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

SECONDARY SUBMISSIONS

Dear City Planning Commissioners,

On Thursday, June 25, 2024 I attended the CPC meeting and spoke before you with concerns regarding the Valley Christian School proposed athletic field project. I had sent you a two page comment letter with aerial photos which you confirmed you had received. This letter provided four areas of concern including the clear cutting of trees that occurred on the site. I felt relieved you had received this because, just as I assumed, I don't think anyone can get their concerns across in one measly minute.

But now I have to wonder, did any of you actually *read* my two page comment letter?? If so I would have assumed there would have been questions and at least someone correcting the Chair to say, no, there are no "existing trees" to be relocated because the existing trees on the site have already been removed (which was part of the problem).

I just want to share my frustration of how it feels when people from the public who really care and have valid concerns regarding a project are ignored. Sadly, it makes a mockery of the whole public hearing process. Not one commissioner asked a question. Perhaps this discussion occurred privately and not for the benefit of the public? So I walk away without knowing the answers to my concerns. I've been through this before where I ended up having to appeal a case just because of that. It's so unfair to the applicant, especially when there are problems that can be resolved right then and there by the CPC!

Having been through almost 20 years of Planning Commissioners, I am seeing a disturbing downward trend with almost 100% reliance upon planning staff input and no questions asked. I hope you will not take this personally and instead realize the important role you have in addressing our concerns in public and in problem solving. The status quo of Conditions of Approval that just mimic the code is so generic and quite frustratingly wrong. I am hoping to see better outcomes in the future.

Thanks for hopefully hearing me out,

marianne king

Marianne King



Jul 3, 2024

**City of Los Angeles
City Planning Commission
Los Angeles City Hall
200 North Spring Street, Los Angeles, CA 90012**

**Re: Proposed Housing Development Project at 1185-1247 W Sunset Blvd,
CPC-2023-5528-DB-SPR-MCUP-HCA**

By email: cpc@lacity.org

**Cc: Esther Ahn, City Planner, esther.ahn@lacity.org; City Clerk's Office,
clerk.cps@lacity.org; City Attorney's Office, cityatty.help@lacity.org**

Dear Los Angeles City Planning Commission,

The California Housing Defense Fund ("CalHDF") submits this letter to remind the Commission of its obligation to abide by all relevant state laws when evaluating the proposed 327-unit housing development project at 1185-1247 West Sunset Boulevard, which includes 41 units for very low-income households. These laws include the Housing Accountability Act ("HAA") and the Density Bonus Law ("DBL").

The HAA provides the project legal protections. It requires approval of zoning and general plan compliant housing development projects unless findings can be made regarding specific, objective, written health and safety hazards. (Gov. Code, § 65589.5, subd. (j).) The HAA also bars cities from imposing conditions on the approval of such projects that would reduce the project's density unless, again, such written findings are made. (*Ibid.*) As a development with at least two-thirds of its area devoted to residential uses, the project falls within the HAA's ambit, and it complies with local zoning code and the City's general plan. Notwithstanding the appellants' arguments, increased density, concessions, and waivers that a project is entitled to under the DBL (Gov. Code, § 65915) do not render the project noncompliant with the zoning code or general plan, for purposes of the HAA. (Gov. Code, § 65589.5, subd. (j)(3).)

CalHDF also writes to emphasize that the DBL offers the proposed development certain protections. The Commission must respect these protections. In addition to granting the increase in residential units allowed by the DBL, the Commission must not deny the project

**360 Grand Ave #323, Oakland 94610
www.calhdf.org**

the proposed waivers and concessions with respect to floor area ratio, height, stories, and open space, unless it makes written findings as required by Gov. Code, § 65915, subd. (e)(1) that the waivers would have a specific, adverse impact upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Of note, the DBL specifically allows for a reduction in required accessory parking in addition to the allowable waivers and concessions. (Gov. Code, § 65915, subd. (p).) In addition to the relief provided by the DBL, AB 2097 exempts the project from accessory parking requirements given that it is located within ½ mile of a major transit stop. (Gov. Code, § 65863.2.)

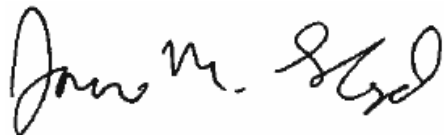
As you are well aware, California remains in the throes of a statewide crisis-level housing shortage. New housing such as this is a public benefit: by providing affordable housing, it will mitigate the state's homelessness crisis; it will bring new customers to local businesses; it will grow the City's tax base; and it will reduce displacement of existing residents by reducing competition for existing housing. It will also help cut down on transportation-related greenhouse gas emissions by providing housing in denser, more urban areas, as opposed to farther-flung regions in the state (and out of state). While no one project will solve the statewide housing crisis, the proposed development is a step in the right direction. CalHDF urges the Commission to approve it, consistent with its obligations under state law.

CalHDF is a 501(c)3 non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at www.calhdf.org.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Dylan Casey', with a long horizontal line extending to the right.

Dylan Casey
CalHDF Executive Director

A handwritten signature in black ink, appearing to read 'James M. Lloyd', with a long horizontal line extending to the right.

James M. Lloyd
CalHDF Director of Planning and Investigations



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Via Email

Monique Lawshe, President
Elizabeth Zamora, Vice President
Maria Cabildo, Commissioner
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Re: Comment on Sustainable Communities Environmental Assessment, Sunset and Everett Project (ENV-2023-5529-SCEA) (Construction of Mixed-Use Residential and Commercial Development); July 11, 2024, City Planning Commission Meeting - Agenda Item No. 7

Dear President Lawshe, Vice President Zamora, Honorable Commissioners, and Planner Ahn:

This comment is submitted on behalf of Supporters Alliance for Environmental Responsibility ("SAFER") regarding the Sustainable Communities Environmental Assessment ("SCEA") prepared for the Sunset and Everett Project (ENV-20230-5529-SCEA) ("Project"), which proposes the construction of two 7-story mixed-use residential and commercial buildings with a total of 327 residential units and 263 on-site parking spaces: one subterranean, one partially subterranean, and one at-ground and above-grade level on a vacant asphalted parcel located at 1185 Sunset Boulevard; 1185, 1187, 1193, 1195, 1197, 1201, 1205, 1207, 1211, 1215, 1221, 1225, 1229, 1233, 1239, 1243, 1245, 1247 W. Sunset Boulevard and 917 N. Everett Street in the City of Los Angeles.

On April 15, 2024, SAFER submitted comments ("April 15 Letter") regarding the SCEA's failure to adequately analyze the Project's significant environmental impacts as well as

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a failure to impose all feasible mitigation measures to reduce the Project's impacts.¹ On July 2, 2024, the Department of City Planning issued a Recommendation Report, which included a response to SAFER's April 15 Letter. SAFER remains concerned that the SCEA fails to comply with CEQA.

LEGAL BACKGROUND

Sustainable Communities Environmental Assessment under SB 375.

CEQA allows for the streamlining of environmental review for "transit priority projects" meeting certain criteria. Pub. Res. Code §§ 21155, 21155.1, 21155.2. To qualify as a transit priority project, a project must

- (1) contain at least 50 percent residential use, based on total building square footage and, if the project contains between 26 percent and 50 percent nonresidential uses, a floor area ratio of not less than 0.75;
- (2) provide a minimum net density of at least 20 dwelling units per acre;
and
- (3) be within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan.

Pub. Res. Code § 21155(b). A transit priority project is eligible for CEQA's streamlining provisions where,

[The project] is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board . . . has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

Pub. Res. Code § 21155(a). In 2020, the Regional Council for the Southern California Association of Governments ("SCAG") formally adopted the Connect SoCal 2020–2045 Regional Transportation Plan/Sustainable Communities Strategy ("2020 RTP/SCS"), which was accepted by CARB on October 30, 2020.

If "all feasible mitigation measures, performance standards, or criteria set forth in the prior applicable environmental impact reports and adopted in findings made pursuant to Section 21081" are applied to a transit priority project, the project is eligible to conduct environmental review using a sustainable communities environmental assessment ("SCEA"). Pub. Res. Code § 21155.2. A SCEA must contain an initial study which "identif[ies] all significant or potentially

¹ SAFER's April 15 Letter is attached as Exhibit A

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significant impacts of the transit priority project . . . based on substantial evidence in light of the whole record.” Pub. Res. Code § 21155.2(b)(1). The initial study must also “identify any cumulative effects that have been adequately addressed and mitigated pursuant to the requirements of this division in prior applicable certified environmental impact reports.” *Id.* The SCEA must then “contain measures that either avoid or mitigate to a level of insignificance all potentially significant or significant effects of the project required to be identified in the initial study.” Pub. Res. Code §21155(b)(2). The SCEA is not required to discuss growth inducing impacts or any project specific or cumulative impacts from cars and light-duty truck trips generated by the project on global warming or the regional transportation network. Pub. Res. Code § 21159.28(a).

After circulating the SCEA for public review and considering all comments, a lead agency may approve the SCEA with findings that all potentially significant impacts have been identified and mitigated to a less-than-significant level. Pub. Res. Code § 21155(b)(3), (b)(4), (b)(5). A lead agency’s approval of a SCEA must be supported by substantial evidence. Pub. Res. Code §21155(b)(7).

DISCUSSION

Comment 3

In the City’s response to Comment 3, it contends that SAFER misconstrues the qualifying criteria for the use of a SCEA. However, it is the City that misunderstands the qualifying criteria for the use of a SCEA. The City may only rely on a SCEA if “[the project] is consistent with the general use, designation, building intensity, and applicable policies specified for the project area.” (Pub. Res. Code § 21155(a).)

Here, the Project is not consistent with building intensity and density. It has a floor area ratio (“FAR”) of 3.0, double the allowed 1.5 FAR, and a height of 91-feet, far above the allowed 57-feet. The City contends that the additional density is allowed under the Density Bonus Law. While this may be true, it does not mean that the City can rely on a SCEA. The SCEA is a streamlined CEQA process allowed only for projects that comply with otherwise allowed density and building intensity, which this project does not.

The City cannot rely on a SCEA because waivers may be required under the Density Bonus Law. The Project was simply not analyzed in the prior EIR because the prior EIR did not analyze projects of this height and density. As such, supplemental CEQA review is required. (*See Save Our Access v. City of San Diego* (2023) 92 Cal. App. 5th 819 [supplemental CEQA review required for project that exceeded heights analyzed in program EIR].)

To the extent that the City relies on the *Wollmer v. City of Berkeley* (2011) 193 Cal. App. 4th 1329 case, that case is inapposite. In that case, the court held that the city could rely on the CEQA infill exemption, despite the fact that the project received waivers under the Density

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Bonus Law. Unlike the case here, that case did not rely on tiering off of a prior EIR. This case is similar to *Save Our Access* because the SCS EIR did not analyze project impacts for the height and density for this Project.

Additionally, *Wollmer* addressed a CEQA Guideline, which is a regulation. The court held that the Density Bonus Law effectively trumped local zoning. (193 Cal. App. 4th at 1345.) In this case, the SCEA law and the Density Bonus Law are both statutory provisions. A SCEA may only be used for projects that comply with the density and intensity allowed by the general plan and zoning. (Pub. Res. Code § 21155(a).) The Density Bonus Law does not purport to preempt the SCEA law, or vice-versa. In such situations, the courts are clear that both laws must be afforded equal weight and must be harmonized. It is a basic rule of statutory construction that statutes should be interpreted to harmonize rather than to conflict whenever reasonably possible. “To overcome the strong presumption against the implied repeal of conflicting statutes, the two statutes ‘must be irreconcilable, clearly repugnant, and so inconsistent that the two cannot have concurrent operation. The courts are bound, if possible, to maintain the integrity of both statutes if the two may stand together.’” (7 Witkin, Summary of Calif. Law, p. 57, §94(d), quoting, *Stop Youth Addiction v. Lucky Stores* (1998) 17 Cal.4th 553, 569.) Thus, the City must comply with both the Density Bonus Law, CEQA and the SCEA law. This is easily done. The City must grant the requested waivers under the Density Bonus Law. However, as a result of those waivers, the Project does not qualify for a SCEA because it does not comply with the density and intensity allowed by the general plan and zoning. Therefore, subsequent CEQA review is required, and the city may not rely on the SCEA. In this way, the Project may still proceed under the Density Bonus Law, but the city must analyze and mitigate its environmental impacts under CEQA. This interpretation harmonizes the statutes and gives each statute equal dignity.

Comment 4

In the City’s response to Comment 4, it ignores the plain language of the statute. Under Pub. Res. Code § 21155.2 if “all feasible mitigation measures, performance standards, or criteria set forth in the prior applicable environmental impact reports and adopted in findings made pursuant to Section 21081” are applied to a transit priority project, the project is eligible to conduct environmental review using a sustainable community environmental assessment (“SCEA”). The statute is clear that in order for a project to be eligible for a SCEA, the project must implement all feasible mitigation measures, yet the Project fails to implement mitigation measures and performance standards required by the Sustainable Communities Strategy (“SCS”). (Pub. Res. Code § 21155.2.)

Here, the City does not dispute that it failed to implement the mitigation measures in the SCS, but instead argues that it is not required to implement these measures. While the City may exercise its discretion to abandon mitigation measures set forth in the SCS, under the plain

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language of the SCEA statute, if it does so, it may not rely on a SCEA, and must instead prepare a CEQA document for the project.

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Again, the City ignores the plain language of the SCEA statute. Goal 5 of the SCS is to reduce greenhouse gases (“GHGs”) and requires projects to promote low emission technologies such as electric vehicles (“EVs”). (SCEA p. 4-20; 4-19). The SCS also requires projects to include solar energy and power storage. (SCEA p. 4-20). By failing to implement plainly feasible GHG reduction measures, it fails to comply with the SCS. While the Project includes a “solar-ready” roof, the Project must install solar panels to be consistent with the SCS, which is clearly feasible. As such, the city may not rely on the SCEA and must prepare a project-specific CEQA document. Furthermore, the City ignores the recent case of *Nat. Res. Def. Council, Inc. v. City of Los Angeles* (2023) 98 Cal. App. 5th 1176, review denied (Apr. 24, 2024), which held that an agency must implement mitigation measures unless the city provides substantial evidence that the mitigation measures are infeasible. Here, the City provides no evidence of any kind that the proposed measures are infeasible. As such, the city must implement the measures.

Comment 11

In its response to Comment 11, the City simply ignores the law. The SCEA must “contain measures that either avoid or mitigate to a level of insignificance all potentially significant or significant effects of the project required to be identified in the initial study.” (Pub. Res. Code § 21155(b)(2).) Thus, to the extent that the SCS EIR admitted significant unmitigated impacts, further project-level CEQA review is required to analyze and mitigate those impacts on a project level because these impacts were not “mitigated to a level of insignificance” in the SCS EIR. Here, the SCEA failed to mitigate numerous impacts to a level of insignificance. Under the plain language of the statute, project level CEQA review is required to analyze and mitigate these impacts.

Furthermore, the fact that *Communities for a Better Environment v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98 concerned a different statute is irrelevant. The language and principles at issue are the same. The City cannot rely on a prior CEQA document that did not mitigate impacts adequately, and project level CEQA review is required. This requirement is set forth clearly in the SCEA statute.

CONCLUSION

The SCEA fails to incorporate “all feasible mitigation measures, performance standards, or criteria set forth in the prior applicable environmental impact reports, namely the 2020 Connect SoCal EIR. Therefore, SAFER respectfully requests that the Planning Commission recommend that the Project undergo CEQA review so as to ensure compliance with CEQA.

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(ENV-2023-5529-SCEA)

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Sincerely,

A handwritten signature in black ink, appearing to read "Kylah Staley". The signature is fluid and cursive, with the first name "Kylah" and last name "Staley" clearly distinguishable.

Kylah Staley
Lozeau Drury LLP



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July 8, 2024
VIA E-MAIL

Honorable Members of the Los Angeles City Planning Commission
c/o the CPC Clerk
200 N. Spring Street, Suite 525
Los Angeles, CA
Email: cpc@lacity.org

Re: SAFER Appeal – Bora Project
Case Nos.: DIR-2022-2852-TOC-SPR-HCA-1; ENV-2022-2826-CE
July 11, 2024 Planning Commission Hearing, Agenda Item No. 8

Honorable Members of the Planning Commission:

We write on behalf of Bando DELA 2, LLC (“Applicant”), applicant for the Bora Project, a proposed seven story, mixed-use residential and commercial retail building (“Project”) located at 3399 W. Olympic Boulevard (“Property”) in the Wilshire Community Plan Area. The Project provides 153 new residential units including 16 affordable units at the Extremely Low Income level and approximately 4,800 square feet of community serving retail uses. The Project is located in a “Tier 3” transit priority area and replaces outdated one-story commercial structures well past their useful economic life with new mixed-income housing and job-producing commercial uses.

The Project was approved by the Director of Planning via a Director’s Determination dated February 6, 2024. The Project approvals included Site Plan Review, TOC Incentives, a Housing Crisis Act verification, and the adoption of a Class 32 “urban infill” Categorical Exemption (“Class 32 Exemption”) under the California Environmental Quality Act (“CEQA”).

On February 20, 2024, an appeal of only the CEQA determination was submitted to the City by Supporters Alliance for Environmental Responsibility (“SAFER”), a serial project appellant that was formed by construction labor organization LiUNA to challenge new development projects. The justification that accompanied the appeal stated only that the Project did not validly qualify for the Class 32 Exemption, stating no basis for its claims and providing no evidence in support.

As has become its custom, just over a week before the scheduled July 11th appeal hearing before the Commission, on July 2, 2024, SAFER submitted a supplemental letter that included a total of 76 pages of legal argument and evidence supporting new grounds for the Appeal (“SAFER Letter”). The SAFER Letter is, first, untimely and therefore procedurally invalid. It also includes the same generic legal arguments and technical reports SAFER has attached to innumerable project appeals in the City. As with the many other SAFER CEQA appeals properly rejected by the City and this Commission, for the reasons stated below, the Appeal here is both procedurally and substantively invalid, and should be denied.



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I. The Appeal is Procedurally Invalid, Having Failed to Timely Raise its Arguments and Evidence to the Commission.

The City's CEQA appeals ordinance requires CEQA appeals to be filed within 15 days of the date a project approval is final. (Los Angeles Municipal Code ("LAMC"), §13B.11-F.4.a.) The CEQA ordinance's requirements include the requirement that an appeal to include "a written statement setting forth all of the reasons for the appeal, and specifying in detail why the appellant believes the CEQA Clearance fails to comply with CEQA." (LAMC, § 13B.11-F.4.c.)

SAFER's Appeal was filed on February 20, 2024, 14 days after the February 6, 2024 Director's Determination. The Appeal included only the barebones assertion that "[t]he Planning Director's finding that the Project is exempt from CEQA pursuant to Section 15332 of the CEQA Guidelines is in error because the Project does not meet the terms of the exemption." (Appeal Justification, p. 1.) No specific reasons for the Appeal were stated, and thus no detail was provided about why SAFER believes the Director's "CEQA clearance fails to comply with CEQA." It is self-evident that the groundless, conclusory argument presented in the SAFER Appeal fails entirely to provide any valid basis to overturn the Director's CEQA determination for the Project.

Five months later, on July 2, 2024, 9 days before the scheduled Appeal hearing, SAFER submitted the SAFER Letter, setting forth 74 pages of new legal and technical arguments in support of the Appeal not previously raised. SAFER made no attempt at asserting any good cause for its delay – SAFER is notably represented by competent legal counsel and was able to timely file its Appeal.

Because the SAFER Letter came well over 15 days after the Director's final decision, it is untimely under the LAMC and thus should not be considered by the Commission to support the Appeal. (See, e.g., *Sea & Sage Audubon Society, Inc. v. Planning Com.* (1983) 34 Cal.3d 412, 416 [A city is well within its discretion to reject on procedural grounds a late-submitted appeal that is not consistent with uniform local procedural rules.] Because the Appeal failed to timely raise any grounds for a purported CEQA violation, it should be denied for this reason, alone. For the reasons that follow, however, the late submitted SAFER Letter is also substantively invalid.

II. The Points Raised in the Appellant Letter are Substantively Invalid.

a. The Project Does Not Include Mitigation.

SAFER argues that the Class 32 Exemption for the Project could not be validly adopted because the Project includes "mitigation" in the form of a Soil Management Plan to address the removal of certain soil from the Property associated with the operation of a former automobile repair business previously located onsite. For this argument, it cites the general rule under CEQA that a Categorical Exemption cannot be



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adopted where an agency also adopts CEQA mitigation to address a potentially significant environmental effect. SAFER cites two cases that are ultimately irrelevant, *Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, 1102 (SPAWN), in which an agency adopted a series of project-specific mitigation measures that were ultimately held by a Court to defeat the adoption of a categorical exemption and *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1200, which overturned an agency exemption determination where project-specific mitigation measures were held *insufficient* to reduce potentially significant impacts associated with dumping in a landfill, and yet an exemption was still adopted anyway.

Here, no mitigation measures were adopted. Rather, the Director determined that soil removal that would occur as part of the Project in any event should be conducted in accordance with a Soil Management Plan to protect workers from potential exposures to “low levels” of petroleum hydrocarbons detected during a Phase II environmental investigation of the Property – no risk to the public or future residents of the Project was identified. The Soil Management Plan is not a CEQA mitigation measure for at least two reasons.

First, under CEQA, an agency may rely on regulatory compliance requirements to ensure an impact will be less than significant, and such regulatory compliance measures are not CEQA “mitigation.” (See, e.g., *San Francisco Beautiful v. City and County of San Francisco* (2014) 226 Cal.App.4th 1012, 1033 [“An agency may rely on generally applicable regulations to conclude an environmental impact will not be significant and therefore does not require mitigation.”])

Proper reliance on regulatory compliance to ensure potential impacts are not significant also does not defeat an agency’s adoption of a Categorical Exemption. In *Berkeley Hillside Preservation v. City of Berkeley* (2015) 241 Cal.App.4th 943, 959, the Court of Appeal held that the adoption of a Traffic Management Plan was not CEQA mitigation that precluded the adoption of a CEQA categorical exemption because Traffic Management Plans are commonly adopted regulatory compliance measures to manage traffic concerns in urban areas. See also *Wollmer v. City of Berkeley* (2011) 193 Cal.App.4th 1329, 1353 (Street dedication required by a local ordinance was not a traffic mitigation measure that defeated Class 32 Exemption because it was a regulatory compliance requirement created to address preexisting traffic issues in the area); *Citizens for Environmental Responsibility v. State ex rel. 14th Dist. Ag. Assn.* (2015) 242 Cal.App.4th 555, 569 [Manure Management Program a rodeo project had to comply with was not a mitigation measure but reflected a pre-existing regulatory requirement for a county fairgrounds, enabling the agency to adopt a categorical exemption for the project despite the adoption of the plan to address the common and pre-existing manure issue].)

Here, the Director’s Determination specifically states that the “SMP provides clear thresholds for reporting issues to the Los Angeles Regional Water Quality Control Board (LARWQCB) and the Department of Toxic Substances Control (DTSC). Given the processes implemented through the SMP and the



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Regulatory Compliance Measures through LARWQCB and the DTSC, the removal of soil does not constitute an environmental impact.” (Director’s Determination, page 16.) As noted by the Director, reliance on regulatory requirements imposed by the LARWQCB, DTSC or that otherwise apply to the removal of soils from a construction site are not project-specific mitigation measures but regulatory compliance measures that are well established, validly ensure that the excavation of soils that would be safely and appropriately conducted for the Project, and do not preclude the adoption of a Categorical Exemption under CEQA. Such regulatory requirements are voluminous, are strictly applied, and fully address the removal of soils containing contamination from construction sites. For instance, such regulatory compliance measures include CalRecycle rules and the federal RCRA statute, which strictly regulate the removal of soils from construction sites and taken to disposal facilities, requiring testing, profiling, manifesting and disposal of soils at appropriate solid waste facilities based on their potential hazardous characteristics. (See *Physicians for Social Responsibility - L.A. v. Dep’t of Toxic Substances Control* (May 2, 2023, No. C088821) ___Cal.App.5th___ [2023 Cal. App. Unpub. LEXIS 2568, at *5].) Because regulatory compliance ensures any contaminated soils would be safely and appropriately dealt with in a manner that does not pose a health risk to workers (or anyone else), no mitigation is required and the City may still adopt a categorical exemption for the Project.

Second, CEQA requires mitigation only when a project may result in a significant environmental impact; mitigation is not required for less than significant impacts. (Guidelines, § 15126.4(a)(1); *San Franciscans for Reasonable Growth v City & County of San Francisco* (1989) 209 Cal.App.3d 1502, 1516-17.) Here, a Phase II Environmental Site Investigation was conducted by Environ Phase Consulting Co. for the 3355 W. Olympic Boulevard Site, dated August 12, 2021 (“Phase II ESA”).

Based on a total of 18 sampling locations from across the 3355 Property, the Phase II ESA concluded that no further investigation is required because levels of contaminants could not be detected, were below the state’s applicable, highly strict regulatory screening levels for protecting human health, or were otherwise “low levels” of contaminants in particular isolated locations warranting no further investigation of environmental conditions at the Property. (See Phase II ESA, Executive Summary). The Phase II ESA recommended the implementation of a Soil Management Plan to protect workers during soil removal from one small area of the Property where “low levels of petroleum hydrocarbons” were identified. (Id.) The Phase II ESA thus does not identify a potential significant impact, quite the opposite, it adopts the SMP to address a low level risk only to construction workers from soil in one small part of the Property that would be removed as part of the Project. Under similar circumstances, Courts have found that a significant impact would not occur due to regulatory requirements and the general fact that CEQA addresses impacts on the broader human environment and not low level potential impacts to project construction workers. (See, e.g., *Parker Shattuck Neighbors v. Berkeley City Council* (2013) 222 Cal.App.4th 768, 785–786 [CEQA is concerned with a project’s potential impacts on the broader human environment;



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potential exposures of project workers to low levels of contamination not demonstrated to present a danger to human health or the environment is not a significant impact under CEQA[.]

SAFER has produced zero evidence supporting the conclusion that either the levels of contamination detected by the Phase II ESA are significant, or that the potential exposure to workers only – again, no risk to future residents or the public was identified – constitutes a potentially significant impact on the environment in the first instance. SAFER has certainly produced no evidence to show the removal of the soils would create a significant environmental impact despite the regulatory compliance requirements that apply to the removal relied on by the City.

Instead, SAFER merely speculates that, because an SMP was adopted with protective measures in accordance with South Coast Air Quality Management District (SCAQMD) Rule 1166 – yet another regulation that applies and ensures safe soil removal – that the SMP constitutes mitigation, speculating that measures adopted out of an abundance of caution in accordance with applicable regulatory requirements to address low levels of contamination in one small portion of the Property must be mitigation of a potentially significant impact. Such speculation is, first, not substantial evidence. (Pub. Resources Code, § 21080(e)(2); Guidelines, § 15384(a) [Substantial evidence does not include “[a]rgument, speculation, unsubstantiated opinion or narrative . . .].) Moreover, such speculation is insufficient to carry SAFER’s burden to show that, despite the conclusions of the Director supported by the Phase II ESA and applicable regulations, the Project would nonetheless result in a significant environmental impact requiring mitigation. (see *Protect Tustin Ranch v. City of Tustin* (2021) 70 Cal.App.5th 951, 960 [Petitioner has the burden of evidence to show that an agency determination that a project is subject to a categorical exemption is unsupported by substantial evidence; *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 626 [To carry its burden under the substantial evidence standard, SAFER must set forth “all of the evidence material to the City’s finding, then show that that evidence could not reasonably support the finding.”])

SAFER thus fails to show that the Project would cause a significant impact through the removal of soils, that CEQA mitigation was adopted for the Project, or that Director violated CEQA in adopting the Class 32 Exemption for the Project. Rather, substantial evidence in the record in the form the Phase II ESA supports the conclusion no significant impact would result from the Project’s soil removal activities, particularly in light of required regulatory compliance measures addressed in the Phase II ESA and the Soil Management Plan. The Project does not require and does not incorporate mitigation. Accordingly, the Appeal provides no valid basis to overturn the Director’s adoption of the Class 32 Exemption for the Project.



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b. The Appellant Fails To Demonstrate the “Unusual Circumstances” Exception Applies.

The untimely SAFER Letter also argues that the “unusual circumstances” exception to CEQA categorical exemptions under CEQA Guidelines, Section 15300.2(c) applies because the Site’s past uses as a gasoline station and automobile repair shop are an “unusual circumstance” that “distinguishes [the Project] from others in the exempt class” and that such uses would cause a significant impact. That is simply not the case.

Courts apply a two-prong analysis to determine whether the unusual circumstances exception applies. (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1114.) Under the first prong, SAFER must show that “the project has some feature that distinguishes it from others in the exempt class, such as its size or location. . . .” (*Respect Life South San Francisco v. City of South San Francisco* (2017) 15 Cal.App.5th 449, 456, quoting *Berkeley Hillside*, 60 Cal.4th at 1105.) What is considered unusual must be considered in the context of the kind of projects covered by the exemption, which in this case are urban areas subject to the “urban infill” Class 32 Exemption. **Voices for Rural Living v. El Dorado Irrigation Dist.* (2012) 209 Cal.App.4th 1096, 1109 [“[W]hether a circumstance is ‘unusual’ is judged relative to the typical circumstances related to an otherwise typically exempt project”].)

Under this first prong, the agency’s decision is upheld if supported by any substantial evidence. (*World Business Academy v. California State Lands Commission* (2018) 24 Cal.App.5th 476, 498.) If SAFER can establish that the Project involves “unusual circumstances”—which it cannot—SAFER must then show in the second prong that: “there is a reasonable possibility that the unusual circumstance will produce a significant effect on the environment.” (*Id.* at 499; *Berkeley Hillside*, 60 Cal.4th at 1114-1116.)

SAFER fails under both prongs of the analysis. First, the Class 32 Exemption applies to “urban infill” projects, i.e., projects located within urban areas. (CEQA Guidelines, § 15332.) There is nothing remotely unusual about gas stations or automotive repair shops in urban areas in general or in the City; rather these are common and customary urban uses. (*Protect Tustin Ranch v. City of Tustin* (2021) 70 Cal.App.5th 951, 962 [Former automotive repair use not an unusual circumstance on urban site of proposed Cosco gas station]; *Berkeley Hillside*, 60 Cal.4th at 1118 [Large mansion-style houses are not unusual in the Berkeley hillside area].)

SAFER’s further assertion that the existence of contamination itself is an unusual circumstance is also unavailing. SAFER cites *IBC Business Owners for Sensible Development v. City of Irvine* (2023) 88 Cal.App.5th 100, 132 for the notion that contamination is an unusual circumstance, but the case made no such finding. It instead determined that the particularly large size of the project at issue was an unusual circumstance and that the potential significant impact that would result from the project was Greenhouse Gas emissions. The case is totally irrelevant here.



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SAFER also cites *McQueen v. Mid-Peninsula Board* (1988) 202 Cal.App.3d 1136, 1149, which is a 35-year-old case that was explicitly overruled by the California Supreme Court in *Berkeley Hillside* because it misapplied the unusual circumstances test. (*Berkeley Hillside*, 60 Cal.4th at 1132 [Faulting *McQueen* among a list of other invalid cases because it misapplied the unusual circumstances test].) *McQueen* also did not address the Class 32 urban infill exemption, did not analyze regulatory compliance requirements that might apply, and did not include any discussion of the kind of analysis here, which concluded that the “low” levels of contaminants isolated in one small part of the Property that would be removed as part of the Project would be fully dealt with by regulatory compliance. Thus, in addition to being invalidated by the state Supreme Court, *McQueen* is not relevant here.

SAFER’s citation to *Association for a Cleaner Environment v. Yosemite Comm. College* (2004) 116 Cal.App.4th 629 – miscited by SAFER as 110 Cal.App.4th 629 – is similarly unavailing. That case did not involve the unusual circumstances exception at all, but whether the demolition of a gun range with soil contaminated with hazardous levels of lead was a CEQA “project” in the first instance. Though the court addressed whether two categorical exemptions applied as a secondary argument raised by the respondent, it found that the exemptions did not apply in the first instance; it did not address any exceptions to categorical exemptions, including not addressing the relevant question of whether lead in the soil at a gun range constituted an unusual circumstance.

Because there is nothing unusual about a gas station or an automotive repair shop in an urban area subject to the urban infill Class 32 Exemption, and there is nothing unusual about the removal of small amounts of soil containing low levels of contaminants from such sites, there is no unusual circumstance here. Indeed, the very fact that many strict regulations apply to this very activity is strong evidence of just how usual the circumstances are. (See, e.g. *State ex rel. 14th Dist. Ag. Assn.*, supra, 242 Cal.App.4th at 569 [The need to manage manure is not an unusual circumstance for a county fairground or a rodeo, and pre-established management methods applied to the rodeo are not mitigation].)

Under the second prong of the unusual circumstances test – whether the unusual circumstance would cause a significant environmental impact – for the reasons stated above, SAFER has failed to carry its burden to show the removal of the soil at issue here would constitute a significant environmental impact, particularly in light of the regulatory compliance requirements that apply. Again, SAFER merely speculates that the mere adoption of a Soil Management Plan is, by itself, evidence of a significant impact. SAFER has totally failed to carry its burden to show the unusual circumstances exception applies here in the first instance, or that the allegedly unusual circumstance would cause a significant environmental impact. As a result, SAFER has failed to carry its burden to show the unusual circumstances exception applies, and its Appeal should be denied.



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c. The Appellant's Air Quality Arguments Are Meritless.

As covered in detail in the technical memorandum dated July 8, 2024 by Project CEQA consultant Meridian Consultants responding to the air quality-related claims in the SAFER Letter, SAFER's claims that the Project would cause significant environmental impacts due to alleged diesel emissions and formaldehyde gas from furniture and building materials are totally meritless and rely on the same cookie-cutter, generic technical reports that SAFER rehashes for virtually all of the many baseless administrative appeals it files within the City. These claims are baseless and warrant no serious consideration.

III. Conclusion: The Appeal Should be Denied.

SAFER's Appeal is totally meritless and should be denied.

We

Best regards,

DLA PIPER LLP (US)

A handwritten signature in blue ink, appearing to be 'AB', with a large loop at the end.

Andrew Brady

Cc: Ricardo Vasquez (ricardo.vazquez@lacity.org)



Jul 3, 2024

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

Re: Proposed Housing Development Project at 3355-3363 Olympic Boulevard,
DIR-2022-2825-TOC-SPR-HCA-1A

By email: cpc@lacity.org

Cc: Ricardo Vazquez, Planning Associate, ricardo.vazquez@lacity.org; City Clerk's Office, clerk.cps@lacity.org; City Attorney's Office, cityatty.help@lacity.org

Dear Los Angeles City Planning Commission,

The California Housing Defense Fund ("CalHDF") submits this letter to remind the Commission of its obligation to abide by all relevant state laws when evaluating the appeal against the proposed 153-unit housing development project at 3355-3363 Olympic Boulevard, which includes 16 units for extremely low-income households. These laws include the Housing Accountability Act ("HAA") and CEQA Guidelines.

The HAA provides the project legal protections. It requires approval of zoning and general plan compliant housing development projects unless findings can be made regarding specific, objective, written health and safety hazards. (Gov. Code, § 65589.5, subd. (j).) The HAA also bars cities from imposing conditions on the approval of such projects that would reduce the project's density unless, again, such written findings are made. (*Ibid.*) As a development with at least two-thirds of its area devoted to residential uses, the project falls within the HAA's ambit, and it complies with local zoning code and the City's general plan.

Notwithstanding the appeal, the project is exempt from environmental review under § 15332 (In-Fill Development Projects) of the California Environmental Quality Act (CEQA) Guidelines as the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations; the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; the project site has no value as habitat for endangered, rare or threatened species; approval of the project would not result

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www.calhdf.org

in any significant effects relating to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities and public services.

When a public agency determines that a project qualifies for a categorical exemption from CEQA, the burden of proof shifts to the appellant to provide evidence that an exception applies to the project and that therefore it is ineligible for a categorical exemption. (*San Francisco Beautiful v. City and County of San Francisco* (2014) 226 Cal.App.4th 1012, 1022-1023.) In this case, however, not only has the appellant failed to provide adequate evidence - the appellant **has not provided any evidence at all**. Instead, the appeal simply states “the Planning Director’s finding that the Project is exempt from CEQA pursuant to Section 15332 of the CEQA Guidelines is in error because the Project does not meet the terms of the exemption” and that there is “a lack of substantial evidence in the record that the Project met the requirements for the Infill Exemption.” This is asserted in spite of the thousands of pages in the public record showing that the exemption applies.

Given the complete lack of evidence presented by the appellant, CalHDF would like to remind the Commission that recent caselaw from the California Court of Appeal has affirmed that local governments err, and may be sued, when they improperly refuse to grant a project a CEQA exemption or streamlined CEQA review to which it is entitled. (*Hilltop Group, Inc. v. County of San Diego* (2024) 99 Cal.App.5th 890, 911.)

As you are well aware, California remains in the throes of a statewide crisis-level housing shortage. New housing such as this is a public benefit: by providing affordable housing, it will mitigate the state’s homelessness crisis; it will bring new customers to local businesses; it will grow the City’s tax base; and it will reduce displacement of existing residents by reducing competition for existing housing. It will also help cut down on transportation-related greenhouse gas emissions by providing housing in denser, more urban areas, as opposed to farther-flung regions in the state (and out of state). While no one project will solve the statewide housing crisis, the proposed development is a step in the right direction. CalHDF urges the Commission to approve it, consistent with its obligations under state law.

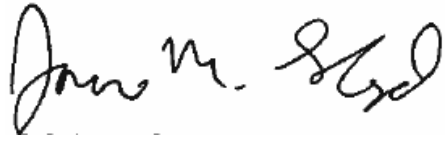
CalHDF is a 501(c)3 non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at www.calhdf.org.

Sincerely,



Dylan Casey

CalHDF Executive Director

A handwritten signature in black ink, appearing to read "James M. Lloyd". The signature is written in a cursive, flowing style.

James M. Lloyd

CalHDF Director of Planning and Investigations



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VIA EMAIL

July 8, 2024

Los Angeles City Planning Commission
Monique Lawshe, President
And Honorable Commissioners
City Planning Commission
City of Los Angeles
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Re: SAFER Appeal – Bora Project
Case Nos.: DIR-2022-2825-TOC-SPR-HCA-1A; ENV-2022-2826-CE
City Planning Commission Hearing Date: July 11, 2024

To the Los Angeles City Planning Commission and Planning Associate Vazquez:

This correspondence is submitted on behalf of Supporters Alliance for Environmental Responsibility (“SAFER”) and its members living and/or working in the City of Los Angeles (“City”) in support of SAFER’s appeal of the Planning Director’s February 6, 2024 decision to exempt the Bora Mixed-Use Project (DIR-2022-2825-TOC-SPR-HCA-1A; ENV-2022-2826-CE) (“Project”) from the California Environmental Quality Act (“CEQA”). We submitted a version of this letter on July 2 with expert comments. Due to the 10-page limit, we are submitting this abbreviated version. However, the full-length July 2 letter remains part of the administrative record for judicial review.

SAFER respectfully requests that the Planning Commission grant SAFER’s appeal and find that the Project does not qualify for CEQA’s Infill Exemption because: (1) the Project includes mitigation measures for the Project site’s contaminated soil, (2) the City lacks substantial evidence to conclude that air quality impacts will be less than significant, (3) experts retained by SAFER found that the Project will result in significant air quality impacts from emissions of diesel particulate matter and formaldehyde, and (4) the Project site’s soil contamination is an “unusual circumstance” precluding use of the Infill Exemption .

SAFER’s review of the Project has been assisted by indoor air quality expert Francis Offermann, PE, CIH, and air quality experts Matt Hagemann, P.G., C.Hg., and Paul E. Rosenfeld, Ph.D., of Soil/Water/Air Protection Enterprise (“SWAPE”). Mr. Offermann’s comment and CV are attached as Exhibit A. SWAPE’s comment and the CVs of Dr. Rosenfeld

and Mr. Hagemann are attached as Exhibit B.

For the reasons discussed below, the Project does not qualify for CEQA’s Infill Exemption and requires either a mitigated negative declaration (“MND”) or environmental impact report (“EIR”) prior to approval.

PROJECT DESCRIPTION

The Project proposes a 7-story mixed-use development with 4,800 square feet of commercial uses, 153 dwelling units, and two levels of underground parking. The Project site is located on the northerly side of Olympic Boulevard and is bounded to the west by Gramercy Drive and to the east by Saint Andrews Place. The Project site currently contains two structures: (1) a non-operating restaurant on 3377 Olympic Boulevard, (2) an auto repair facility on 3355 Olympic Boulevard, and (3) a vacant structure at 989 Saint Andrews Place, which previously operated as a nursery school and suffered a major fire in 2022. The Project includes the demolition of the two existing commercial structures along Olympic Boulevard as well as the nursery school on Saint Andrews Place.

LEGAL STANDARD

CEQA mandates that “the long-term protection of the environment . . . shall be the guiding criterion in public decisions” throughout California. (Pub. Resources Code (“PRC”) § 21001(d).) A “project” is “the whole of an action” directly undertaken, supported, or authorized by a public agency “which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (PRC § 21065; 14 CCR § 15378(a).) CEQA requires environmental factors to be considered at the “earliest possible stage . . . before [the project] gains irreversible momentum,” (*Bozung v. LAFCO* (1975) 13 Cal.3d 263, 284 n.28), “at a point in the planning process where genuine flexibility remains.” (*Sundstrom v. Mendocino County* (1988) 202 Cal.App.3d 296, 307.)

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.) 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 evaluation is required under CEQA. (14 CCR § 15002(k)(1).) Second, if the project is not exempt and there is a possibility the project will have a significant effect on the environment, an initial threshold study is required. (14 CCR § 15002(k)(2).) Third, either a mitigated negative declaration is required if the initial study shows that there is no substantial evidence that the project may have a significant effect (*id.*) or an environmental impact report is required if the initial study shows that the project may have a significant effect (14 CCR § 15002(k)(3). Because staff has recommended that the Commission find the Project to be exempt from CEQA, we are at the first step in the process.

CEQA identifies certain classes of projects which are exempt from the provisions of CEQA. These are 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.) Here, staff has recommended that the Project is categorically exempt from the requirements of CEQA pursuant to CEQA’s Infill Exemption (14 CCR § 15332.)

Under CEQA’s Infill Exemption, a project is exempt from the requirements of CEQA if the project meets the following five conditions:

- (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.) Importantly, mitigated categorical exemptions are not allowed. (*Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, 1102 (*SPAWN*); *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1200 (*Azusa*).) An agency may not rely on mitigation measures as a basis for concluding that a project is categorically exempt, or as a basis for determining that one of the significant effects exceptions does not apply.

DISCUSSION

I. The Project Cannot Be Exempt from CEQA Because the Project Relies on Mitigation Measures to Reduce Impacts from Contaminated Soil.

A project that includes mitigation measures to reduce potentially significant impacts cannot be categorically exempt from CEQA. (*SPAWN, supra*, 125 Cal.App.4th at 1102; *Azusa, supra*, 52 Cal.App.4th at 1200.) If mitigation measures are needed to avoid potentially significant impacts, then the Project is not exempt from CEQA and, at a minimum, the agency must prepare a mitigated negative declaration. (*Azusa, supra*, 52 Cal.App.4th at 1200.) As the court of appeal has explained, “Only those projects having no significant effect on the environment are categorically exempt from CEQA review. . . . If a project may have a significant effect on the environment, ***CEQA review must occur, and only then are mitigation measures relevant.***” (*SPAWN, supra*, 125 Cal.App.4th at 1107 [citing *Azusa, supra*, 52 Cal.App.4th at 1199-2000] [emphasis added].)

Mitigation measures are properly evaluated when determining whether to prepare an EIR or negative declaration—but not appropriate in determining whether a project is exempt from CEQA. (*SPAWN, supra*, 125 Cal.App.4th at 1108 [citing *Azusa, supra*, 52 Cal.App.4th at 1200].) The fact that the mitigation measures are included since the inception of a project is irrelevant because an agency’s evaluation of whether a project may have a significant impact “must be made without reference or reliance upon any proposed mitigation measures.” (*Id.* [citing *Azusa, supra*, 52 Cal.App.4th at 1999-1200].) An EIR or negative declaration is required to allow the public to assess and comment on the adequacy or the proposed mitigation measures and to propose other mitigations measures or alternatives. (*Id.*)

Here, the Planning Director’s approval of the Project expressly noted that a Soil Management Plan (“SMP”) had been prepared in order to mitigate the impacts of contaminated soil on workers during construction of the Project. The Director’s Determination states:

The project was required to provide Phase I and Phase II Environmental Site Assessments. These reports were triggered due to the automotive uses at 3355 West Olympic Blvd. The site at 3355 Wet Olympic Boulevard was used as a gasoline station from 1940 through 1968. Since 1968 the site has been used as an automotive repair facility. Phase II ESAs were produced for all the sites involved in the project. The Phase II ESA for 3355 West Olympic Boulevard found elevated levels of total petroleum hydrocarbons (TPH) at sample site B1 and B2 at a depth of 10 feet. ***The report noted that converting the site to a more sensitive use, such as underground parking, would require special handling of the soil to protect the health of workers.*** The report did not cite any health risks to residents. ***Environ Phase Consulting produced a Soil Management Plan (SMP) to address the potential health risk to workers related to handling soil.*** The SMP provides clear roles and responsibilities for parties involved in the removal and processing of soil at the site. Additionally, the SMP provides processes for testing and notifying regional and state regulators if environmental issues arise. The SMP provides clear thresholds for reporting issues to the Los Angeles Regional Water Quality Control Board (LARWQCB) and the Department of Toxic Substances Control (DTSC). ***Given the processes implemented through the SMP and the Regulatory Compliance Measures through LARWQCB and the DTSC, the removal of contaminated soil does not constitute an environmental impact.***

(Director’s Determination, p. 16 [emphasis added].)

Simply put, the soil contamination at 3355 West Olympic Boulevard poses a potential health risk to workers and the SMP was necessary to *mitigate* that health risk. Indeed, the Soil Management Plan even contains an entire section titled “Stockpiling (VOC-Impacted) Soil and ***Mitigation Measures***,” which contains several provisions that the Project will be required to adhere to including:

- Water spray and/or commercial vapor suppressants will be applied to the stockpiles and the excavation work area as needed to minimize vapor emissions and potential fugitive

dust.

- Individual stockpiles containing VOCs will be limited to 400 cubic yards (cy) (eg 24ft wide base, 6ft high, 100ft long) of soil or the volume specified in the SCAQMD Rule 1166 permit.
- All stockpiled soil (<1,000 ppmv) will be covered with 10-mil Visqueen.
- Soil with VOCs greater than 1,000 ppmv will be loaded directly into roll-off bins and covered per Rule 1166 requirements. If roll-off bins are not immediately available, the soil will be stockpiled on and covered by Visqueen, and then covered in 3 inches of clean soil until roll-off bins are available.
- Soil that was previously characterized and profiled (such as a listed-waste) may be loaded directly into roll-off bins or trucks, covered, and transported to the designated disposal facility.
- Uncovered stockpiles will be visually monitored for fugitive dust and odors to be suppressed with water as needed. All stockpiled soil must be covered at the end of each day; and
- All stockpiles will be covered with 10-mil Visqueen with a minimum 24-inch overlap and secured to minimize VOC, odor, and dust emissions and to withstand winds after the stockpiling is concluded and sampling is completed, and at the completion of daily work.
- All stockpiled soil must be either removed or treatment initiated within 30 days from time of excavation.

(SMP, p. 14.) The above mitigation measures—adopted to mitigate the Project’s health risks from contaminated soil—disqualify the Project from using CEQA’s Infill Exemption. (*SPAWN*, *supra*, 125 Cal.App.4th at 1102; *Azusa*, *supra*, 52 Cal.App.4th at 1200.) As a result, the Planning Director’s decision to exempt the Project was in error and the Project is subject to full environmental review under CEQA. The City must prepare and circulate a mitigated negative declaration or EIR so that the public can evaluate and comment on the proposed mitigation prior to approval of the Project. (*Id.*)

II. The Project’s Air Quality Analysis Is Not Supported by Substantial Evidence and Failed to Identify a Significant Impact from Emissions of Formaldehyde.

The Director’s Determination and corresponding Justification for Project Exemption provide no substantial evidence regarding the significant health risks posed by the Project from indoor emissions of formaldehyde. Certified Industrial Hygienist, Francis Offermann, PE, CIH, has conducted a review of the Project, the exemption, and relevant documents regarding the Project’s indoor air emissions. Mr. Offermann is one of the world’s leading experts on indoor air quality, in particular emissions of formaldehyde, and has published extensively on the topic. As discussed below and set forth in Mr. Offermann’s comment, the Project’s emissions of formaldehyde to air will result in significant cancer risks to future residents of the Project’s residential component and to future employees of the Project’s commercial component. Mr. Offermann’s expert opinion and conclusions are substantial evidence that the Project will have

significant health risk impacts as a result of these indoor air pollution emissions, which were not discussed, disclosed, or analyzed in the Director’s Determination. Due to this significant air quality impact and the City’s lack of substantial evidence to the contrary, the Project does not qualify for the Infill Exemption. (14 CCR § 15332(d).) Mr. Offermann’s comment is attached as Exhibit A.

Formaldehyde is a known human carcinogen and listed by the State as a TAC. The South Coast Air Quality Management District (“SCAQMD”) has established a significance threshold of health risks for carcinogenic TACs of 10 in a million and a cumulative health risk threshold of 100 in a million.

Mr. Offermann explains that many composite wood products typically used in home and apartment building construction contain formaldehyde-based glues which off-gas formaldehyde over a very long time period. He states, “The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particle board. These materials are commonly used in residential, office, and retail building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims.” (Ex. A, pp. 2-3.)

Mr. Offermann found that future residents of the Project’s residential units will be exposed to a cancer risk from formaldehyde of approximately 120 per million, *even assuming that* all materials are compliant with the California Air Resources Board’s formaldehyde airborne toxics control measure. (Ex. A, pp. 3-4.) This is more than 12 times SCAQMD’s CEQA significance threshold of 10 per million. (*Id.* at p. 4.)

Mr. Offermann found that future employees of the Project’s commercial spaces will be exposed to a cancer risk from formaldehyde of approximately 17.7 per million, *even assuming that* all materials are compliant with the California Air Resources Board’s formaldehyde airborne toxics control measure. (Ex. A, p. 5.) This exceeds SCAQMD’s CEQA significance threshold of 10 per million. (*Id.*)

Mr. Offermann concludes that these significant environmental impacts should be analyzed in an MND or EIR and mitigation measures should be imposed to reduce the risk of formaldehyde exposure. (Ex. A, pp. 5, 12-13.) He prescribes a methodology for estimating the Project’s formaldehyde emissions in order to do a more project-specific health risk assessment. (*Id.* at pp. 6-10.) Mr. Offermann also suggests several feasible mitigation measures, such as requiring the use of no-added-formaldehyde composite wood products, which are readily available. (*Id.* at pp. 12-13.) Mr. Offermann also suggests requiring air ventilation systems which would reduce formaldehyde levels. (*Id.*)

When a Project exceeds a duly adopted CEQA significance threshold, as here, this alone establishes substantial evidence that the project will have a significant adverse environmental impact. Indeed, in many instances, such air quality thresholds are the only criteria reviewed and treated as dispositive in evaluating the significance of a project’s air quality impacts. (See, e.g. *Schenck v. County of Sonoma* (2011) 198 Cal.App.4th 949, 960 [County applies Air District’s

“published CEQA quantitative criteria” and “threshold level of cumulative significance”]; see also *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 110-11 [“A ‘threshold of significance’ for a given environmental effect is simply that level at which the lead agency finds the effects of the project to be significant”].) The California Supreme Court made clear the substantial importance that an air district significance threshold plays in providing substantial evidence of a significant adverse impact. (*Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 327 [estimated emissions in excess of air district’s significance thresholds “constitute substantial evidence supporting a fair argument for a significant adverse impact”].) Since expert evidence demonstrates that the Project will exceed the SCAQMD’s CEQA significance threshold, there is substantial evidence that an “unstudied, **potentially significant environmental effect**” exists. (See *Friends of Coll. of San Mateo Gardens v. San Mateo Cty. Cmty. Coll. Dist.* (2016) 1 Cal.5th 937, 958 [emphasis added].)

The failure of the City to address the Project’s formaldehyde emissions is contrary to the California Supreme Court’s decision in *California Building Industry Ass’n v. Bay Area Air Quality Mgmt. Dist.* (2015) 62 Cal.4th 369, 386 (*CBLA*). In that case, the Supreme Court expressly holds that potential adverse impacts to future users and residents from pollution generated by a proposed project **must be addressed** under CEQA. At issue in *CBLA* was whether the Air District could enact CEQA guidelines that advised lead agencies that they must analyze the impacts of adjacent environmental conditions on a project. The Supreme Court held that CEQA does not generally require lead agencies to consider the environment’s effects on a project. (*CBLA*, 62 Cal.4th at 800-01.) However, to the extent a project may exacerbate existing environmental conditions at or near a project site, those would still have to be considered pursuant to CEQA. (*Id.* at 801.) In so holding, the Court expressly held that CEQA’s statutory language required lead agencies to disclose and analyze “impacts on **a project’s users or residents** that arise **from the project’s effects** on the environment.” (*Id.* at 800.)

The carcinogenic formaldehyde emissions identified by Mr. Offermann are not an existing environmental condition. Those emissions to the air will be from the Project. People will be residing in and using the Project once it is built and begins emitting formaldehyde. Once built, the Project will begin to emit formaldehyde at levels that pose significant direct and cumulative health risks. The Supreme Court in *CBLA* expressly finds that this type of air emission and health impact by the project on the environment and a “project’s users and residents” must be addressed in the CEQA process. The existing TAC sources near the Project site would have to be considered in evaluating the cumulative effect on future residents of both the Project’s TAC emissions as well as those existing off-site emissions.

The Supreme Court’s reasoning is well-grounded in CEQA’s statutory language. CEQA expressly includes a project’s effects on human beings as an effect on the environment that must be addressed in an environmental review. “Section 21083(b)(3)’s express language, for example, requires a finding of a ‘significant effect on the environment’ (§ 21083(b)) whenever the ‘environmental effects of a project will cause substantial adverse effects *on human beings*, either directly or indirectly.” (*CBLA*, 62 Cal.4th at 800 [emphasis in original].) Likewise, “the Legislature has made clear—in declarations accompanying CEQA’s enactment—that public

health and safety are of great importance in the statutory scheme.” (*Id.*) It goes without saying that the thousands of future residents at the Project are human beings and the health and safety of those residents must be subjected to CEQA’s safeguards.

The City has a duty to investigate issues relating to a project’s potential environmental impacts. (See *County Sanitation Dist. No. 2 v. County of Kern*, (2005) 127 Cal.App.4th 1544, 1597–98. [“[U]nder CEQA, the lead agency bears a burden to investigate potential environmental impacts.”].) The proposed mixed-use building will have significant impacts on air quality and health risks by emitting cancer-causing levels of formaldehyde that will expose future residents and employees to cancer risks potentially in excess of SCAQMD’s threshold of significance for cancer health risks of 10 in a million. In light of this impact and the City’s lack of any substantial evidence to the contrary, the Project does not qualify for the Infill Exemption and must undergo CEQA review prior to approval.

III. The Project’s Air Quality Analysis Is Not Supported by Substantial Evidence and Failed to Identify a Significant Impact from Emissions of Diesel Particulate Matter.

A project cannot qualify for CEQA’s Infill Exemption if the project results in significant impacts to air quality. (14 CCR § 15332(d).) Matt Hagemann, P.G., C.Hg., and Dr. Paul E. Rosenfeld, Ph.D., of the environmental consulting firm SWAPE reviewed the Project’s air quality analysis and found that it failed to disclose the true extent of the Project’s impacts. SWAPE’s analysis and the CVs of Dr. Rosenfeld and Mr. Hagemann are attached as Exhibit B.

As discussed below, SWAPE concluded that the Project’s air quality analysis failed to address the significant increased cancer risk posed by emissions of diesel particulate matter (“DPM”) during construction and operation of the Project. Due to the significant impact from DPM and the City’s failure to support its less-than-significant determination with substantial evidence, the Project cannot be exempted from CEQA under the Infill Exemption under 14 CCR § 15332(d).

The Project’s Air Quality Study prepared by Meridian Consultants in February 2023 (“AQ Study”) concluded that the Project’s impact on human health would be less than significant despite the fact that the analysis failed to include a quantified health risk analysis (“HRA”). (Ex. B, p. 2; see AQ Study, p 17.) An HRA is a necessary tool to calculate the increased cancer risk to nearby receptors from emissions of toxic air contaminants, including DPM, a known human carcinogen. Instead, of preparing an HRA, the AQ Study relied on qualitative narrative and also compared the Project’s particulate matter emissions to Localized Significance Thresholds (“LSTs”) established by the South Coast Air Quality Management District (“SCAQMD”). (AQ Study, p. 17.) However, as explained by SWAPE, the AQ Study’s approach failed “to correlate Project-generated emissions with potential adverse impacts on human health” as required by CEQA. (*Id.* at p. 3.)

As an initial matter, the AQ Study’s reliance on LSTs to evaluate the health risks posed by DPM is misplaced. (Ex. B, p. 2.) LSTs only establish thresholds for what are known as “criteria pollutants,” which notably does *not* include DPM. (*Id.*) Furthermore, LSTs do not

provide any information on the health risk that corresponds to a given amount of emissions and, therefore, “cannot be used to determine whether emissions from TACs . . . would result in a significant health risk impact to nearby sensitive receptors.” (*Id.*) Only an HRA can provide this information, however the AQ Study did not provide one.

The failure to provide a quantified HRA is inconsistent with the most recent guidance of the State Office of Environmental Health Hazard Assessment (“OEHHA”). (Ex. B, p. 3.) OEHHA recommends that all short-term projects lasting at least two months (e.g. Project construction) be evaluated for cancer risks to nearby sensitive receptors. (*Id.*) OEHHA also recommends that exposure from projects lasting more than 6 months (e.g. the Project’s future years of operation) be evaluated for the duration of the project and recommends that an exposure duration of 30 years be used to estimate individual cancer risk for the maximally exposed individual resident (“MEIR”). (*Id.*) By failing to provide a quantified HRA for the Project, the AQ Study failed to compare the Project’s excess health risk impact to the applicable SCAQMD threshold of 10 in one million and therefore lacked evidence to support the conclusion that the health risk would be less than significant. (*Id.* at p. 4.)

SWAPE prepared a screening-level HRA to evaluate potential impacts to human health from DPM during construction and operation of the Project. (Ex. A, pp. 4-8.) SWAPE used AERSCREEN, the leading screening-level air quality dispersion model. (*Id.* at p. 4.) SWAPE used a sensitive receptor distance of 50 meters and analyzed impacts to individuals at different stages of life based on OEHHA guidance. (*Id.* at pp. 4-6.)

SWAPE found that the excess cancer risk to infants and children located 50 meters away would be approximately 145 and 43.1 in one million, respectively over the course of Project construction and operation. (Ex. B, p. 7.) Moreover, SWAPE found that the excess cancer risk over the course of a residential lifetime would be approximately 200 in one million. (*Id.*) Thus, the infant, child, and lifetime cancer risks all exceed the SCAQMD threshold of 10 in one million. Due to this significant air quality impact and the City’s failure to provide any quantitative evidence supporting a conclusion to the contrary, the Project does not qualify for CEQA’s Infill Exemption under 14 CCR § 15332(d). Instead, the City must prepare an EIR or MND for the Project prior to approval.

IV. The Project’s Does Not Qualify for CEQA’s Infill Exemption due to Unusual Circumstances.

Pursuant to CEQA Guidelines section 15300.2(c), the Unusual Circumstances Exception prohibits exemptions where there is a “reasonable possibility” that a project will have a significant effect on the environment “due to unusual circumstances.” (14 CCR § 15300.2(c).) Determining whether the Unusual Circumstances Exception applies consists of two elements: “(1) the project has some feature that distinguishes it from others in the exempt class, such as its size or location and (2) there is a reasonable possibility of a significant effect [on the environment] due to that unusual circumstance.” (*IBC Business Owners for Sensible Development v. City of Irvine* (2023) 88 Cal.App.5th 100, 132 (*IBC*).) Determining whether an unusual circumstance exists is reviewed under the deferential substantial evidence standard.

(*Berkeley Hillside*, supra, 60 Cal.4th at 1114.) The second element is governed by the more lenient fair argument standard. The fair argument standard favors environmental review and is met if any substantial evidence in the record supports a fair argument that the Project may have any significant adverse environmental impact, even if there is evidence to the contrary. (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1114 (*Berkeley Hillside*); *IBC*, supra, 88 Cal.App.5th at 132.)

Here, the first element of the Unusual Circumstances Exception is satisfied because the soil contamination at the Project site from the site's past uses as a gas station and automotive repair shop is an unusual circumstance that "distinguishes it from others in the exempt class." (*IBC*, supra, 88 Cal.App.5th at 132; see *McQueen v. Mid-Peninsula Board* (1988) 202 Cal.App.3d 1136, 1149 ["The known existence of . . . hazardous wastes on property to be acquired is an unusual circumstance threatening the environment"]; see also *Association for a Cleaner Environment v. Yosemite Comm. College* (2004) 110 Cal.App.4th 629 [presence of hazardous materials made CEQA exemption improper]). The second element of the Unusual Circumstances Exception is satisfied because the Project admittedly requires a Soil Management Plan to mitigate the health impacts of the soil contamination on the Project's construction workers. In other words, there is a reasonable possibility that the Project site's soil contamination may result in significant health impacts in the absence of mitigation.

Because the soil contamination is an unusual circumstance and there is a reasonable possibility of significant impacts from the soil contamination (as evidenced by the Soil Management Plan), the Unusual Circumstances Exception applies and the Project cannot be categorically exempt from CEQA. (14 CCR § 15300.2(c).) For that reason, the Project does not qualify for the Infill Exemption and the City must prepare and EIR or negative declaration prior to Project approval.

CONCLUSION

Due to the mitigation measures for the Project's soil contamination, the City's lack of substantial evidence regarding the significant impacts identified by SAFER's air quality experts, and the unusual circumstances presented by soil contamination, the Project does not qualify for CEQA's Infill Exemption. Instead, the Project must go through CEQA review prior to approval. Therefore, SAFER respectfully requests that the City Planning Commission grant SAFER's appeal to ensure that an environmental impact report or negative declaration is prepared for the Project.

Sincerely,



Brian B. Flynn
Lozeau Drury LLP

DAY OF HEARING SUBMISSIONS



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Suite 5880
Los Angeles, CA 90071
213.557.7222
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Todd Nelson
213.557.7225
Todd@rpnllp.com

July 10, 2024

VIA EMAIL

President Monique Lawshe and Honorable Members of the
City Planning Commission
City of Los Angeles
201 N. Spring Street, Room 272
Los Angeles, CA 90012
cpc@lacity.org

Re: Sunset and Everett Project (Case Nos. CPC-2023-5528-DB-SPR-MCUP-HCA and ENV-2023-5529-SCEA)

Dear President Lawshe and Honorable Commissioners:

We represent Aragon (Sunset/Everett) Properties Corporation (“Applicant”) in conjunction with its proposal to construct a new mixed-use development containing 327 residential dwelling units, inclusive of 41 Very Low Income affordable units, and approximately 9,462 square feet of commercial uses (“Project”) on a 2.46-acre site located at the intersection of Sunset Boulevard and Everett Street (“Site”) in the Los Angeles (“City”). We have reviewed the letter submitted by Supporters Alliance for Environmental Responsibility (“SAFER”) dated July 8, 2024 (“SAFER Letter”) challenging the adequacy of the Sustainable Communities Environmental Assessment (“SCEA”) prepared for the Project pursuant to the California Environmental Quality Act (“CEQA”) and Senate Bill (“SB”) 375. The SAFER Letter reiterates several of the comments stated in its letter dated April 15, 2024 without introducing new evidence or arguments. Comprehensive responses to SAFER’s April 15, 2024 comments are included in the memorandum submitted by CAJA Environmental Services, Inc. dated June 11, 2024 (“Responses to Comments”) and attached to the staff report prepared for the Project’s July 11 hearing before your Commission. We briefly reiterate some of these previous responses herein to address SAFER’s repeated attempts to ignore the plain statutory language and policy considerations of SB 375 and CEQA.

First, contrary to SAFER’s insistence, the statutory qualifying criteria for a transit priority project that may be analyzed with a SCEA, as established by SB 375 and Public Resources Code Section 21155(a), do not require consistency with *local* planning and zoning designations and regulations, but instead require consistency with the general use designation, density, building intensity, and applicable policies of the *region’s* sustainable communities strategy, which here is SCAG’s 2020-2045 *Regional Transportation Plan/Sustainable Communities Strategy* (“RTP/SCS”). Both the Project’s SCEA (see Section 2.1) and the Responses to Comments provide substantial evidence of the Project’s consistency with the RTP/SCS. SAFER’s claim is therefore without merit.

SAFER further claims that the Project's density bonus law requests render it inconsistent with the General Plan and zoning, further impairing use of a SCEA. As explained above, consistency with local planning and zoning regulations is not a prerequisite for utilization of a SCEA. Notwithstanding, the Project is consistent with the City's General Plan and zoning, because as explained in the Responses to Comments, State law explicitly provides that density bonus requests do not result in any inconsistency with local planning and zoning regulations (Government Code Section 65915(f)(5) and 65915(j)(1)). This assertion by SAFER also lacks merit.

SAFER next repeats its claim that because the Project has not incorporated every mitigation measure identified in the RTP/SCS program EIR it does not qualify for a SCEA. As explained in the Responses to Comments, mitigation measures are not required for effects which are not found to be significant (CEQA Guidelines Sections 15126.4(a)(3)), and a lead agency only has authority to require mitigation to substantially lessen or avoid significant effects on the environment, consistent with applicable constitutional requirements (CEQA Guidelines Section 15041). Furthermore, the RTP/SCS program EIR itself specifies that lead agencies shall only require mitigation measures as appropriate to address potential impacts. In compliance with these requirements, the SCEA identifies the applicability of each mitigation measure contained in the RTP/SCS program EIR to the Project.

SAFER also repeats its claim that the Project must incorporate every goal, policy, and strategy identified by the RTP/SCS to be deemed consistent. Specifically, SAFER asserts that an RTP/SCS strategy directed towards public agencies to promote community micro-power grids must be understood as a mandate for the Project to itself implement all the features of a community micro-power grid. As explained in the Responses to Comments, this proposition is not supported by applicable case law, which requires *general* consistency with the overall intent of the plan or regulation in question. As demonstrated by the SCEA by substantial evidence, the Project is consistent with the applicable policies of the RTP/SCS and would not preclude the attainment of its primary goals.

Lastly, SAFER's comments continue to incorrectly conflate principles associated with tiering from a program EIR, which involves the question of whether a subsequent action is consistent with the programmatic actions analyzed in the program EIR, with the Project's utilization of a SCEA. A SCEA is a distinct CEQA streamlining tool created by separate statute and is subject to an entirely different set of criteria and standards than those associated with tiering. As demonstrated, the SCEA meets all statutory requirements. Despite SAFER's repeated claims, CEQA tiering concepts and case law do not apply to SCEAs.

Given SAFER's repeated misapplication of SB 375 and CEQA generally, we request that this Commission reject SAFER's comments, and approve the Project and its associated SCEA.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Todd Nelson', with a stylized flourish at the end.

Todd Nelson
Partner
of RAND PASTER & NELSON, LLP

cc: Esther Ahn, Department of City Planning
Heather Bleemers, Department of City Planning



Demolition of Building Used for Gangsters Encampment

Audrey Kim <mrscho2023@gmail.com>

Wed, Jul 10, 2024 at 10:39 AM

To: cpc@lacity.org

Dear CPC

My name is Audrey Kim and I am a current resident of [970 S Saint Andrew Pl #103, LA, CA 90019] emailing you on behalf of myself and my neighbors. I am contacting you in a desperate plea to approve demolition of the buildings for the case number DIR-2022-2825-TOC-SPR-HCA-1A to remove the gangster encampment that has been terrorizing our neighborhood surrounding Olympic and S St Andrews for the past three years, presenting a danger to us and our children. We are in the constant presence of drug dealers and shootings, which prevent us from feeling safe in our own homes.

The property located on [989 S St Andrews Pl](#) has a homeless encampment with gangsters who create a violent and hazardous environment for us and our children. Here is a short list of routine events that keep our entire neighborhood from sleeping at night:

- 1) The gangsters in the encampment have semi-automatic guns, and 2 weeks ago there was a shooting.
- 2) We have witnessed the gangsters using and selling drugs. Cars stop by to buy drugs from these individuals periodically.
- 3) We witnessed the gangsters in the encampment break into our properties in broad daylight. They constantly follow us into the parking garage to break into our cars.
- 4) They leave unleashed, aggressive dogs to roam around in our streets.
- 5) They constantly start fires causing air pollution in the area, threatening our health. In fact, one such fire burned down the daycare located in the same location.
- 6) They steal water from our water sources.
- 7) As the gangsters are threatening, residents are afraid to walk in the neighborhood. Children are constantly in danger.

While we thank the sanitation department from periodically cleaning out the streets, the issue has not been solved. The sanitation district cannot evict the gangsters living in the empty lot, which is private property. The developer for the property, Bando Dela Corp, has repeatedly contacted the police to arrest the trespassing individuals, but the police has not acted. In fact, police cars pass by the encampment without even a second thought. These gangsters are becoming bolder by the day, even picking fights with the residents.

The only solution is to get this area developed as soon as possible. We desperately plead you to approve the development project on the site so we may sleep peacefully each day.

Sincerely,

Audrey Kim



DIR-2022-2825-TOC-SPR-HCA-1A

Alberico Nunziata <alberico.nunziata@sandbournesantamonica.com>
To: "cpc@lacity.org" <cpc@lacity.org>

Wed, Jul 10, 2024 at 10:36 AM

Hello All,

My name is Alberico Nunziata, owner of the apartment on [970 S St Andrews Pl #306](#).

I am contacting you regarding the ongoing development at the crossroad of St Andrews Pl/Olympic Ave.

It is critical that the demolition commences without delay. The presence of these vacant structures has created a dangerous environment for the community and poses a threat to our future in this area.

Incidents involving homelessness, gang activity, prostitutions, drugs a recent shooting, and four wildfires in the past two years have had a detrimental impact on our community. Not to forget, they use our front yard as a public toilet, we have rats' infestation around the area, plus they still electricity from the streetlights and use the fire hydrant to take showers on the street exposing themself in a community with kids and families.

I urge you to authorize the demolition and expedite the start of this project. The community is in dire need of this initiative, and we are no longer able to tolerate living in proximity to such hazardous conditions.

Thank you for your prompt attention to this matter.

Sincerely,

A.

Alberico Nunziata, Hotel MANAGER
323•539•9656

SANDBOURNE SANTA MONICA
[1740 OCEAN AVE, SANTA MONICA, CA 90401](#)

SANDBOURNE

SANTA MONICA

AUTOGRAPH COLLECTION
HOTELS





FW: Comment for Appeal for Case Number DIR-2022-2825-TOC-SPR-HCA-1A

Ha Chung <HChung@jmbm.com>
To: "Cpc@lacity.org" <Cpc@lacity.org>

Wed, Jul 10, 2024 at 10:40 AM

Dear Planning Commission,

My name is Ha Chung and I am a current resident of [970 S St Andrews Pl.](#), emailing you on behalf of myself and my neighbors. I am contacting you in a desperate plea to approve the project under case number DIR-2022-2825-TOC-SPR-HCA-1A to remove the gangster encampment that has been terrorizing our neighborhood surrounding Olympic and S St Andrews for the past three years, presenting a danger to us and our children. We are in the constant presence of drug dealers and shootings, which prevent us from feeling safe in our own homes.

The property located on [989 S St Andrews Pl](#) has a homeless encampment with gangsters who create a violent and hazardous environment for us and our children. Here is a short list of routine events that keep our entire neighborhood from sleeping at night:

- 1) The gangsters in the encampment have semi-automatic guns, and 2 weeks ago there was a shooting.
- 2) We have witnessed the gangsters using and selling drugs. Cars stop by to buy drugs from these individuals periodically.
- 3) We witnessed the gangsters in the encampment break into our properties in broad daylight. They constantly follow us into the parking garage to break into our cars.
- 4) They leave unleashed, aggressive dogs to roam around in our streets.
- 5) They constantly start fires causing air pollution in the area, threatening our health. In fact, one such fire burned down the daycare located in the same location.
- 6) They steal water from our water sources.
- 7) As the gangsters are threatening, residents are afraid to walk in the neighborhood. Children are constantly in danger.

While we thank the sanitation department from periodically cleaning out the streets, the issue has not been solved. The sanitation department cannot evict the gangsters living in the empty lot, which is private property. The developer for the property, Bando Dela Corp, has repeatedly contacted the police to arrest the trespassing individuals, but the police has not acted. In fact, police cars pass by the encampment without even a second thought. These gangsters are becoming bolder by the day, even picking fights with the residents.

The only solution is to get this area developed as soon as possible. We desperately plead you to approve the development project on the site so we may sleep peacefully each day.

Sincerely,

Ha Chung | Associate

Jeffer Mangels Butler & Mitchell LLP | JMBM
1900 Avenue of the Stars, 7th Floor, Los Angeles, CA 90067
T: (310) 785-5347 | **F:** (310) 203-0567 | **E:** HChung@JMBM.com



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Please Approve demolition!

mhjeong08@gmail.com <mhjeong08@gmail.com>

Wed, Jul 10, 2024 at 3:48 PM

To: ricardo.vazquez@lacity.org

Cc: cpc@lacity.org

Dear Ricardo Vasquez

My name is Mary Jeong and I am a current resident of 970 S St Andrews Pl #304, emailing you on behalf of myself and my neighbors. I am contacting you in a desperate plea to approve demolition of the buildings for the case number DIR-2022-2825-TOC-SPR-HCA-1A to remove the gangster encampment that has been terrorizing our neighborhood surrounding Olympic and S St Andrews for the past three years, presenting a danger to us and our children. We are in the constant presence of drug dealers and shootings, which prevent us from feeling safe in our own homes.

The property located on 989 S St Andrews Pl has a homeless encampment with gangsters who create a violent and hazardous environment for us and our children. Here is a short list of routine events that keep our entire neighborhood from sleeping at night:

- 1) The gangsters in the encampment have semi-automatic guns, and 2 weeks ago there was a shooting.
- 2) We have witnessed the gangsters using and selling drugs. Cars stop by to buy drugs from these individuals periodically.
- 3) We witnessed the gangsters in the encampment break into our properties in broad daylight. They constantly follow us into the parking garage to break into our cars.
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- 6) They steal water from our water sources.
- 7) As the gangsters are threatening, residents are afraid to walk in the neighborhood. Children are constantly in danger.

While we thank the sanitation department from periodically cleaning out the streets, the issue has not been solved. The sanitation district cannot evict the gangsters living in the empty lot, which is private property.

The developer for the property, Bando Dela Corp, has repeatedly contacted the police to arrest the trespassing individuals, but the police has not been actively acted.

In fact, police cars pass by the encampment without even a second thought.

These gangsters are becoming bolder by the day, even picking fights with the residents.

The ONLY SOLUTION is to get this area developed as soon as possible. We desperately plead you to approve the development project on the site so we may sleep peacefully each day.

Sincerely,

Mary Jeong



Approval Demolition of building

Michelle So <greenfield4632@yahoo.com>

Wed, Jul 10, 2024 at 12:28 PM

To: cpc@lacity.org

To whom it may concern,

My name is Michelle So and I am a current resident of [970 S ST ANDREWS PL. LOSANGELES CA 90019](#), emailing you on behalf of myself and my neighbors. I am contacting you in a desperate plea to approve demolition of the buildings for the case number DIR-2022-2825-TOC-SPR-HCA-1A to remove the gangster encampment that has been terrorizing our neighborhood surrounding Olympic and S St Andrews for the past three years, presenting a danger to us and our children. We are in the constant presence of drug dealers and shootings, which prevent us from feeling safe in our own homes.

The property located on [989 S St Andrews Pl](#) has a homeless encampment with gangsters who create a violent and hazardous environment for us and our children. Here is a short list of routine events that keep our entire neighborhood from sleeping at night:

- 1) The gangsters in the encampment have semi-automatic guns, and 2 weeks ago there was a shooting.
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The only solution is to get this area developed as soon as possible. We desperately plead you to approve the development project on the site so we may sleep peacefully each day. Thanks for your cooperation!!

Sincerely,
Michelle So