen at the scale called for in the 2022 Scoping Plan Update.
AB 1757 (Garcia, Chapter 341, Statutes of 2022) <i>California Global Warming Solutions Act of 2006:</i> <i>Climate Goal: Natural and Working Lands</i>	AB 1757 requires the California Natural Resources Agency (CNRA), in collaboration with CARB, other state agencies, and an expert advisory committee, to determine a range of targets for natural carbon sequestration, and for nature-based climate solutions, that reduce GHG emissions in 2030, 2038, and 2045 by January 1, 2024. These targets must support state goals to achieve carbon neutrality and foster climate adaptation and resilience. This bill also requires CARB to develop standard methods for state agencies to consistently track GHG emissions and reductions, carbon sequestration, and additional benefits from natural and working lands over time. These methods will account for GHG emissions reductions of CO₂, methane, and nitrous oxide related to natural and working lands and the potential impacts of climate change on the ability to reduce GHG emissions and sequester carbon from natural and working lands, where feasible. This 2022 Scoping Plan Update describes the next steps and implications of this legislation for the natural and working lands sector.
SB 1206 (Skinner, Chapter 884, Statutes of 2022) <i>Hydrofluorocarbon gases: sale or distribution</i>	SB 1206 mandates a stepped sales prohibition on newly produced high-global warming potential (GWP) hydrofluorocarbons (HFCs) to transition California's economy toward recycled and reclaimed HFCs for servicing existing HFC-based equipment. Additionally, SB 1206 also requires CARB to develop regulations to increase the adoption of very low-, i.e., GWP < 10,

Table 2 (Continued)
Major Climate Legislation and Executive Orders Enacted Since the 2017 Scoping Plan

Bill/Executive Order	Summary
	and no-GWP technologies in sectors that currently rely on higher-GWP HFCs.
SB 27 (Skinner, Chapter 237, Statutes of 2021) <i>Carbon Sequestration: State Goals: Natural and Working Lands: Registry of Projects</i>	SB 27 requires CNRA, in coordination with other state agencies, to establish the Natural and Working Lands Climate Smart Strategy by July 1, 2023. This bill also requires CARB to establish specified CO₂ removal targets for 2030 and beyond as part of its Scoping Plan. Under SB 27, CNRA is to establish and maintain a registry to identify projects in the state that drive climate action on natural and working lands and are seeking funding. CNRA also must track carbon removal and GHG emission reduction benefits derived from projects funded through the registry. This bill is reflected directly in 2022 Scoping Plan Update as CO₂ removal targets for 2030 and 2045 in support of carbon neutrality.
SB 596 (Becker, Chapter 246, Statutes of 2021) <i>Greenhouse Gases: Cement Sector: Net-zero Emissions Strategy</i>	SB 596 requires CARB, by July 1, 2023, to develop a comprehensive strategy for the state's cement sector to achieve net-zero-emissions of GHGs associated with cement used within the state as soon as possible, but no later than December 31, 2045. The bill establishes an interim target of 40 percent below the 2019 average GHG intensity of cement by December 31, 2035. Under SB 596, CARB must: • Define a metric for GHG intensity and establish a baseline from which to measure GHG intensity reductions. • Evaluate the feasibility of the 2035 interim target (40 percent reduction in GHG intensity) by July 1, 2028. • Coordinate and consult with other state agencies. • Prioritize actions that leverage state and federal incentives. • Evaluate measures to support market demand and financial incentives to encourage the production and use of cement with low GHG intensity. The 2022 Scoping Plan Update modeling is designed to achieve these outcomes.
Executive Order N-82-20	Governor Newsom signed Executive Order N-82-20 in October 2020 to combat the climate and biodiversity crises by setting a statewide goal to conserve at least 30 percent of California's land and coastal waters by 2030. The Executive Order also instructed the CNRA, in consultation with other state agencies, to develop a Natural and Working Lands Climate Smart Strategy that serves as a framework to advance the state's carbon neutrality goal and build climate resilience. In addition to setting a statewide conservation goal, the Executive Order directed CARB to update the target for natural and working lands in support of carbon neutrality as part of this Scoping Plan, and to take into consideration the NWL Climate Smart Strategy. CO₂ Executive Order N-82-20 also calls on the CNRA, in consultation with other state agencies, to establish the California Biodiversity Collaborative (Collaborative). The Collaborative shall be made up of governmental partners, California Native American tribes, experts, business and community leaders, and other stakeholders from across the state. State

Table 2 (Continued)
Major Climate Legislation and Executive Orders Enacted Since the 2017 Scoping Plan

Bill/Executive Order	Summary
	agencies will consult the Collaborative on efforts to: • Establish a baseline assessment of California's biodiversity that builds upon existing data and can be updated over time. • Analyze and project the impact of climate change and other stressors in California's biodiversity. • Inventory current biodiversity efforts across all sectors and highlight opportunities for additional action to preserve and enhance biodiversity. CNRA also is tasked with advancing efforts to conserve biodiversity through various actions, such as streamlining the state's process to approve and facilitate projects related to environmental restoration and land management. The California Department of Food and Agriculture (CDFA) is directed to advance efforts to conserve biodiversity through measures such as reinvigorating populations of pollinator insects, which restore biodiversity and improve agricultural production. The Natural and Working Lands Climate Smart Strategy informs 2022 Scoping Plan Update.
Executive Order N-79-20	Governor Newsom signed Executive Order N-79-20 in September 2020 to establish targets for the transportation sector to support the state in its goal to achieve carbon neutrality by 2045. The targets established in this Executive Order are: • 100 percent of in-state sales of new passenger cars and trucks will be zero-emission by 2035. • 100 percent of medium- and heavy-duty vehicles will be zero-emission by 2045 for all operations where feasible, and by 2035 for drayage trucks. • 100 percent of off-road vehicles and equipment will be zero-emission by 2035 where feasible. The Executive Order also tasked CARB to develop and propose regulations that require increasing volumes of zero- electric passenger vehicles, medium- and heavy-duty vehicles, drayage trucks, and off-road vehicles toward their corresponding targets of 100 percent zero-emission by 2035 or 2045, as listed above. The 2022 Scoping Plan Update modeling reflects achieving these targets.
Executive Order N-19-19	Governor Newsom signed Executive Order N-19-19 in September 2019 to direct state government to redouble its efforts to reduce GHG emissions and mitigate the impacts of climate change while building a sustainable, inclusive economy. This Executive Order instructs the Department of Finance to create a Climate Investment Framework that: • Includes a proactive strategy for the state's pension funds that reflects the increased risks to the economy and physical environment due to climate change. • Provides a timeline and criteria to shift investments to companies and industry sectors with greater growth potential based on their focus of reducing carbon emissions and adapting to the impacts of climate change. • Aligns with the fiduciary responsibilities of the California Public Employees'

Table 2 (Continued)
Major Climate Legislation and Executive Orders Enacted Since the 2017 Scoping Plan

Bill/Executive Order	Summary
	Retirement System, California State Teachers' Retirement System, and the University of California Retirement Program. Executive Order N-19-19 directs the State Transportation Agency to leverage more than \$5 billion in annual state transportation spending to help reverse the trend of increased fuel consumption and reduce GHG emissions associated with the transportation sector. It also calls on the Department of General Services to leverage its management and ownership of the state's 19 million square feet in managed buildings, 51,000 vehicles, and other physical assets and goods to minimize state government's carbon footprint. Finally, it tasks CARB with accelerating progress toward California's goal of five million ZEV sales by 2030 by: • Developing new criteria for clean vehicle incentive programs to encourage manufacturers to produce clean, affordable cars. • Proposing new strategies to increase demand in the primary and secondary markets for ZEVs. • Considering strengthening existing regulations or adopting new ones to achieve the necessary GHG reductions from within the transportation sector. The 2022 Scoping Plan Update modeling reflects efforts to accelerate ZEV deployment.
SB 576 (Umberg, Chapter 374, Statutes of 2019) <i>Coastal Resources: Climate Ready Program and Coastal Climate Change Adaptation, Infrastructure and Readiness Program</i>	Sea level rise, combined with storm-driven waves, poses a direct risk to the state's coastal resources, including public and private real property and infrastructure. Rising marine waters threaten sensitive coastal areas, habitats, the survival of threatened and endangered species, beaches, other recreation areas, and urban waterfronts. SB 576 mandates that the Ocean Protection Council develop and implement a coastal climate adaptation, infrastructure, and readiness program to improve the climate change resiliency of California's coastal communities, infrastructure, and habitat. This bill also instructs the State Coastal Conservancy to administer the Climate Ready Program, which addresses the impacts and potential impacts of climate change on resources within the conservancy's jurisdiction.
AB 65 (Petrie- Norris, Chapter 347, Statutes of 2019) <i>Coastal Protection: Climate Adaption: Project Prioritization: Natural Infrastructure: Local General Plans</i>	This bill requires the State Coastal Conservancy, when it allocates any funding appropriated pursuant to the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018, to prioritize projects that use natural infrastructure in coastal communities to help adapt to climate change. The bill requires the conservancy to provide information to the Office of Planning and Research on any projects funded pursuant to the above provision to be considered for inclusion into the clearinghouse for climate adaption information. The bill authorizes the conservancy to provide technical assistance to coastal communities to better assist them with their projects that use natural infrastructure.
Executive Order B-55-18	Governor Brown signed Executive Order B-55-18 in September 2018 to establish a statewide goal to achieve carbon neutrality as soon as possible, and no later than 2045, and to achieve and maintain net negative emissions thereafter. Policies and programs undertaken to achieve this goal shall: • Seek to improve air quality and support the health and economic

Table 2 (Continued)
Major Climate Legislation and Executive Orders Enacted Since the 2017 Scoping Plan

Bill/Executive Order	Summary
	resiliency of urban and rural communities, particularly low-income and disadvantaged communities. • Be implemented in a manner that supports climate adaptation and biodiversity, including protection of the state's water supply, water quality, and native plants and animals. This Executive Order also calls for CARB to: • Develop a framework for implementation and accounting that tracks progress toward this goal. • Ensure future Scoping Plans identify and recommend measures to achieve the carbon neutrality goal. The 2022 Scoping Plan Update is designed to achieve carbon neutrality no later than 2045 and the modeling includes technology and fuel transitions to achieve that outcome.
SB 100 (De León, Chapter 312, Statutes of 2018) <i>California Renewables Portfolio Standard Program: emissions of greenhouse gases</i>	Under SB 100, the CPUC, CEC, and CARB shall use programs under existing laws to achieve 100 percent clean electricity. The statute requires these agencies to issue a joint policy report on SB 100 every four years. The first of these reports was issued in 2021. The 2022 Scoping Plan Update reflects the SB 100 Core Scenario resource mix with a few minor updates.
AB 2127 (Ting, Chapter 365, Statutes of 2018) <i>Electric Vehicle Charging Infrastructure: Assessment</i>	This bill requires the CEC, working with CARB and the CPUC, to prepare and biennially update a statewide assessment of the electric vehicle charging infrastructure needed to support the levels of electric vehicle adoption required for the state to meet its goals of putting at least 5 million zero-emission vehicles on California roads by 2030 and of reducing emissions of GHGs to 40 percent below 1990 levels by 2030. The bill requires the CEC to regularly seek data and input from stakeholders relating to electric vehicle charging infrastructure. This bill supports the deployment of ZEVs as modeled in 2022 Scoping Plan Update.
SB 30 (Lara, Chapter 614, Statutes of 2018) <i>Insurance: Climate Change</i>	This bill requires the Insurance Commissioner to convene a working group to identify, assess, and recommend risk transfer market mechanisms that, among other things, promote investment in natural infrastructure to reduce the risks of climate change related to catastrophic events, create incentives for investment in natural infrastructure to reduce risks to communities, and provide mitigation incentives for private investment in natural lands to lessen exposure and reduce climate risks to public safety, property, utilities, and infrastructure. The bill requires the policies recommended to address specified questions.
AB 2061 (Frazier, Chapter 580, Statutes of 2018) <i>Near-zero-emission and Zero-emission Vehicles</i>	Existing state and federal law sets specified limits on the total gross weight imposed on the highway by a vehicle with any group of two or more consecutive axles. Under existing federal law, the maximum gross vehicle weight of that vehicle may not exceed 82,000 pounds. AB 2061 authorizes a near-zero- emission vehicle or a zero-emission vehicle to exceed the weight limits on the power unit by up to 2,000 pounds. This bill supports the deployment of cleaner trucks as modeled in this 2022

Table 2 (Continued)
Major Climate Legislation and Executive Orders Enacted Since the 2017 Scoping Plan

Bill/Executive Order	Summary
	Scoping Plan Update.

emission reductions across industries such as the for food products, construction equipment, chemicals and allied products, pulp and paper, stone/clay/glass/cement, other industrial manufacturing, and agriculture; retiring of combined heat and power facilities; low carbon fuels for transportation, business, and industry; improvements in non-combustion methane emissions, and introduction of low GWP refrigerants.

Achieving the targets described in the 2022 Scoping Plan Update will require continued commitment to and successful implementation of existing policies and programs and identification of new policy tools and technical solutions to go further, faster. California's Legislature and state agencies will continue to collaborate to achieve the state's climate, clean air, equity, and broader economic and environmental protection goals. It will be necessary to maintain and strengthen this collaborative effort, and to draw upon the assistance of the federal government, regional and local governments, tribes, communities, academic institutions, and the private sector to achieve the state's near-term and longer-term emission reduction goals and a more equitable future for all Californians. The Scoping Plan acknowledges that the path forward is not dependent on one agency, one state, or even one country. However, the State can lead by engaging Californians and demonstrating how action at the state, regional, and local levels of governments, as well as action at community and individual levels, can contribute to addressing the challenge.

Aligning local jurisdiction action with state-level priorities to tackle climate change and the outcomes called for in the 2022 Scoping Plan Update is identified as critical to achieving the statutory targets for 2030 and 2045. The 2022 Scoping Plan Update discusses the role of local governments in meeting the State's GHG reductions goals. Local governments have the primary authority to plan, zone, approve, and permit how and where land is developed to accommodate population growth, economic growth, and the changing needs of their jurisdictions. They also make critical decisions on how and when to deploy transportation infrastructure, and can choose to support transit, walking, bicycling, and neighborhoods that do not force people into cars. Local governments also have the option to adopt building ordinances that exceed statewide building code requirements, and play a critical role in facilitating the rollout of ZEV infrastructure. As a result, local government decisions play a critical role in supporting state-level measures to contain the growth of GHG emissions associated with the transportation system and the built environment—the two largest GHG emissions sectors over which local governments have authority. The City has taken the initiative in combating climate change by developing

programs and regulations such as the City's Green New Deal and Green Building Code. Each of these is discussed further below.

Thresholds

As provided in Section 6.1.8, Greenhouse Gas Emissions, of the Conformance Review, the City considers whether the Project is consistent with the following plans:

- AB 32's 2008 Scoping Plan and Subsequent Updates
- SCAG's 2020–2045 RTP/SCS consistent with SB 375
- City of Los Angeles' Green New Deal

The 2022 Scoping Plan Update is a subsequent update of AB 32's 2008 and 2017 Scoping Plan.

Methodology

Appendix D, Local Actions, of the 2022 Scoping Plan Update includes “recommendations intended to build momentum for local government actions that align with the State's climate goals, with a focus on local GHG reduction strategies (commonly referred to as climate action planning) and approval of new land use development projects, including through environmental review under the California Environmental Quality Act (CEQA).” (Page 4 of Appendix D.)

The State encourages local governments to adopt a CEQA-qualified Climate Action Plan (CAP) addressing the three priority areas (transportation electrification, VMT reduction, and building decarbonization). However, the State recognizes that almost 50 percent of jurisdictions do not have an adopted CAP, among other reasons because they are costly, requiring technical expertise, staffing, funding. Additionally, CAPs need to be monitored and updated as State targets change and new data is available. Jurisdictions that wish to take meaningful climate action (such as preparing a non-CEQA-qualified CAP or as individual measures) aligned with the State's climate goals in the absence of a CEQA-qualified CAP are advised to look to the three priority areas when developing local climate plans, measures, policies, and actions: transportation electrification, VMT reduction, and building decarbonization. “By prioritizing climate action in these three priority areas, local governments can address the largest sources of GHGs within their jurisdiction.” (Page 9 of Appendix D.)

The State also recognizes in Appendix D, Local Actions, of the Scoping Plan that each community or local area has distinctive situations and local jurisdictions must balance

the urgent need for housing⁵ while demonstrating that a Project is in alignment with the State's Climate Goals. The State calls for the climate crisis and the housing crisis to be confronted simultaneously. Jurisdictions should avoid creating targets that are impossible to meet as a basis to determine significance. Ultimately, targets that make it more difficult to achieve statewide goals by prohibiting or complicating projects that are needed to support the State's climate goals, like infill development, low-income housing, or solar arrays, are not consistent with the State's goals. The State also recognizes the lead agencies' discretion to develop evidence-based approaches for determining whether a project would have a potentially significant impact on GHG emissions.

Consistency Analysis

As discussed above, jurisdictions that want to take meaningful climate action (such as preparing a non-CEQA-qualified CAP or as individual measures) aligned with the State's climate goals in the absence of a CEQA-qualified CAP should also look to the three priority areas. To assist local jurisdictions, the 2022 Scoping Plan Update presents a non-exhaustive list of impactful GHG reduction strategies that can be implemented by local governments within the three priority areas (transportation electrification, VMT reduction, and building decarbonization).⁶ A detailed assessment of goals, plans, and policies implemented by the City which would support the GHG reduction strategies in the three priority areas is provided below. In addition, further details are provided regarding the correlation between these reduction strategies and applicable actions included in Table 2-1 (page 72) of the Scoping Plan (Actions for the Scoping Plan Scenario).

Transportation Electrification

The priority GHG reduction strategies for local government climate action related to transportation electrification are discussed below and would support the Scoping Plan action to have 100 percent of all new passenger vehicles to be zero-emission by 2035 (see Table 2-1 of the Scoping Plan).

- **Convert local government fleets to zero-emission vehicles (ZEV)**

CARB approved the Advanced Clean Cars II rule which codifies Executive Order N-79-20 and requires 100 percent of new cars and light trucks sold in California be zero-emission vehicles by 2035. The State has also adopted AB 2127 which requires the CEC to analyze and examine charging needs to support California's electric vehicles (EVs)

⁵ The State recognizes the need for 2.5 million housing units over the next eight years, with one million being affordable units. See page 20, Appendix D, 2022 Scoping Plan Update, November 2022.

⁶ Insert reference to Table 1 of Appendix D 2022 Scoping Plan Update, November 2022.

in 2030. This report would help decision-makers allocate resources to install new EV chargers where they are needed most.

The City's Green New Deal (Sustainable City pLAn 2019) identifies a number of measures to reduce VMT and associated GHG emissions. Such measures that would support the local reduction strategy include converting all city fleet vehicles to zero emission where technically feasible by 2028. Starting in 2021, all vehicle procurement was required to follow a "zero emission first" policy for City fleets. The Green New Deal also establishes a target to increase the percentage of zero emission vehicles to 25 percent by 2025, 80 percent by 2035 and 100 percent by 2050. In order to achieve this goal, the City would build 20 Fast Charging Plazas throughout the City. The City would also install 28,000 publicly available chargers by 2028 to encourage adoption of ZEVs.

The City's goals of converting the municipal fleet to zero emissions and installation of EV chargers throughout the City would be consistent with the Scoping Plan goals of transitioning to EVs. Although this measure mainly applies to City fleets, the Project would not conflict with these goals by installing EV chargers in at least 10 percent of total proposed parking spaces. Installation of additional EV chargers would encourage adoption of EVs.

- **Create a jurisdiction-specific ZEV ecosystem to support deployment of ZEVs statewide (such as building standards that exceed state building codes, permit streamlining, infrastructure siting, consumer education, preferential parking policies, and ZEV readiness plans)**

The State has adopted AB 1236 and AB 970 which requires cities to adopt streamline permitting procedures for EV charging stations. As a result, the City updated Section IX of the LAMC, which requires most new construction to designate 30 percent of new parking spaces as capable of supporting future electric vehicle supply equipment (EVSE). This would exceed the CALGreen 2022 requirements of 20 percent of new parking spaces as EV capable. The ordinance also requires new construction to install EVSE at 10 percent of total parking spaces. This requirement also exceeds the CALGreen 2022 requirements of installing EVSE for 25 percent of EV capable parking spaces which is approximately five percent of total parking spaces. The City has also implemented programs to increase the amount of EV charging on City streets, EV carshare, and incentive programs for apartments to be retrofitted with EV chargers.

The City's goals of installing EV chargers throughout the City would be consistent with the Scoping Plan goals of transitioning to EVs. In addition, the Project would comply with Ordinance No. 186485 by installing EV chargers in at least 10 percent of total proposed parking spaces which would exceed the CALGreen 2022 requirement. In

addition, 30 percent of all new parking spaces would be required to be EV “ready,” which will be capable of supporting future EV charging equipment.

VMT Reduction

The priority GHG reduction strategies for local government climate action related to VMT reduction are discussed below and would support the Scoping Plan action to reduce VMT per capita 25 percent below 2019 levels by 2030 and 30 percent below 2019 levels by 2045.

- **Reduce or eliminate minimum parking standards in new developments**
- **Implement parking pricing or transportation demand management pricing strategies**

In August 2015, the City Council adopted Mobility Plan 2035 (Mobility Plan), which serves as the City’s General Plan circulation element. The City Council has adopted several amendments to the Mobility Plan since its initial adoption, including the most recent amendment on September 7, 2016.⁷ The Mobility Plan incorporates “complete streets” principles and lays the policy foundation for how the City’s residents interact with their streets. While the Mobility Plan mainly relates to transportation, certain components would serve to reduce VMT and mobile source GHG emissions. One component of the Mobility Plan is a GHG emission tracking program to establish compliance with SB 375, AB 32, and the region’s Sustainable Community Strategy.

The Mobility Plan contains measures and programs related to VMT reduction throughout the City. With regard to parking standards, Mobility Plan Program No. PK.13 would reduce parking requirements for developments near transit (within 0.5 mile) while Program No. PK.3 would allow for individualized parking requirements where businesses can identify parking demand and can reduce on-site parking with TDM strategies. These reduction strategies would serve to reduce minimum parking standards in order to reduce vehicle trips.

In accordance with Section 7.8.1 of the Warner Center 2035 Specific Plan, the Project would be required to comply with the TDM requirements of the Warner Center 2035 Specific Plan which provides two options for compliance. The Project would select Option No. 2 which requires the owner/developer to join the Warner Center Transportation Management Organization (TMO) which is called Warner Connects. Warner Connects

⁷ Los Angeles Department of City Planning, *Mobility Plan 2035: An Element of the General Plan*, approved by City Planning Commission on June 23, 2016, and adopted by City Council on September 7, 2016.

promotes sustainability and reduced congestion through the enhancement of opportunities for multimodal transportation. Warner Connects places an emphasis on technology-based tools to connect Warner Center employees, residents, and visitors with the best fit for their transportation needs and works closely with developers and employers to facilitate compliance with local and regional transportation requirements. A TMO member shall incorporate the following which implement the TMO's overall TDM goals and objectives that include:

- a) Providing building and site design elements that facilitate customer, tenant, and employee vehicle use reduction efforts, such as direct pedestrian access and bicycle facilities, loading and unloading areas for High Occupancy Vehicles (HOV's), and preferential parking for HOV's.
- b) Designate an on-site transportation coordinator or point person to manage on-site TDM efforts and work with the TMO or equivalent organization.
- c) Specific promotional measures that will be performed in providing ridesharing services and information to customers, tenants, and employees.
- d) Financial and non-financial trip reduction incentives that will be provided on-site to customers, tenants, and employees.
- e) Payment of annual membership dues as determined by the TMO.

These requirements would serve to reduce VMT and greenhouse gas emissions. Therefore, the Project would be consistent with and not conflict with this reduction strategy.

- **Implement Complete Streets policies and investments, consistent with general plan circulation element requirements**

The Mobility Plan established a "Complete Streets" planning framework which resulted in the City of Los Angeles Complete Streets Design Guide in 2015 consistent with California's Complete Streets Act of 2008. A supplemental update to the Complete Streets Design Guide was adopted in 2020.

The Complete Streets Design Guide provides a number of measures to increase public access to electric shuttles, car sharing and walking. The Design Guide establishes guidelines for establishing on-street parking for car sharing. In 2015, the City established BlueLA which is a car sharing network. Phase I, completed in 2018, consists of more than 100 electric vehicles with 40 designated on-street stations (200 individual charge points). Phase II of the program expands the program to 300 cars and 100 stations by 2024. The program is committed to servicing disadvantaged communities and people of color in Los

Angeles to offer an affordable, zero-emission mode of transportation. In addition, under the Green New Deal, the City would install 28,000 publicly available chargers by 2028 and introduce 135 new electric DASH buses.

This reduction strategy mainly applies to City traffic circulation. However, the Project would conform to all design element requirements which may affect public rights-of-way, including proper driveway alignment, adequate sidewalk widths, improved lighting elements, and landscaping design which does not hinder sight distance, mobility, or accessibility. Therefore, the Project would not conflict with the implementation of Complete Streets policies.

- **Increase access to public transit by increasing density of development near transit, improving transit service by increasing service frequency, creating bus priority lanes, reducing or eliminating fares, microtransit, etc.**
- **Increase public access to clean mobility options by planning for and investing in electric shuttles, bike share, car share, and walking**
- **Amend zoning or development codes to enable mixed-use, walkable, transit-oriented, and compact infill development (such as increasing the allowable density of a neighborhood)**
- **Preserve natural and working lands by implementing land use policies that guide development toward infill areas and do not convert “greenfield” land to urban uses (e.g., green belts, strategic conservation easements).**

These reduction strategies are supported through implementation of SB 375 which requires integration of planning processes for transportation, land-use and housing and generally encourages jobs/housing proximity, promote transit-oriented development (TOD), and encourages high-density residential/commercial development along transit corridors. To implement SB 375 and reduce GHG emissions by correlating land use and transportation planning, SCAG adopted the 2020–2045 RTP/SCS, also referred to as Connect SoCal. The 2020–2045 RTP/SCS’ “Core Vision” prioritizes the maintenance and management of the region’s transportation network, expanding mobility choices by co-locating housing, jobs, and transit, and increasing investment in transit and complete streets. Section 6.1.8, Greenhouse Gas Emissions, of the Conformance Review provided a consistency analysis with SCAG’s 2020–2045 RTP/SCS.

On a local level, the City has developed the Complete Streets Design Guide which provides a number of reduction strategies to increase public access to electric shuttles, car sharing and walking. The Mobility Plan continues to build out networks for pedestrians, bicyclists, and transit users, has implemented an EV car sharing network, and is working towards increasing publicly available chargers, and introducing new electric DASH buses.

The Project would be located within an HQTAs, and would develop uses, including residential, hotel, restaurant, and retail uses, in one location. In addition, the Project Site's proximity to a variety of commercial uses and services would allow residents or employees of the Project Site to walk to nearby destinations to meet their shopping needs, thereby reducing VMT and GHG emissions. The Project would also provide a total of 444 bicycle parking spaces for Project uses. Therefore, the Project would be consistent with these reduction strategies. While these reduction strategies mainly apply to traffic circulation infrastructure within the City, the Project would support these reduction strategies.

California continues to experience a severe housing shortage. The State must plan for more than 2.5 million residential units over the next eight years, and no less than one million of those residential units must be affordable to lower-income households.⁸ This represents more than double the housing planned for during the last eight years.⁹ The housing crisis and the climate crisis must be confronted simultaneously, and it is possible to address the housing crisis in a manner that supports the State's climate and regional air quality goals.¹⁰ CAPCOA's Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity (CAPCOA's Handbook) provides a VMT reduction measurement for incorporation of low-income housing. Measure T-4 (Integrate Affordable and Below Market Rate Housing) shows a 28.6-percent reduction in VMT for low-income units in comparison to market-rate units.

The City's Housing Element of the General Plan provides planning guidance in meeting housing needs identified in the SCAG Regional Housing Needs Assessment (RHNA). The current RHNA goal for affordable housing within the City is approximately 40 percent of new construction. However, the City's projections show affordable housing comprising 20 percent of new construction, which falls short of the 40-percent RHNA goal. In order to address this shortfall, the Housing Element identifies measures to encourage development of affordable housing such as revising density bonuses for affordable housing; identify locations which are ideal for funding programs to meet low-income housing goals; and rezone areas to encourage low-income housing. The Housing Element estimates that implementation of these measures would increase housing production at all income ranges compared to previous cycles.

⁸ California Department of Housing and Community Development. 2022. *Statewide Housing Plan*. Available at www.hcd.ca.gov/docs/statewide-housing-plan.pdf.

⁹ California Department of Housing and Community Development. 2022. *Statewide Housing Plan*. Available at www.hcd.ca.gov/docs/statewide-housing-plan.pdf.

¹⁰ Elkind, E. N., Galante, C., Decker, N., Chapple, K., Martin, A., & Hanson, M. 2017. *Right Type, Right Place: Assessing the Environmental and Economic Impacts of Infill Residential Development through 2030*. Available at <https://turnercenter.berkeley.edu/research-and-policy/right-type-right-place/>.

The City's 20-percent goal of low-income housing for new construction is applicable on a citywide basis and not applicable to an individual project. The Planning Department's Housing Division found, based on market studies and experiences of other agencies, that mandating 20-percent affordable housing on individual projects is likely to reduce overall housing production, including low income housing, in the City and would be contrary to City and State policies. Pushing more housing outside of the City would be contrary to the Scoping Plan, as infill housing production in the City, which is a highly urbanized city with billions in transit infrastructure, lower average VMT than the SCAG region, is called for in the 2022 Scoping Plan.

The Project will include up to 852 residential units, including 316 live-work units as defined by the Warner Center 2035 Specific Plan. The Project does not include affordable housing. However, the Project does include other measures that would result in VMT reductions. The Project represents an infill development in a highly urbanized area that is served by existing utilities and public services. The Project also has a density that is supportive of transit with 97 dwelling units per acre.¹¹

Building Decarbonization

The priority GHG reduction strategies for local government climate action related to electrification are discussed below and would support the Scoping Plan actions regarding meeting increased demand for electrification without new fossil gas-fire resources and all electric appliances beginning in 2026 (residential) and 2029 (commercial) (see Table 2-1 of the Scoping Plan).

- **Adopt all-electric new construction reach codes for residential and commercial uses**

California's transition away from fossil fuel-based energy sources will bring the project's GHG emissions associated with building energy use down to zero as our electric supply becomes 100 percent carbon free. California has committed to achieving this goal by 2045 through SB 100, the 100 Percent Clean Energy Act of 2018. SB 100 strengthened the State's Renewables Portfolio Standard (RPS) by requiring that 60 percent of all electricity provided to retail users in California come from renewable sources by 2030 and that 100 percent come from carbon-free sources by 2045. The land use sector will benefit from RPS because the electricity used in buildings will be increasingly carbon-free,

¹¹ The minimum density for transit-supportive development is 20 residential du per acre.

but implementation does not depend (directly, at least) on how buildings are designed and built.

The City has updated the LAMC with requirements for all new buildings, with some exceptions to be all-electric, which will reduce GHG emissions related to natural gas combustion. Space heating, water heating and cooking for non-restaurant uses would be required to be powered by electricity. In future years, the LADWP will be required to increase the amount of renewable energy in the power mix to comply with SB 100 requirements. The combination of the all-electric LAMC regulations and increasing availability of renewable energy will serve to reduce GHG emissions from sources traditionally powered by natural gas.

The Project would be required to comply with the LAMC and would not include natural gas uses in residential, hotel, and retail uses. The restaurant uses are exempt from the All-Electric ordinance, but would consist of a small portion of the total square footage. Therefore, the Project would be consistent and not conflict with the City's LAMC.

- **Adopt policies and incentive programs to implement energy efficiency retrofits for existing buildings, such as weatherization, lighting upgrades, and replacing energy-intensive appliances and equipment with more efficient systems (such as Energy Star-rated equipment and equipment controllers)**

This reduction strategy would support the Scoping Plan action regarding electrification of appliances in existing residential buildings (see Table 2-1 of the Scoping Plan). The City and Los Angeles Department of Water and Power (LADWP) has established rebate programs to promote use of energy-efficient products and home upgrades. Under LADWP's Consumer Rebate Program (CRP), residential customers would receive rebates for energy-efficient upgrades such as Cool Roofs, Energy Star Windows, HVAC upgrades, pool pumps, and insulation upgrades. Such upgrades would serve to reduce wasteful energy and water usage and associated GHG emissions.

The Project would not involve retrofit of existing buildings and would be completely new construction. Moreover, the Project would include energy saving technologies and appliances, water-efficient plantings with drought-tolerant species, and pedestrian- and bicycle-friendly design with short-term and long-term bicycle parking. Therefore, the Project would be consistent and not conflict with policies to implement energy efficiency retrofits.

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October 9, 2023

Ms. Sophia Kim
City Planner
Los Angeles Planning Department
200 N. Spring Street, Room 763
Los Angeles, California 90012-4801

RE: Case Number DIR-2022-7247-TOC-SPR-HCA; CEQA ENV-2022-7248-CE

Dear Ms. Kim:

Our office represents Benjamin Golshani, of VNB, LLC, the applicant for the proposed project located at 7115 North Van Nuys Boulevard, the legal description of which is FR Lot 538; TR 1000; Lot D; PM 1573 Tract (“Project”). This well-planned Project will include a new, six-story, 195,273 square-foot mixed-use building with 214 dwelling units, including 24 dwelling units reserved for Extremely Low-Income Households and 15,804 square-feet of commercial space. The five (5) residential levels will be constructed above one (1) ground floor level of commercial space, lobby area, parking, and two (2) levels of subterranean parking and storage. The residential portion of the Project includes 179 studio units, 35 one-bedroom units, and a total of 22,383 square feet of open space for residents. Ample parking will be provided, including a total of 238 automobile parking spaces, and 124 bicycle parking spaces. Vehicular access to the site is provided via one way access from Van Nuys to ingress and two-way driveways accessible from Sherman Circle. Pedestrian access is located on Van Nuys Boulevard and Sherman Circle.

As you are aware, the Los Angeles City Planning Commission issued a Letter of Determination on June 2, 2023 (“LOD”), wherein certain findings were made such that, based on the whole of the administrative record: (i) the Project is exempt from California Environmental Quality Act (“CEQA”) pursuant to Article 19, §15332, Class 32 of the CEQA Guidelines; and (ii) there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines §15300.2 applies to the Project (“Findings”). The Findings support the conditional approval of Site Plan Review for the construction and use of the Project.

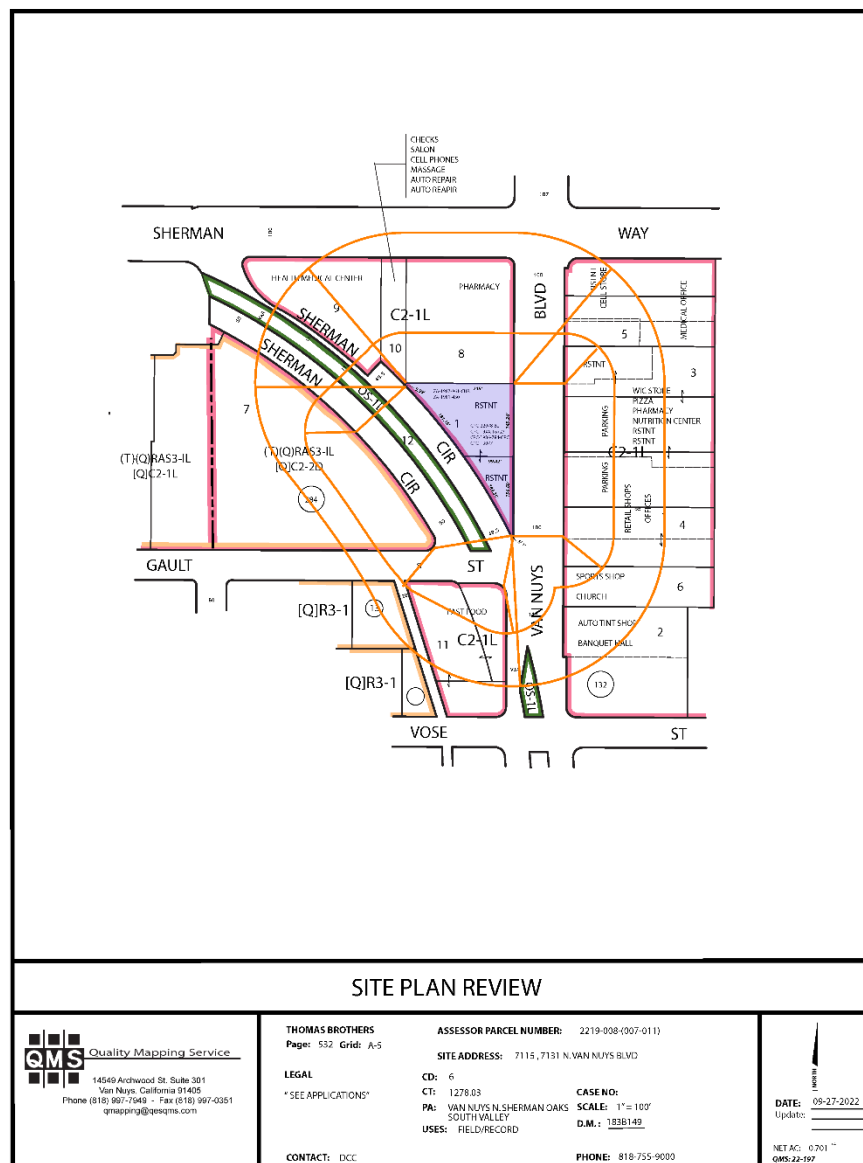
An appeal to the LOD was filed on June 1, 2023 (“Appeal”) by Supporters Alliance for Environmental Responsibility (“SAFER” or “Appellant”) and a hearing on the Appeal has been scheduled for October 26, 2023 (“Hearing”). The appeal contends that the Planning Commission violated CEQA, embodied within CA Pub. Resources Code (“PRC”) § 21000, *et seq.*, by approving the Project based on the Class 32 in-fill categorical exemption (“Class 32 Exemption”). The appeal also asserts that the City should prepare a full Environmental Impact Report (EIR) “before any permits are approved.” The appeal has no merit.

The Planning Commission is on solid legal ground in relying on the Class 32 Exemption, the evidentiary bases of which are extremely well documented. This abundant evidence is set forth in the Air Quality, Greenhouse Gas, and Noise Study for a Six-Story Mixed Use Development in Los Angeles, California, dated July 27, 2022, that was prepared for the Project by Yorke Engineering, LLC (“Environmental Assessment”) as well as in the LOD. The Environmental Analysis examined the following environmental impact issues summarized results of the analyses in the following tables of the Environmental Analysis:

Table 1: Land Use Data for CalEEMod Input
Table 2: SCAQMD CEQA Thresholds of Significance
Table 3: Construction Emissions Summary and Significance Evaluation
Table 4: Operational Emissions Summary and Significance Evaluation
Table 5: Construction Localized Significance Threshold Evaluation
Table 6: Operational Localized Significance Threshold Evaluation
Table 7: Greenhouse Gas Emissions Summary and Significance Evaluation
Table 8: Typical Sound Level Characteristics
Table 9: FHWA Noise Reference Levels and Usage Factors
Table 10: Estimated Peak Activity Daytime Noise Impacts – Residential Receptors

Because the Class 32 exemption is proper, there are no grounds for requiring an EIR for the Project. Indeed, preparing an EIR under the circumstances would be contrary to law. The Appellant has not made the kind of evidentiary showing that would be needed to trigger the preparation of an EIR. Indeed, the Appeal offers no evidence of any adverse environmental impacts. Rather, the Appeal merely raises issues about the City’s analysis supporting its reliance on the Class 32 exemption.

The law is crystal clear that mere controversy over a proposed project is not enough to require a private project applicant to bear the expense of an EIR. Actual *substantial* evidence is a potentially *significant* environmental effect is required. “The existence of public controversy over the environmental effects of a project shall *not* require preparation of an [EIR] if there is no substantial evidence in light of the whole record before the lead agency that the project may have a significant effect on the environment.” PRC §21082.2(b). In other words, a public agency cannot subject a project applicant to an EIR solely in order to placate unhappy constituents or to more fully vet a controversial development proposal. Rather, an EIR can only be required where



The Project is consistent with the General Plan, the applicable Van Nuys - North Sherman Oaks Community Plan and zoning designations for the site. The Site Plan Review cited in the LOD Finds “the Project is in substantial conformance with the purposes, intent and provisions of the General Plan, applicable community plan, and any applicable specific plan. *See*, the LOD, at 15. It will create quality jobs for the citizens of Van Nuys and will bring necessary tax revenues to the City of Los Angeles. As such the Project would make good use of an infill lot that is not currently providing the highest and best possible uses to the community. Applicant seeks no special dispensations in the form of plan amendments, rezones, or variances. The proposed land use is exactly what is allowed under the existing designations. The approvals sought by the Applicant do not present the Planning Commission with an occasion for rethinking the wisdom of the current General Plan and zoning designations. For these reasons, as more fully explained hereinbelow, we respectfully urge the Planning Commission to deny the Appeal and to approve the Project based on the Class 32 Exemption.

A. The Class 32 Categorical Exemption Has Been Properly Applied to the Project

Historical Development of The Class 32 Categorical Exemption

In originally fashioning CEQA in the early 1970s, the California Legislature recognized that certain development projects were too “minor in scope” to justify the substantial expenses in time and money associated with the preparation of full environmental documents such as negative declarations or EIRs. *See, Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1100-1102 (“*Berkeley Hillside*”). The Legislature, therefore, authorized the Governor’s Office of Planning and Research (“OPR”) and the Secretary of the California Resources Agency (“Resources Secretary”) to promulgate regulations identifying classes of projects that would be treated as categorically exempt from CEQA. *See*, Pub. Resources Code, § 21084(a); *see also*, Stats. 1972, ch. 1154, § 1, pp. 2271, 2273.

The result has been the creation of what are now 33 classes of categorical exemptions. *See*, Cal. Code Regs., tit. 14, div. 6, ch. 3, CEQA Guidelines §§ 15301 – 15333. In creating each categorical exemption, OPR and the Resources Secretary made a finding that the class of project at issue “[does] not have a significant effect on the environment.” *Berkeley Hillside, supra*, 60 Cal.4th at p. 1102 [quoting CEQA Guidelines §15300]. This finding is intended to be binding on public agencies absent unusual circumstances or other factors not pertinent to the pending appeal. *Berkeley Hillside, supra*, 60 Cal.4th at pp. 1100-1102; CEQA Guidelines, §15300.2(c).

The Class 32 Exemption is one such exemption. Added in 1998, for “infill development,” the Class 32 Exemption is found in CEQA Guidelines §15332. *See, Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 126-130 [upholding the adoption of the exemption.]

The Project Qualifies for the Class 32 Exemption as Set Forth in CEQA Guidelines §15332

In order for a project to qualify for the Class 32 Exemption, CEQA Guidelines §15332 mandates five criteria that must be met:

- (a) [t]he project [must be] consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations[;]
- (b) [t]he proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses[;]
- (c) [t]he project site has no value, as habitat for endangered, rare or threatened species[;]
- (d) [a]pproval of the project [must] not result in any significant effects relating to traffic, noise, air quality, or water quality[; and]
- (e) [t]he site [must be able to] be adequately served by all required utilities and public services.

The Project clearly satisfies all of the requirements of CEQA Guidelines §15332. As demonstrated by the Site Review map, provided above, the Project is located within Los Angeles city limits on a site of no more than five acres and is substantially surrounded by urban uses. The location is highly disturbed and is largely currently developed with residential and current uses. Thus, the Project site has no value, as habitat for endangered, rare or threatened species.

The Project Complies With Applicable General Plan, Community Plan and Zoning Ordinances

Finally, the Project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. The Project site is currently developed with commercial uses and is zoned C2-1L within the Van Nuys - North Sherman Oaks Community Plan Area with a Community Commercial land use designation. The Project site is located with Transit Oriented Communities (TOC), Tier 4, within a State Enterprise Zone, a Transit Priority Area in the City of Los Angeles, an Urban Agriculture Incentive Zone, and is 6.737 kilometers from the Northridge Fault. *See*, LOD, at 8.

Further, surrounding uses zoned for commercial and residential uses and are generally developed with commercial and residential multi-family structures. The abutting properties to the north are zoned C2-1L and are improved with commercial and auto related uses. The properties to the east, across Van Nuys Boulevard, are zoned C2-1L and are developed with commercial structures. The abutting property to the south is zoned C2-1L and is currently developed with a

fast-food restaurant. The property to the west, across the OS-1XL zone and Sherman Circle, is zoned (T)(Q)RAS3-1 and is developed with a five-story residential structure. *See*, LOD, at 8.

An Air Quality Analysis Was Properly Conducted

Approval of the project will not result in any significant effects relating to air quality or greenhouse gases:

As shown in Tables 3 and 4, mass emissions of criteria pollutants from construction and operation are below applicable SCAQMD significance thresholds. PROJECTED IMPACT: Less Than Significant (LTS)
[*See*, Environmental Assessment, at 5]

The LST results provided in Tables 5 and 6 show that on-site emissions from construction and operations would meet the LST passing criteria at the nearest receptors (25 meters). Thus, impacts would be less than significant. PROJECTED IMPACT: Less Than Significant (LTS)
. [*See*, Environmental Assessment, at 7]

Table 7 shows unmitigated and mitigated GHG emissions and evaluates mitigated emissions against SCAQMD significance thresholds. Operational efficiency measures incorporate typical code-required energy and water conservation features. Off-site traffic impacts are included in these emissions estimates, along with construction emissions amortized over 30 years. PROJECTED IMPACT: Less Than Significant (LTS)
[*See*, Environmental Assessment, at 9]

A Traffic Analysis Was Properly Conducted

Approval of the Project will not result in any significant effects relating to traffic. Firstly, The Light Rail project passes through Van Nuys Boulevard at the Project site. This will ensure that the effect of any increase in traffic caused by the Project will be minimized. Furthermore, the Environmental Assessment provides:

No significant increase in traffic is expected due to this relatively small project. No strong sources of vibrations are planned to be used during construction activities.

Since the Project is near an urban street, the incremental effect of Project operation (possible slightly increased traffic) would not be quantifiable against existing traffic noise (background) in the Project vicinity (i.e., less

than significant impact). Also, since no airport is closer than 2 miles from the Project site, evaluation of aircraft noise upon the Project is not required. [See, Environmental Assessment, at 10]

A Noise Analysis Was Properly Conducted, Including Construction and Post-Construction Noise

Temporary construction noise impacts would be significant if, as defined by Los Angeles Municipal Code (“LAMC”) Section 112.05, noise from powered equipment or powered hand tools used for construction within 500 feet (150 meters) of a residential zone exceeds 75 A-weighted decibels (dBA) at a distance of 50 feet (15 meters) from the noise source between the hours of 7:00 am and 10:00 pm. However, this noise limitation does not apply where compliance is technically infeasible. “Technically infeasible” means that the 75 dBA limitation cannot be complied with despite the use of mufflers, shields, sound barriers and/or any other noise reduction device or techniques during the operation of the equipment.

LAMC Section 112.03 references Section 41.40, which regulates noise from construction activities. Outdoor construction activities that generate noise are prohibited between the nighttime hours of 9:00 pm and 7:00 am Monday through Friday, and between 6:00 pm and 8:00 am on Saturdays and national holidays. Construction activities are prohibited on Sundays. The construction activities associated with the proposed Project would comply with these LAMC requirements.

The Environmental Assessment predicts a less than significant impact in accordance with applicable noise ordinances and General Plans, including the City of Los Angeles Municipal Code. The Project will not result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. As shown in the Environmental Analysis, temporary construction noise would be limited to daylight hours and would permanently cease upon completion of construction. Aggregated average construction noise is not expected to exceed 75 dBA at nearby receptors, which is below the significant threshold set by the City. Therefore, temporary impacts on ambient noise levels during construction would be less than significant.

During construction activities, the Project would generate noise due to operation of minimal offroad equipment, portable equipment, and vehicles at or near the Project site. No significant increase in traffic is expected due to this relatively small project. No strong sources of vibrations are planned to be used during construction activities. Since the Project is near an urban street, the incremental effect of Project operation (possible slightly increased traffic) would not be quantifiable against existing traffic noise (background) in the Project vicinity (i.e., less than significant impact). Also, since no airport is closer than 2 miles from the Project site, evaluation of aircraft noise upon the Project is not required. See, Environmental Assessment, at 10.

Further, although the estimated construction-related exterior noise levels associated with the proposed Project are modeled to normally be below the 75 dBA threshold, there may be times when the construction activities could intermittently and marginally exceed the 75 dBA threshold at 50 feet from the noise source. To minimize impacts, the Project will implement technically feasible control measures in compliance with the standards set forth in LAMC Section 112.05. Specifically, the use of deflectors/barriers such as plywood construction fencing (½-inch thickness), flexible sound-absorbing curtains, or existing intervening buildings, can reduce line-of-sight exterior noise levels by approximately 5 to 15 dBA, depending on the applied physical configuration (FHWA 2006). The estimated noise impacts shown in Table 10 incorporate these control measures. *See*, Environmental Assessment, at 16.

Overall, although construction of the Project would involve excavation within the Project area, construction plans do not include intense percussive actions (e.g., hard rock-breaking, large pile-driving). Therefore, no strong ground-borne vibrations are expected to be generated that could affect nearby structures or be noticeable to their occupants and impacts would be less than significant. The Projected impact is Less Than Significant (LTS) *See*, Environmental Assessment, at 19.

Operational noise sources for the Project, such as new HVAC equipment, are of quiet design per commercial standards. The noise from truck loading and trash collection and compaction activities are expected to have less than significant impacts on long-term ground-borne ambient noise levels. Although construction of the proposed Project would involve excavation within the Project area, construction plans do not include intense percussive actions (e.g., hard rock-breaking, large pile-driving). Therefore, no strong ground-borne vibrations are expected to be generated that could affect nearby structures or be noticeable to their occupants and impacts would be less than significant.

As shown, no adverse impacts are expected from, and no noise control measures would be required for, the operation of the Project. Therefore, the operational noise impact of the Project would be less than significant. *See*, Environmental Assessment, at 18. Additionally, the Project complies with the City of Los Angeles Municipal Code (LAMC), Chapter XI, Noise Regulation, Sections 112.02, 112.03, 112.05, and 41.40. *See*, Environmental Assessment, at 13. Sensitive receptors were included in the noise analysis:

The nearest school to the Project site is Valley Charter Middle School approximately 770 feet (235 meters) southeast of the site. Interceding building, and other multi-story buildings, would substantially shield the school from construction noise. The nearest residential receptors are west of the site, approximately 165 feet (50 meters) from the central construction zone; and a source receptor distance of 25 meters (82 feet) was used. All construction activities would be short-term and temporary. All construction work is planned to be conducted during daylight hours; no nighttime work is planned to be performed. Upon completion of construction, construction

generated noise would permanently cease. Since the proposed project is located in a dense urban area and not within 500 feet of a major freeway, no significant additional long-term traffic is expected, and therefore no additional Project-related noise is expected over the long term.
[See, Environmental Assessment, at 12]

A Water Quality Analysis Was Properly Conducted

Electricity for the Project will be served by the Los Angeles Department of Water and Power and gas will be supplied by Southern California Gas Company. *See*, Environmental Assessment, at 3. The Project “advances the following goals, objectives, and policies of the Community Plan:...Policy 102.1...utilities will accommodate this development.” *See*, LOD, at 16.

Applicant will comply with Administrative Condition 20 [See, LOD, at 6] requiring satisfactory arrangements to be made with the Los Angeles Department of Water and Power (“LADWP”):

...for compliance with LADWP's Rules Governing Water and Electric Service. Any corrections and/or modifications to plans made subsequent to this determination in order to accommodate changes to the Project due to the under-grounding of utility lines, that are outside of substantial compliance or that affect any part of the exterior design or appearance of the project as approved by the Director, shall require a referral of the revised plans back to the Department of City Planning for additional review and sign-off prior to the issuance of any permit in connection with those plans.

Mitigated and unmitigated operational and wastewater consumption were analyzed for indoor and outdoor land use [See, Environmental Assessment, at 97]. Approval of the project will not result in any significant effects relating to water quality. The Project is located in an urban area and will not involve septic or facultative lagoons. *See*, Environmental Assessment, at 107. The site can be adequately served by all required utilities and public services.

Appellant Has Not Provided Substantial Evidence That Defeats the City's Findings

The legal standards required to defeat the application of the Class 32 Exemption have not been met by Appellant. Such standards give the factual benefit of the doubt to the City in this instance. A challenger does *not* present “substantial evidence” when the challenger offers only “[a]rgument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment[.]” CEQA Guidelines §15384(a); *see also*, PRC § 21082.2(c). Thus, Appellant cannot defeat the Class 32 Exemption simply by raising

questions about the factual or technical conclusions that the agency reaches in relying on a categorical exemption, or by offering substantial evidence contrary to the substantial evidence on which the agency relies.

B. The City's Administrative Record Fully Supports the Planning Commission's Reliance on the Class 32 Exemption for the Project

Nothing in CEQA or the CEQA Guidelines requires an approving agency to make specific factual Findings prior to approving a proposed project based on a categorical exemption. Even so, in this case the City staff and the Planning Commission documented the evidentiary bases for each factual element of the Class 32 exemption:

The proposed project qualifies for a Class 32 Categorical Exemption because it conforms to the definition of in-fill Projects." The project can be characterized as in-fill development within urban areas for the purpose of qualifying for Class 32 Categorical Exemption as a result of meeting five established conditions and if it is not subject to an Exception that would disqualify it. The Categorical Exception document prepared by Department of City Planning and attached to the subject case file provides the full analysis and justification for project conformance with the definition of a Class 32 Categorical Exemption.

Furthermore, on October 2, 2022, the Planning Commission issued extensive Class 32 Exemption Findings for the Project ("Class 32 Exemption Findings"), determining that the Project is eligible for a Class 32 Exemption and making certain mandatory Findings in connection therewith:

Mandatory Finding (a):

"The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations."

Mandatory Finding (b):

"The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses."

Mandatory Finding (c):

"The project site has no value as habitat for endangered, rare or threatened species."

Mandatory Finding (d):

“Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.”

[See, Class 32 Exemption Findings, at 3-4]

Although, the Planning Commission was not required to rely on the Environmental Assessment in relying on the Class 32 categorical exemption, the Class 32 Exemption Findings make it clear that the Commission acknowledged the Environmental Assessment had been conducted, and stated, based on the analyses contained therein that the noise study had been adequately conducted and concluded the Project would not result in any significant construction or operational noise impacts [Class 32 Exemption Findings, at 4]; and that the City’s Department of Transportation “will review traffic impacts for the Project for any significant traffic impacts” (none of which have been identified as of the date hereof).

The Class 32 Exemption Findings and Environmental Assessment each provide abundant analysis and substantial evidence supporting the applicability of the Class 32 Exemption. These analyses and substantial evidence address, among many other topics, the specific issue raised in the Appeal, namely, that the Class 32 Exemption is legally inapplicable to the Project. As the analyses make clear, the Appellant is simply wrong in implying that the Planning Commission had no evidence to support its findings with respect to the applicability of the Class 32 Exemption. As shown above, the Project clearly meets the criteria contained in CEQA Guidelines §15332. The Project is located within the City of Los Angeles on a site of less than five acres and is substantially surrounded by urban uses. The location is highly disturbed and is largely currently developed with residential and current uses. Thus, the Project site has no value, as habitat for endangered, rare or threatened species. The Appeal must fail for these reasons.

C. There Is No Evidentiary Basis For Requiring An EIR For The Project

Because the Class 32 Exemption for the Project is well documented, the Project does not require an EIR. Even if the exemption did not apply, however, there would still be no evidentiary basis for an EIR. At most, a negative declaration would be prepared.

As the California Supreme Court has explained, CEQA requires that agencies follow a three-step process when planning an activity that could fall within its scope. First, the public agency must determine whether a proposed activity is a “project,” i.e., an activity that is undertaken, supported, or approved by a public agency and that “may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” See, CEQA Guidelines 15378.

Second, if the proposed activity is a project, the agency must next decide whether the project is exempt from the CEQA review process [*See*, CEQA Guidelines §15061] under either a statutory exemption [*See*, CEQA Guidelines §15260, *et seq.*] or a categorical exemption [*See*, CEQA Guidelines §15300 *et seq.*]. If the agency determines the project is not exempt, it must then decide whether the project may have a significant environmental effect on the environment. *See* CEQA Guidelines §15064]. Where the project will not have such an effect, the agency “must ‘adopt a negative declaration to that effect.’” [*See*, CEQA Guidelines §15070.] *See also*, *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988; and *Running Fence Corp. v. Superior Court* (1975) 51 Cal.App.3d 400.

Third, if the agency finds the project “may have a significant effect on the environment,” it must prepare an EIR before approving the project. [*See*, CEQA Guidelines §15064; *See also*, *California Building Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 382 [footnote omitted].)

In the instant matter, the City’s staff (“Staff”), in conducting the first step of this three-step process, properly concluded that the Project is a “project” as defined by CEQA. Staff then appropriately moved to the next step, the first part of which was to determine whether the Project was statutorily or categorically exempt from CEQA. For all of the reasons discussed above, both Staff and the Planning Commission appropriately concluded that the Class 32 Exemption applies to the Project. The City, therefore, had no need to determine whether either a negative declaration or an EIR was required.

As emphasized early in this letter, a public agency has no right or authority under CEQA, absent an appropriate evidentiary showing, to require a private applicant to bear the costs in time and money associated with an EIR. Indeed, as noted above, “public controversy,” by itself is not a sufficient basis to require an EIR. *See*, PRC § 21082.2 (b); *see also*, CEQA Guidelines §15064 (f)(4).) Where an exemption is not available (which is not the case here), an EIR may only be required where “there is substantial evidence, in light of the whole record before the lead agency, that a project may have a *significant* effect on the environment, an [EIR] shall be prepared.” (*See*, PRC § 21082.2 (d), italics added; *see also*, PRC § 21080 (d).) As noted earlier, “substantial evidence” does *not* include “[a]rgument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment[.]” *Id.*, PRC §21080(c); *see also* CEQA Guidelines §15384.

Hypothetically, if the infill exemption were not available here (which it is), the City would have to consider whether to prepare a negative declaration, or a mitigated negative declaration before the City could consider whether to prepare an EIR. Where there is no substantial evidence that a project may cause a significant environmental effect, a negative declaration, or mitigated negative declaration *shall* be prepared. *See*, PRC § 21080(c).

Ms. Sophia Kim
City Planner
Los Angeles Planning Department
October 9, 2023
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In the instant matter, we are unaware of any substantial evidence indicating that the Project may cause a significant environmental effect on the environment. Neither the LOD, nor the Environmental Assessment include any such evidence, nor does the Appeal, which does no more than question a few of the conclusions reached in the LOD and the Environmental Analysis. Not all adverse effects on the environment rise to the level of being substantial. A “[s]ignificant effect on the environment’ means a *substantial*, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. (See, CEQA Guidelines § 15382. *Emphasis added.*) The Appeal does not include any actual evidence of any significant environmental effects that would result from the Project.

CONCLUSION

Thank you for considering the issues and information discussed in this letter. The Applicant very much wants to bring to Van Nuys a new mixed-use development that will provide new vitality to Van Nuys and that will provide affordable housing during a time of rampant homelessness throughout Los Angeles. If approved, the Project will not only bring new economic development, jobs, and tax revenues to the City, but will also provide local residents with additional choices about how to spend the limited dollars they have available for purchases. We believe that the Project has much to offer the City, and hope that the Planning Commission agrees with us. We, therefore, respectfully ask the Planning Commission to deny the Appeal and to approve the entitlements needed for the Project to go forward, based on the applicable Class 32 Exemption.

Sincerely,



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October 19, 2023

Via Email

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Re: Comment on Proposed CEQA Infill Exemption for the Van Nuys Apartment Project (DIR-2022-7247-TOC-SPR-HCA), October 26, 2023 Planning Commission Meeting – Agenda Item No. 11

Dear President Millman and Honorable Members of the Los Angeles City Planning Commission:

I am writing on behalf of Supporters Alliance for Environmental Responsibility (“SAFER”) regarding the proposed Class 32 Infill Development Categorical Exemption (“Categorical Exemption” or “Class 32 Exemption”) for a six-story mixed-use project proposed at 7115 and 7131 N. Van Nuys Boulevard in the City of Los Angeles (“Project”).

On May 18, 2023, the Hearing Officer determined that the Project is exempt from California Environmental Quality Act (“CEQA”) pursuant to the Class 32 Exemption, and as a result, no additional review of the Project’s environmental impacts is required.

After further review, SAFER appeals the City of Los Angeles (“City”) Hearing Officer’s determination which will exempt the Project (DIR-2022-7247-TOC-SPR-HCA-1A; ENV-2022-7248-CE) from review under the California Environmental Quality Act (“CEQA”). As discussed below, the City cannot demonstrate how their decision to exempt the Project fully complies with the terms of a Class 32 Exemption. Since the Project is not exempt from CEQA, an Initial Study must be prepared and circulated to determine the appropriate level of CEQA review required, be it an Environmental Impact Report (“EIR”) or a Mitigated Negative Declaration (“MND”).

PROJECT DESCRIPTION

The Applicant, Benjamin Golshani, VNB, LLC, seeks to develop the Project at 7115 and 7131 N. Van Nuys Boulevard and 14525, 14357 W. Sherman Circle. The project involves the construction, use, and maintenance of new, six-story, 195,273 square-foot mixed-use building with 214 dwelling units, including 24 dwelling units set aside for affordable housing (or 11% of the proposed density) the 24 units will be reserved is for Extremely Low Income (ELI) Households and 15,804 square-feet of commercial space. The building will be constructed with five (5) residential levels above one (1) ground floor level of commercial space, lobby area, parking, and two (2) levels of subterranean parking. The project includes 179 studio units, 35 one-bedroom units, and a total of 22,383 square feet of open space for residents.

LEGAL STANDARD

As the California Supreme Court has held, “[i]f no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR.” (*Communities for a Better Env’t v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319-20 (citing *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 88); *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491, 504–505). “Significant environmental effect” is defined very broadly as “a substantial or potentially substantial adverse change in the environment.” (Pub. Res. Code (“PRC”) § 21068; see also, 14 CCR § 15382). An effect on the environment need not be “momentous” to meet the CEQA test for significance; it is enough that the impacts are “not trivial.” (*No Oil, Inc.*, 13 Cal.3d at 83). “The ‘foremost principle’ in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*Communities for a Better Env’t v. Cal. Res. Agency* (2002) 103 Cal.App.4th 98, 109).

To achieve its objectives of environmental protection, CEQA has a three-tiered structure. (14 CCR § 15002(k); *Committee to Save the Hollywoodland Specific Plan v. City of Los Angeles* (2008) 161 Cal.App.4th 1168, 1185-86 (“*Hollywoodland*”).) First, if a project falls into an exempt category, or it can be seen with certainty that the activity in question will not have a significant effect on the environment, no further agency evaluation is required. (*Id.*) Second, if there is a possibility the project will have a significant effect on the environment, the agency must perform an initial threshold study. (*Id.*; 14 CCR § 15063(a).) If the study indicates that there is no substantial evidence that the project or any of its aspects may cause a significant effect on the environment, the agency may issue a negative declaration. (*Id.*; 14 CCR §§ 15063(b)(2), 15070.) Finally, if the project will have a significant effect on the environment, an environmental impact report (“EIR”) is required. (*Id.*) Here, since the City exempted the Project from CEQA entirely, we are at the first step of the CEQA process.

CEQA identifies certain classes of projects which are exempt from the provisions of CEQA, called Categorical Exemptions. (14 CCR §§ 15300, 15354.) “Exemptions to CEQA are narrowly construed and “[e]xemption categories are not to be expanded beyond the reasonable scope of their statutory language.” (*Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 125.) The determination as to the appropriate scope of a categorical exemption is a question of law subject to independent, or de novo, review. (*San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.*, (2006) 139 Cal. App. 4th 1356, 1375 (“[Q]uestions of interpretation or application of the requirements of CEQA are matters of law. (Citations). Thus, for example, interpreting the scope of a CEQA exemption presents ‘a question of law, subject to de novo review by this court.’ (Citations).”).)

Here, the City is relying on the Class 32 Exemption pursuant to CEQA Guidelines section 15332, which exempts infill development projects from CEQA where the following conditions are met:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value, as habitat for endangered, rare or threatened species.
- (d) ***Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.***
- (e) The site can be adequately served by all required utilities and public services.

(14 CCR § 15332 [emph. added].)

As discussed below, the Project does not qualify for the Infill Exemption because the Project will have significant noise and air quality impacts. As a result, the Project is not exempt from CEQA and the City must prepare an Initial Study followed by an EIR or MND prior to approval of the Project.

DISCUSSION

I. The Project Does Not Qualify for CEQA’s Infill Exemption Due to Potentially Significant Air Quality Impacts.

A project cannot qualify for CEQA’s Class 32 Exemption if the project results in significant air quality impacts. (14 CCR § 15332(d).) The Hearing Officer determined that approval of the Project will not result in any significant effects relating to air quality based on an

air quality technical report prepared by Yorke Engineering, LLC in July 2022 (“Yorke”). However, independent expert analysis reveals that this conclusion is incorrect, and the Project will have a significant air quality impact. As such, a Class 32 Exemption is improper and additional environmental review is required.

a. The City Failed to Adequately Analyze the Project’s Air Quality and Greenhouse Impacts.

The Project’s estimated air quality and greenhouse gas (“GHG”) emissions are underestimated and inadequately supported. SWAPE reviewed the CalEEMod output files – the underlying data files used to estimate a project’s air emissions. SWAPE determined that several model inputs used to generate a project’s construction and operation emissions were unsubstantiated and inconsistent with information disclosed in the Categorical Exemption Consistency Analysis. As a result, the Project’s construction and operational emissions are underestimated. Additional environmental review should be prepared to include an updated air quality and GHG analysis. SWAPE’s expert comments and CVs are attached as Exhibit A.

Specifically, SWAPE identified several values used in Yorke’s air quality analysis that were found to be either inconsistent with information provided in the Categorical Exemption or otherwise unjustified, including:

Air Quality

1. Failure to Provide Complete CalEEMod Output Files;
2. Unsubstantiated Changes to Individual Construction Phase Lengths;
3. Unsubstantiated Amount of Required Demolition; and
4. Unsubstantiated Changes to Operational Wastewater Values.

Greenhouse Gas

1. Incorrect and Unsubstantiated Quantitative Analysis of Emissions;
2. Incorrect Reliance on an Outdated Quantitative GHG Threshold; and
3. Failure to Identify a Potentially Significant GHG Impact.

(Ex. A, pp. 2-7, 9-10.)

For example, SWAPE explains that pursuant to the Association of Environmental Professionals (“AEP”) Guidance, “[F]or evaluating projects with a post 2020 horizon, the threshold will need to be revised based on a new gap analysis that would examine 17 development and reduction potentials out to the next GHG reduction milestone.”¹ Provided how the Project was introduced in October 2022, thresholds for 2020 “are not applicable to the proposed Project and should be revised to reflect the current GHG reduction target.” (Ex. A, p. 9.) As a result of these shortcomings in Yorke’s analysis, the construction and operational

¹ “Beyond Newhall and 2020: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California.” Association of Environmental Professionals (AEP), October 2016, *available at*: https://califaep.org/docs/AEP-2016_Final_White_Paper.pdf, p. 39.

emissions conclusions in the Project’s Categorical Exemption cannot be relied upon to determine the significance of the Project’s air quality or GHG impacts. As SWAPE explains, “the CalEEMod User’s Guide requires any changes to model defaults be justified.” (Ex. A, p. 6.) Here, however, the analysis does not provide a justification for making such substantial changes.

Without information to support the changes made to the CalEEMod inputs, the City lacks substantial evidence to conclude the Project will not have significant air quality and GHG impacts.

b. The Project will have Potentially Significant Outdoor Air Quality Impacts.

Air quality experts Matt Hagemann, P.G., C.Hg. and Paul E. Rosenfeld, Ph.D., of the environmental consulting firm, Soil/Water/Air Protection Enterprise (“SWAPE”) assisted in the review of the Project, including the draft air quality and GHG study prepared by Yorke, and concluded that the Project will have potentially significant impacts. SWAPE’s expert comments and CVs are attached as Exhibit A.

When SWAPE updated the input parameters used in CalEEMod Version 2020.4.0 and re-ran the model, the “updated analysis estimates that the Project’s construction-related VOC emissions would exceed the applicable South Coast Air Quality Management District (“SCAQMD”) threshold of 75-pounds per day (“lbs/day”).” (Ex. A, p. 7.)

SWAPE Criteria Air Pollutant Emissions	
Construction	ROG (lbs/day)
Exemption	40.3
SWAPE	129.0
% Increase	220%
SCAQMD Threshold	75
Exceeds?	Yes

(Ex. A, p. 8.)

In addition, based on the more precise input parameters, SWAPE concluded that the Project would have a significant GHG impact because “the Project’s service population efficiency value exceeds the SCAQMD 2035 efficiency target of 3.8 MT CO₂e/SP/year, indicating a potentially significant impact.” (*Id.*, p. 10.)

Project Greenhouse Gas Emissions	
Annual Emissions (MT CO ₂ e/year)	2,503
Service Population	655
Service Population Efficiency (MT CO ₂ e/SP/year)	3.8
SCAQMD 2035 Target	3.0
Exceeds?	Yes

(Ex. A, p. 10.)

In utilizing the same CalEEMod system to estimate Project emissions, SWAPE's diligent analysis is substantial evidence of the significant air quality and GHG impacts arising from this Project. As such, the City cannot rely on the Class 32 Exemption. Further environmental review pursuant to CEQA must be conducted and should take into consideration all feasible mitigation measures the Project should adopt to bring the emissions levels below a significant threshold.

c. The Project will have significant indoor air quality impacts.

Certified Industrial Hygienist, Francis "Bud" Offermann, PE, CIH conducted a review of the Project and relevant documents regarding the Project's indoor air emissions. Mr. Offermann is a leading expert on indoor air quality and has published extensively on the topic. Mr. Offermann concludes that it is likely that the Project will expose residents and commercial employees of the Project to significant impacts related to indoor air quality, and in particular, emissions of the cancer-causing chemical formaldehyde, a known human carcinogen. Mr. Offermann's expert comments and CV are attached as Exhibit B.

Mr. Offermann explains that many composite wood products used in building materials and furnishings commonly found in offices, warehouses, residences, hotels, and commercial spaces contain formaldehyde-based glues which off-gas formaldehyde over a long period of time. He states, "The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims." (Ex. B, pp. 2-3.)

Here, the City failed to perform an adequate analysis concerning the cancer risks associated with long-term exposure to carcinogenic TACs because of the Project, for both residents and workers. Mr. Offermann states that future residents of the Project will be exposed to a cancer risk from formaldehyde of approximately 120 per million, even assuming all materials are compliant with the California Air Resources Board's ("CARB") formaldehyde

airborne toxics control measure. (Ex. B, pp. 3-4.) In addition, Mr. Offermann states that employees of the Project's commercial spaces will be exposed to a cancer risk of 17.7 per million from formaldehyde emissions. (*Id.*, pp. 4-5.) These risk levels both exceed SCAQMD's CEQA significance threshold for airborne cancer risk of 10 per million. (*Id.*)

Furthermore, the City failed to analyze the additional impacts of motor vehicle traffic and the subsequent increase in exposure to particulate matter ("PM2.5"). In 1998, the State of California identified diesel particulate matter ("DPM") derived from diesel-powered engines as a Toxic Air Contaminant ("TAC") based on its potential to cause cancer. DPM is typically composed of carbon particles and a variety of organic compounds including more than 40 known cancer-causing organic substances.

Mr. Offermann notes that the high cancer risk that may be posed by the Project's indoor air emissions will be exacerbated by the additional cancer risk that exists as a result of the Project's location within the South Coast Air Basin, a state and federal non-attainment area for PM2.5, and in an area with moderate to high traffic. (Ex. B, p. 2.) Specifically, he notes that "the SCAQMD's MATES V study cites an existing cancer risk of 418 per million at the Project site due to the site's high concentration of ambient air contaminants resulting from the area's high levels of motor vehicle traffic." (*Id.*, p. 5.) Formaldehyde emissions from composite wood products will exacerbate this pre-existing cancer risk.

Mr. Offermann predicts that the projected traffic noise levels, the annual average PM2.5 concentrations will exceed both state and federal standards, thereby necessitating both additional air quality analyses to determine PM2.5 concentrations as well as the installation of technology in order to reduce the impacts to a less-than-significant level. (*Id.*, p. 12.) However, the City again failed to analyze these issues, as well as the cumulative impacts associated with the Project's emissions.

Mr. Offermann identifies mitigation measures that are available to reduce these significant health risks, including the installation of air filters and a requirement that the applicant use only composite wood materials (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins or ultra-low emitting formaldehyde (ULEF) resins in the buildings' interiors. (*Id.*, pp. 12-14.)

These significant environmental impacts preclude the use of a Categorical Exemption for the Project. These impacts should be reviewed in a full CEQA analysis and mitigation measures should be imposed to reduce the risk of formaldehyde exposure.

II. Exemptions from CEQA are Prohibited Where Mitigation Measures are Required to Reduce a Project's Possible Significant Impacts.

A project that requires mitigation measures cannot be exempted from CEQA, nor can the agency rely on mitigation measures as a basis for determining that one of the significant effects exceptions does not apply. (*Salmon Pro. & Watershed Network v. County of Marin* (2004) 125 Cal.App4th 1098, 1102 (“*SPAWN*”).) The Court in *SPAWN* thoroughly explained why projects that require mitigation are not eligible for an exemption from CEQA. (*Id.* at 1106-08.) If mitigation measures are required, the public has a right to review and comment on the adequacy of those mitigation measures, which can only be accomplished through the public review process provided for an MND or EIR.

Here, the City’s noise analysis discloses that mitigation measures were *assumed to apply* when concluding the Project’s noise impacts would be less-than-significant. (Yorke Noise Study, p. 16.) The noise analysis states that “[t]o minimize the impacts, the Project will implement technically feasible control measures in compliance with the standards set forth in LAMC Section 112.05. Specifically, the use of deflectors/barriers such as plywood construction fencing (½-inch thickness), flexible sound-absorbing curtains, or existing intervening buildings, can reduce line-of-sight exterior noise levels by approximately 5 to 15 dBA, depending on the applied physical configuration.” (*Id.*) Wilson Ihrig highlights how the City itself “even uses the word ‘mitigated’ in the title of the table” that describes the estimated noise impacts and how the measures taken would reduce the effects. (Ex. C, p. 3.)

The City cannot exempt the Project because the public has a right to know the unmitigated Project impacts and comment on the adequacy of the analysis and proposed mitigation measures. Absence of such review and comment period is improper because the City evaluated the Project conditionally rather than evaluating whether the Project could result in a significant impact *without* the mitigation described in the Exemption. (*See SPAWN, supra*, 125 Cal.App.4th at 1103-04, 1107-09.) The City’s mitigated categorical exemption violates CEQA and the Project cannot proceed with the Class 32 Exemption.

III. The Project Does Not Qualify for CEQA’s Infill Exemption Due to Potentially Significant Noise Impacts.

A project cannot qualify for CEQA’s Class 32 Exemption if the project results in significant noise impacts. (14 CCR § 15332(d).) The City’s expert, Yorke, prepared a noise analysis for the Project. However, as discussed above, the analysis improperly assumed mitigation measures would apply in concluding the Project’s noise impacts would be less-than-significant.

Expert acoustical consults from the firm Wilson Ihrig explain in their comments that the Project will have significant noise impacts. (See Wilson Ihrig’s comments, attached hereto as Exhibit C.) Indeed, even with the City’s proposed mitigation measures, the Project will have an impact. Wilson Ihrig explains that, the City’s noise analysis improperly assumed a 5-15 dBA of noise reducing from shielding. While this reduction may occur for receptors at the same height as the shield, “there is no effect for upper floor receivers.” (Ex. C, p. 4.) Receivers on the second

floor and above would receive no benefit from the shielding effect. (*Id.*) When the noise reduction from shielding improperly applied to all sensitive receptors is corrected, Wilson Ihrig determined that noise levels will exceed the threshold of significance, precluding reliance on an exemption. (*Id.*)

Further, Wilson Ihrig explains that the City's noise analysis is so flawed and inadequate, it cannot be relied on to determine whether the Project will result in a significant noise impact.

The City's analysis is flawed in three ways. First, the analysis failed to take baseline noise measures to establish existing environmental conditions. (Ex. C, p. 3.) Instead, the analysis states that it relied on the Federal Highway Administration ("FHWA") model, which Wilson Ihrig explains cannot serve as a reliable model "as it only models noise from a single point, not a line-source such as from a roadway." (*Id.*) In addition, the FHWA traffic model alone – or any traffic model – cannot accurately represent the noise environment, particularly here, given "the high density of pedestrian activity, airplanes from nearby Bob Hope airport, multiple bus lines running up and down Van Nuys Blvd and variable speeds from a 6-lane road that is also 500 feet from a major intersection." (*Id.*)

Second, Yorke's operational noise assessment is incomplete and instead relies on an improper comparison between the existing HVAC systems and one proposed by the Project. Whereas the existing HVAC equipment for two fast-food restaurants are situated approximately twenty feet high, the Project's proposed HVAC system will be situated on top of a six-story structure to accommodate over 200 residential units. (Yorke Noise Study, p. 18.)

In spite of this very obvious difference and without any additional analysis performed, Yorke concludes "the overall noise levels generated by the new HVAC equipment are not expected to be substantially greater than generated by older HVAC equipment installed on existing buildings near the Project site." (*Id.*) As Wilson Ihrig points out, "it is evident that the cooling requirements for the expanded space would be considerably higher compared to the existing use. The substantial increase in power consumption necessary for adequately cooling the expanded space will inevitably result in additional operational noise. This noise, which arises from the intensified operation of HVAC systems, is expected to surpass the levels associated with the current use." (Ex. C, p. 4.)

Yorke's conclusions fail to provide substantial evidence, and the City cannot rely on them. Wilson Ihrig suggests a full operational analysis to be conducted in order to better understand the Project's noise impacts on nearby apartments and whether such noise levels generated by the proposed HVAC system would exceed significance thresholds. (Ex. p. 4.)

Lastly, the Project fails to consider any noise impacts related to traffic noise. As Wilson Ihrig points out, the document does not include any analysis related to traffic noise. (Ex. C, p. 4.) In fact, Wilson Ihrig explains that "[c]onsidering there is only one other large apartment complex

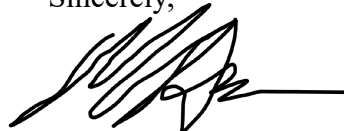
on Sherman Circle, it is not unreasonable to assume that the new project could result in a doubling of traffic, with is typically a 3 dBA increase”, and which would typically be considered a significant impacts in other jurisdictions. (*Id.*)

Therefore, the Project’s significant noise impacts as well as the unanalyzed operational and traffic noise impacts preclude the use of a Categorical Exemption for the Project. These impacts should be reviewed in a full CEQA analysis and mitigation measures should be imposed to reduce the risk of formaldehyde exposure.

CONCLUSION

The City cannot invoke a Class 32 Exemption because the Project does not meet the terms of the Exemption, the information relied on is based on unsubstantiated evidence, and there is instead substantial evidence that demonstrates the Project’s significant impacts. A Class 32 Exemption is also improper where the Project requires mitigation measures and where the City relied on mitigation measures as a basis for determining that one of the significant effects exceptions does not apply. Accordingly, the City must prepare an Initial Study to determine the appropriate level of environmental review to undertake pursuant to CEQA, be it an MND or an EIR. Thank you for considering these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marjan R. Abubo', with a long horizontal line extending to the right.

Marjan R. Abubo
Lozeau | Drury LLP

DAY OF HEARING SUBMISSIONS