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SECONDARY SUBMISSIONS



Department of City Planning

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

November 12, 2024

TO: City Planning Commission

FROM: Kathleen King, City Planner

TECHNICAL MODIFICATION TO THE STAFF RECOMMENDATION REPORT FOR CASE NO. CPC-2016-3726-GPA-VZC-HD-DB-MCUP-SPR; 1100 East 5th Street and 506 - 530 South Seaton Street

The following technical modifications are presented for your consideration to be incorporated into the Staff Recommendation Report and Exhibits related to Item No. 9 on the meeting agenda, for the City Planning Commission meeting of November 14, 2024. Deleted text is shown in **strikethrough** and added text is shown in **underline**.

Below are typographical errors to be corrected in the Project Analysis, Qualified Conditions, Conditions of Approval, and Exhibit A of the CPC Staff Recommendation Report:

STAFF RECOMMENDATION REPORT

Page A-1, Project Summary (1st Paragraph)

The Project would also include a ~~4,944~~ **8,410** square-foot publicly-accessible ground floor outdoor **landscaped** courtyard **and paseos**, accessible from 5th Street and Seaton Street. Vehicle ingress/egress would be provided from Seaton Street via one driveway. The Project would total 249,758 square feet of floor area on a ~~52,414~~ **52,441** square foot (1.2-acre) site, resulting in a Floor Area Ratio (FAR) of 4.77:1.

Page A-9, Project Details (1st Paragraph)

The eight-story mixed-use building would be comprised of 220 live/work units (11 percent of which would be deed-restricted for VLI households), 46,548 square feet of ~~ground floor~~ commercial spaces, 22,725 square feet of open space including a publicly accessible ground floor outdoor courtyard, and three levels of ~~subterranean~~ parking.

Page A-18, Density (1st Paragraph)

With a lot area of ~~52,414~~ **52,441** square feet, the Project Site would permit a base density of 263 units.

Page A-21, Local Hire – Measure JJJ (1st Paragraph)

Pursuant to LAMC 11.5.11(i), the ~~Project is required that~~ its contractors are required to be licensed by the State and the City, that at least 30 percent of workers are residents of the City, and that workers are hired that have completed apprentice training programs.

Page Q-1, (Q) Qualified Conditions, Condition Number 2

2. **Pedestrian Paseos and Courtyard.** A minimum ~~4,941~~ 8,410 square-foot ground floor, publicly accessible, landscaped courtyard and paseos shall provide public access from Seaton Street to 5th Street, as shown in Exhibit A, Project Plans, dated September 17, 2024.

Page C-5, Conditions of Approval, Condition Number 33

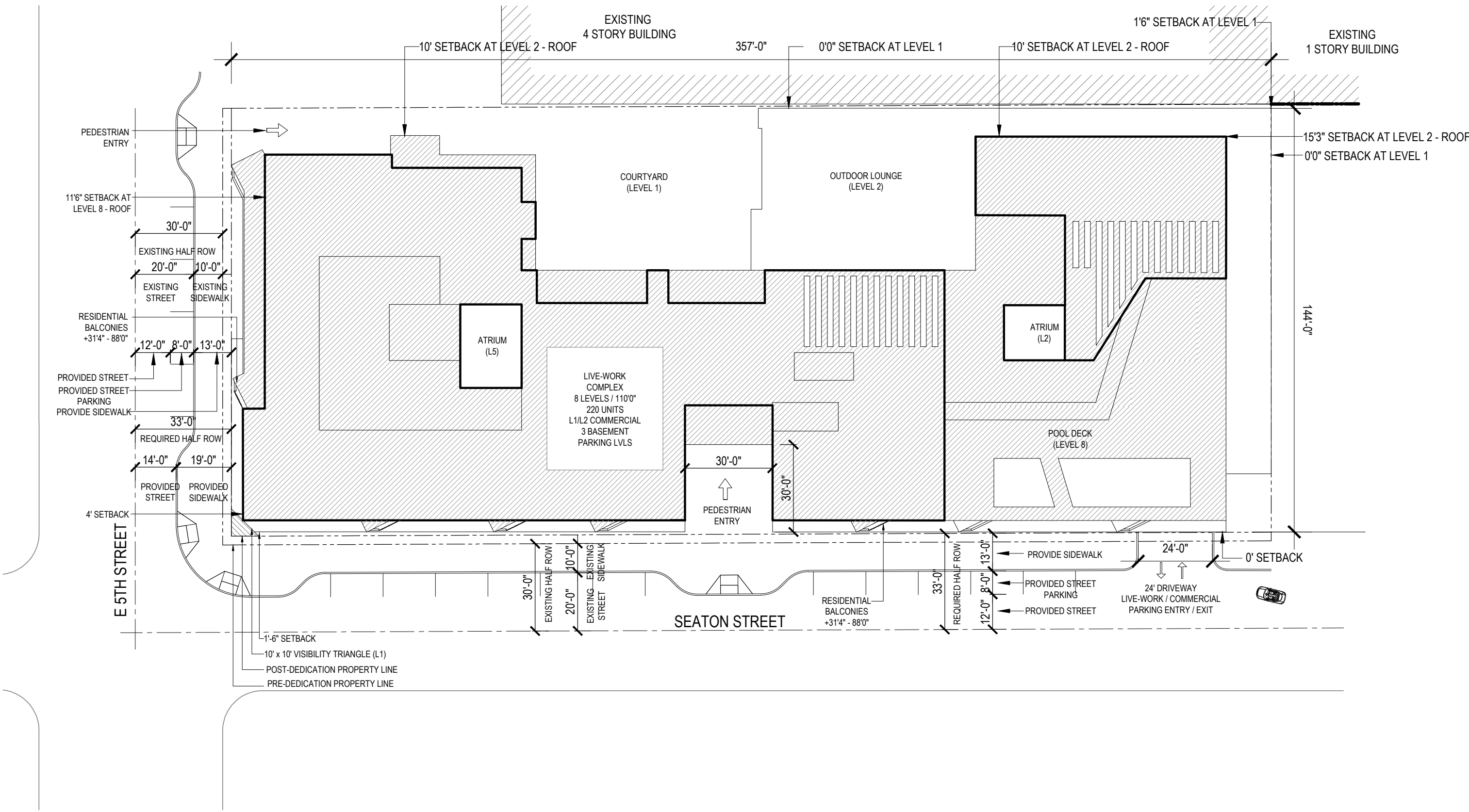
33. **Pedestrian Paseos and Courtyard.** A minimum ~~4,941~~ 8,410 square-foot ground floor, publicly accessible, landscaped courtyard and paseos shall provide public access from Seaton Street to 5th Street, as shown in Exhibit A, Project Plans, dated September 17, 2024.

EXHIBIT A***Plot Plan, Sheet A000***

Replace Plot Plan, Sheet A000 with updated Sheet A000 to reflect the Project's correct net lot area (52,441 square feet) and Floor Area Ratio (4.77:1).

Level 1 Plan, Sheet A104

Replace Level 1 Plan, Sheet A104 with the updated Sheet A104 to reflect the correct square footage for the Project's courtyard (4,041 square feet) and paseos (4,369 total square feet).



1 PLOT PLAN
SCALE: 1/32"= 1'-0"

PROJECT SUMMARY

Existing Zone: M3-1-RIO
Proposed Zone: C2-2-RIO

Existing Land Use: Heavy Industrial
Proposed Land Use: Regional Center Commercial

Gross Site Area (Pre-Dedication): 54,009 SF
Gross Site Area (Post-Dedication): 52,441 SF
Base Density (1 Live-Work Unit per 200 SF): 54,009 SF / 200 SF = **270 Units**

Floor Area Allowed (Pre-Dedication): (54,009 SF x 6) **324,054 SF**
Floor Area Allowed (Post-Dedication): (52,441 SF x 6) **314,646 SF**
Floor Area Proposed: **249,758 SF**

FAR Allowed: **6.0**

FAR Proposed: (249,758 SF / 52,441 SF) **4.77**

Live-Work Units: **220 units**
0-1 BD (Units < 1,000 SF) 191 units
3 BD (Units > 1,000 SF) 29 units
Very Low Income Housing 11% of Units (25 Units)

Average Unit Size Recommended: **790 SF**
750 SF Min. Avg.

Art Production / Commercial Space Recommended: **TOTAL = 18,500 SF**
150 SF x 50 units = 7,500 SF
100 SF x 50 units = 5,000 SF
50 SF x 120 units = 6,000 SF

Commercial Space Provided: **46,548 SF**

Open Space Required: **TOTAL = 22,725 SF**
100 SF per Live-Work Unit (0-1 BD)(Units < 1,000 SF) 191 Units x 100 SF = 19,100 SF
175 SF per Live-Work Unit (3 BD)(Units > 1,000 SF) 29 units x 175 SF = 5,075 SF
TOTAL = 24,175 SF

(6% Reduction)

Open Space Provided: **TOTAL = 22,725 SF**
Private Open Space 900 SF
Outdoor Communal Space 18,719 SF
Indoor Communal Space (Max. 25% of Required Total (5,682 SF)) 3,106 SF

Trees Required: (220 Units / 4) 55 Trees
Trees Provided: 57 Trees

Total Parking Required (Density Bonus OPT. 1): **342 Spaces**
Live-Work (0-1 BD)(Units <1,000 SF) 191 Spaces
(1 Space per Unit)

Live-Work (3 BD)(Units >1,000 SF) 58 Spaces
(2 Spaces per Unit)

Commercial Parking (2 Spaces per 1,000 SF) 93 Spaces
Enterprise Zone 2129

Total Parking Provided: **381 Spaces**
Accessible: 11 Spaces (2 van)
EV Parking:
10% Installed 38 Spaces
30% Compatible 114 Spaces

Live-Work 249 Spaces
Commercial 93 Spaces
Additional Visitor Parking 3 Spaces
Additional Commercial Parking 36 Spaces

Live-Work Bike Parking Required: **143 Spaces**
1 Short-Term Space 13 Spaces
1 Long-Term Space 130 Spaces

Commercial Bike Parking Required: **46 Spaces**
1 Short-Term Space per 2,000 SF (46,548 SF / 2,000 SF) 23 Spaces
1 Long-Term Space per 2,000 SF (46,548 SF / 2,000 SF) 23 Spaces

Total Bike Parking: **189 Spaces**
Live-Work Short Term 13 Spaces
Live-Work Long Term 130 Spaces
Commercial Short Term 23 Spaces
Commercial Long Term 23 Spaces

PROJECT SUMMARY - INCREASED COMMERCIAL FLEXIBILITY OPTION

Existing Zone: M3-1-RIO
Proposed Zone: C2-2-RIO

Existing Land Use: Heavy Industrial
Proposed Land Use: Regional Center Commercial

Gross Site Area (Pre-Dedication): 54,009 SF
Gross Site Area (Post-Dedication): 52,441 SF
Base Density (1 Live-Work Unit per 200 SF): 54,009 SF / 200 SF = **270 Units**

Floor Area Allowed (Pre-Dedication): (54,009 SF x 6) **324,054 SF**
Floor Area Allowed (Post-Dedication): (52,441 SF x 6) **314,646 SF**
Floor Area Proposed: **249,758 SF**

FAR Allowed: **6.0**

FAR Proposed: (249,758 SF / 52,441 SF) **4.77**

Live-Work Units: **200 units**
0-1 BD (Units < 1,000 SF) 173 units
3 BD (Units > 1,000 SF) 27 units
Very Low Income Housing 11% of Units (22 Units)

Average Unit Size Recommended: **792 SF**
750 SF Min. Avg.

Art Production / Commercial Space Recommended: **TOTAL = 17,500 SF**
150 SF x 50 units = 7,500 SF
100 SF x 50 units = 5,000 SF
50 SF x 100 units = 5,000 SF

Commercial Space Provided: **64,313 SF**

Open Space Required: **TOTAL = 22,025 SF**
100 SF per Live-Work Unit (0-1 BD)(Units < 1,000 SF) 173 Units x 100 SF = 17,300 SF
175 SF per Live-Work Unit (3 BD)(Units > 1,000 SF) 27 units x 175 SF = 4,725 SF
TOTAL = 22,025 SF

Open Space Provided: **TOTAL = 22,725 SF**
Private Open Space 900 SF
Outdoor Communal Space 18,719 SF
Indoor Communal Space (Max. 25% of Required Total (5,506 SF)) 3,106 SF

Trees Required: (200 Units / 4) 50 Trees
Trees Provided: 57 Trees

Total Parking Required (Density Bonus OPT. 1): **356 Spaces**
Live-Work (0-1 BD)(Units <1,000 SF) 173 Spaces
(1 Space per Unit)

Live-Work (3 BD)(Units >1,000 SF) 54 Spaces
(2 Spaces per Unit)

Commercial Parking (2 Spaces per 1,000 SF) 129 Spaces
Enterprise Zone 2129

Total Parking Provided: **381 Spaces**
Accessible: 11 Spaces (2 van)
EV Parking:
10% Installed 38 Spaces
30% Compatible 114 Spaces

Live-Work 227 Spaces
Commercial 129 Spaces
Additional Visitor Parking 3 Spaces
Additional LW Parking 22 Spaces

Live-Work Bike Parking Required: **138 Spaces**
1 Short-Term Space 13 Spaces
1 Long-Term Space 125 Spaces

Commercial Bike Parking Required: **64 Spaces**
1 Short-Term Space per 2,000 SF (64,313 SF / 2,000 SF) 32 Spaces
1 Long-Term Space per 2,000 SF (64,313 SF / 2,000 SF) 32 Spaces

Total Bike Parking: **202 Spaces**
Live-Work Short Term 13 Spaces
Live-Work Long Term 125 Spaces
Commercial Short Term 32 Spaces
Commercial Long Term 32 Spaces

1100 E 5TH STREET

1100 E 5TH STREET
LOS ANGELES, CA 90013

WW-5TH & SEATON, LLC AND
XF-5TH & SEATON, LLC
C/O MAYER BROWN
350 SOUTH GRAND AVENUE
25TH FLOOR
LOS ANGELES, CA 90071

OWNER

724 SOUTH SPRING STREET
SUITE 1002
LOS ANGELES, CA 90014

ARCHITECT

JOHN LABIB + ASSOCIATES
319 MAIN STREET
EL SEGUNDO, CA 90245

STRUCTURAL ENGINEER

DESIGN WORKSHOP
724 SOUTH SPRING STREET
SUITE 701
LOS ANGELES, CA 90014

LANDSCAPE ARCHITECT

IDS GROUP
1 PETERS CANYON ROAD
SUITE 130
IRVINE, CA 92606

MEP

NOT FOR CONSTRUCTION

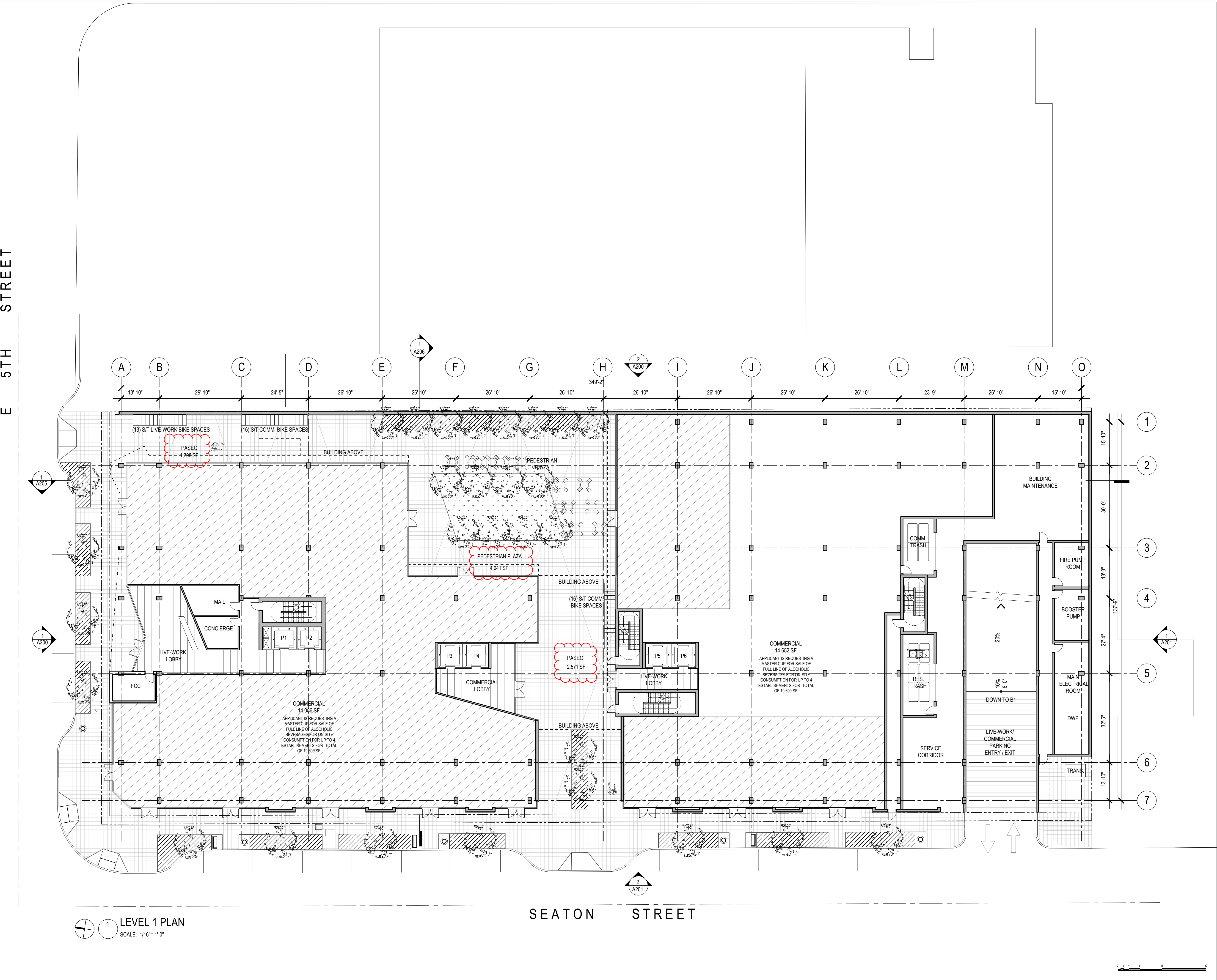
5	01/12/21	Revised Entitlement Submittal
4	03/01/19	Revised Entitlement Submittal
3	02/02/18	Revised Entitlement Submittal
2	04/27/17	Revised Entitlement Submittal
1	09/27/16	Entitlement Submittal
No.	Date	Description

PLOT PLAN

A000

PRINTED: Tuesday, January 12, 2021 8:34:20 PM BY: HLA160201 FILE: 1100_A104_LEVEL 1

E 5TH STREET



1100 E 5TH STREET

1100 E 5TH STREET
LOS ANGELES, CA 90013

WW-5TH & SEATON, LLC AND
XF-5TH & SEATON, LLC
C/O MAYER BROWN
350 SOUTH GRAND AVENUE
25TH FLOOR
LOS ANGELES, CA 90071

OWNER

hansonla
ARCHITECTURE

724 SOUTH SPRING STREET
SUITE 1002
LOS ANGELES, CA 90014

ARCHITECT

JOHN LABIB + ASSOCIATES
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LOS ANGELES, CA 90014

LANDSCAPE ARCHITECT

IDS GROUP
1 PETERS CANYON ROAD
SUITE 130
IRVINE, CA 92606

MEP

NOT FOR CONSTRUCTION

No.	Date	Description
5	01/12/21	Revised Entitlement Submittal
4	03/01/19	Revised Entitlement Submittal
3	02/02/18	Revised Entitlement Submittal
2	04/27/17	Revised Entitlement Submittal
1	09/27/16	Entitlement Submittal

LEVEL 1 PLAN

A104



Department of City Planning

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

November 13, 2024

TO: City Planning Commission

FROM: David Woon, Planning Assistant

ADDITIONAL INFORMATION TO THE STAFF RECOMMENDATION REPORT FOR CASE NO. DIR-4545-TOC-SPR-VHCA-1A; 638 SOUTH BERENDO STREET

The following technical modification/information is to be incorporated into the staff recommendation report to be considered at the City Planning Commission meeting of November 14, 2024, related to Item No. 10 on the meeting agenda.

Following Planning Staff's submission of the Staff Recommendation Report, the Appellant (Supporters Alliance for Environmental Responsibility (SAFER)) submitted a 10-page letter, dated November 4, 2024, discussing their appeal points with regards to the Site Plan Review appeal that was filed for this case.

Planning Staff has reviewed the appeal points and have the responded to them below:

1. Appellant claims that the Exemption does not apply on its face because:

- a. The Project will have significant adverse effects related to air quality health risks, specifically due to diesel particulate matter emissions.
- b. The Project will pose significant health risks from indoor air quality impacts associated with formaldehyde emissions.
- c. The Project will have significant adverse impacts on noise levels on noise-sensitive receptors along the western side of the western adjacent buildings

Staff Response:

- 1a) An Air Quality Analysis was prepared for this Project, dated March 2024 and included as Exhibit D, utilized data from an Air Quality Technical Modeling study which analyzed emissions of air pollutants that will be generated by the construction and operation of the proposed Project, including toxic air contaminants (TACs) such as diesel particulate matter (DPM). The Analysis identified DPM as the primary TAC generated by construction activities and notes that the construction emission modeling conducted for this Project conservatively assumes that all equipment present on the Project site would be operating

simultaneously throughout most of the day, while in all likelihood this would rarely, if ever, be the case. Therefore, the magnitude of daily diesel PM emissions, would not be sufficient to result in substantial pollutant concentrations at off-site locations nearby. The Analysis concludes that construction activities would not produce chronic, long-term exposure to DPM given the Project's approximately 27-month construction timeline and the temporary and periodic use diesel equipment. With regards to long-term Project operations, the Analysis concludes that the Project does not include typical sources of acutely and chronically hazardous TACs such as industrial manufacturing processes and automotive repair facilities therefore the Project would not create substantial concentrations of TACs or DPM.

The Project is not obligated to conduct a health risk assessment (HRA) under the guidance of SCAQMD and the Office of Environmental Health Hazard Assessment (OEHHA) to evaluate health risks associated DPM emissions generated during project construction. SCAQMD requires operational HRAs for activities that may generate high levels of DPM including truck idling and movement (e.g. truck stops, warehouse/distribution centers, transit centers), ship hoteling at ports, and train idling. The Project does not propose or anticipate any of these activities during project operations. Based on the guidance of the OEHHA a construction HRA is not required as the anticipated construction time for the Project (approximately 27 months) represents a relatively small portion of a 30-year exposure duration recommended for a construction HRA. Therefore, the Project is not required to conduct a HRA and Project will not have significant adverse effects related to air quality health risks associated with diesel particulate matter.

- 1b) The Appellant provides no evidence that there is an existing formaldehyde issue at the Project site or that the Project would exacerbate any such existing issue. No real data is submitted with the Appellant's comments that connect the Project to any indoor air quality impacts. The Project will be consistent with federal and state regulations which limit formaldehyde emissions from building materials and therefore residents and employees will not be exposed to lethal levels of formaldehyde emissions or significant cancer risks. The Appellant provides inaccurate statements and speculations in surmising the Project's future indoor formaldehyde concentrations and the alleged risk the Project may pose to Project users. Therefore, the Appellant's claim is false and the Project will not pose significant health risks associated with formaldehyde emissions.
- 1c) The Noise Analysis prepared for the Project by DKA Planning, dated June 2023 and attached as Exhibit D, conservatively assumes simultaneous use of multiple pieces of construction equipment when modeling the projected noise levels at five (5) sensitive receptors. While the west side of the eastern adjacent buildings was not identified as a sensitive receptor in the Noise Analysis, actual noise levels will be less than what the Appellant claims since the use of construction equipment will be temporary and periodic during the Project's estimated 27-month construction timeline. In addition, the Project will be required to comply with the City's noise regulations which dictate the permitted hours for construction activities and require the use of best practices techniques such as temporary sound barriers, the use of quieter and/or smaller equipment, staging and warming up equipment as far from

sensitive receptors as possible, proper maintenance of equipment, and limitations on the simultaneous operation of equipment. Therefore, the Appellant's claim that the noise levels at the specified location will exceed the 5 dBA threshold is incorrect and the Project will not result in a significant noise impact.

In August 2024, the City updated the construction noise and vibration thresholds used by the Department of City Planning in assessing environmental impacts of projects in accordance with CEQA (Construction Noise and Vibration, Updates to Thresholds and Methodology, August 2024). The Update acknowledges that the previous construction noise thresholds, including the 5 dBA threshold over existing ambient conditions, have proven to be overly sensitive and has resulted in impact conclusions that are not supported with substantial evidence. With regard to Daytime Construction Noise Thresholds, the Update dictates that there is no longer a numerical threshold above ambient noise levels for construction activities that occur between 7:00 a.m. and 7:00 p.m. Monday through Friday, and between 8:00 a.m. and 6:00 p.m. on Saturdays. The Noise Analysis prepared for this Project does not account for the recent updates to construction noise thresholds, however based on these new thresholds the Noise Analysis provides a more conservative assessment of the Project's construction activities impacts. Therefore, the Appellant's claim that a sensitive receptor not analyzed by the Noise Analysis will exceed 5 dBA is not valid in accordance with the City's new construction noise thresholds.

2. **The Unusual Circumstances Exception to the Exemption applies.** The Appellant argues that since the Project will have severe adverse impacts on air quality, indoor air quality, and noise, this constitutes as an unusual circumstance.

Staff Response: As discussed in Staff's Response to Appeal Point No. 1, the Project will not result in significant impacts and health risks related to air quality, indoor air quality, and noise. Therefore, the Appellant's claim that the Unusual Circumstances Exception to the Class 32 Categorical Exemption applies is incorrect.

3. **The Historical Resources Exception applies.** The Appellant argues that there is a fair argument that the Project will have substantial adverse effects on a historical resource, specifically the Roseberry Building.

Staff Response: A Historic Resources Impacts Assessment Report was prepared by Historic Resources Group on July 2022 to identify any historical resources on or in the vicinity of the Project site as defined by CEQA and to identify potential impacts to historical resources caused by the proposed Project. The Report and an Addendum to the Report, dated May 2023, attached as Exhibit D, identified the Roseberry Building, located on the Project site, as a historical resource. While the Project proposes minor alterations to the northern (rear) façade of the building, which include the removal of an exterior metal staircase and blocking the windows from the interior, it was determined that the Project will not materially impair the significance of the Roseberry Building such that it can no longer convey its historic significance. The Report determined that the exterior staircase is not a character-defining feature as it is of comparatively recent construction. The infill of the windows on the north façade will occur on the interior, and the existing windows

will remain in place so that the north façade retains its historic appearance when viewed from the exterior. The building's architectural significance would still be conveyed on the Berendo St. and Wilshire Blvd. fronting façades. In addition, the Report and Addendum found that the Project will not materially impair other historical resources in the vicinity. Both documents concluded that the Project will not result in a substantial adverse change on any historical resource on or in the vicinity of the Project site, and therefore the Project would not have a significant effect on the environment and the Historical Resources Exception to the Class 32 Categorical Exception does not apply. In 2022, the Office of Historic Resources submitted an e-mail correspondence stating that they accept the conclusion of the Historic Resources Impacts Assessment Report.

The Principal Architect for the Historic Resources Group has also submitted a memorandum, dated November 12, 2024, which addresses SAFER's comments regarding the Project's impact on the Roseberry Building. The memo concludes that the Appellant's claims are incorrect and carry no merit, and that the minor alterations proposed by the Project would not result in a substantial adverse change in the building's significance.

In summary, the information presented in the SAFER letter does not require any additional CEQA analysis and the Class 32 Infill Exemption prepared for the Project remains the correct CEQA clearance for the project.

ADAMS BROADWELL JOSEPH & CARDOZO

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November 12, 2024

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Elizabeth Zamora, Vice President
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Caroline Choe, Martina Diaz,
Phyllis Klein, Karen Mack,
Michael Newhouse
Los Angeles City Planning Commission
Email: cpc@lacity.org

Re: Appeal of Vesting Tentative Tract No. 83382 for Violet Street Creative Office Campus Project (VTT-83382, ENV-2021-2232-EIR; SCH # 2021110015)

Dear Director Bertoni, Mr. Fukuda, Ms. King, and City Planning Commissioners:

On behalf of the Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA"), we submit these comments in support of CREED LA's appeal of the City of Los Angeles ("City") Advisory Agency's August 29, 2024 approval of the Violet Street Creative Office Campus Project (VTT-83382; CPC-2021-2231-GPA-VZC-HDVCU-ZV-SPR; ENV-2021-2232-EIR) ("Project") located at 2045 Violet Street (2030-2060 East 7th Street; 715-829 East Santa Fe Avenue; 2016-2040 and 2023-2043 East 7th Place; and 2017-2051 Violet Street), Los Angeles, CA 90021.

On September 6, 2024, CREED LA appealed the Advisory Agency's decision on the grounds that the Commission abused its discretion and failed to proceed in the manner required by law by approving the Project in reliance on a deficient CEQA document and without substantial evidence to support the approval findings.¹ The Staff Report prepared for the November 14, 2024 City Planning Commission hearing on CREED LA's appeal ("Staff Report")² relies on unsupported and outdated studies and fail to disclose or mitigate the Project's potentially significant fire hazard, air quality, health risk, land use, and public utilities impacts. The FEIR's analysis and mitigation of these impacts remain

¹ Code Civ. Proc § 1094.5(b); *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.

² City of Los Angeles, Department of City Planning, Appeal Recommendation Report VTT-83382-1A ENV-2021-2232-EIR (Nov. 14, 2024) (hereinafter "Staff Report").

substantially inaccurate and incomplete, failing to comply with the requirements of CEQA. As a result of these significant and unmitigated impacts, the City cannot make the requisite findings under the Los Angeles Municipal Code (“LAMC”) to make the approvals. CREED LA’s comments on the DEIR, FEIR, and on appeal demonstrate that the FEIR fails to comply with CEQA. CREED LA’s appeal provided substantial evidence that the Project (1) is not consistent with numerous General Plan policies and (2) is not consistent with the Subdivision Map Act which prohibits approval of a VTTM where it is likely to cause serious public health problems.³ In addition, these comments demonstrate that the Project does not have sufficient water supply and infrastructure to achieve the minimum necessary fire flow for the Project.

The City Planning Commission (“Commission”) cannot uphold the Advisory Agency’s approval due to the unresolved errors and omissions in the FEIR and Staff Report. These errors must be remedied in a revised EIR which fully discloses and mitigates the Project’s potentially significant environmental and public health impacts. **CREED LA respectfully requests that the Commission uphold CREED LA’s appeal, vacate the Advisory Agency’s approval of the Project, and direct staff to revise and recirculate the EIR for public review.**

A. The Project Results in Significant Health Risk Impacts

The Staff Report does not remedy the FEIR’s failure to analyze and mitigate the Project’s significant health risk impacts. Dr. James Clark found that the City’s adherence to Southern California Air Quality Management District (SCAQMD) Rule 403 would not adequately mitigate impacts associated with diesel particulate matter (“DPM”) emissions. DPM is a toxic air contaminant. The City’s failure to mitigate DPM emissions results in the Project’s nonconformance with General Plan Air Quality Element Policy 1.3.1⁴

Further, the City’s position that diesel exhaust is not mutagenic lacks substantial evidence, and is flatly contradicted by scientific evidence provided by Dr. Clark. The City’s conclusion is contrary to CEQA’s requirement that the determination of a project’s significant effect on the environment be based on scientific and factual data.⁵ Accordingly, the health risk assessment for the Project should have included age sensitivity factors when calculating the Project’s health risks from DPM. Utilizing the correct age sensitivity factors, Dr. Clark re-calculated the risks of exposure to DPM from the Project’s construction phase and found a significant health risk.⁶ Dr. Clark’s analysis provides substantial evidence that the Project results in significant public health and safety impacts on the community from exposure to the Project’s diesel emissions. Due to the Project’s significant health and safety risk from DPM during the Project’s construction phase, the City cannot make the necessary findings to approve the VTTM, and the Advisory Agency’s approval of the VTTM must be overturned.

³ Cal. Gov. Code § 66473.5; 66474(f).

⁴ City of Los Angeles, Plan for a Healthy Los Angeles A Health, Wellness, and Equity Element of the General Plan (Nov. 2021) p. 152.

⁵ 14 CCR § 15064(b)(1).

⁶ **Exhibit A** - Clark Comments, p. 1.

B. The City Lacks Substantial Evidence to Demonstrate that Fire Flow Requirements Can be Served by Project Infrastructure

Following CREED LA's appeal, and upon further investigation with the assistance of Fire Protection Engineer and Fire Flow Expert Robert Burt of Burt Engineering, CREED LA found that substantial infrastructure improvements are required for the Project to comply with LAMC Fire Code. These issues are not analyzed in the FEIR and the infrastructure improvements are not required as Conditions of Approval. The DEIR provides that "the Project Site currently does not have adequate fire flow to demonstrate compliance with the standards specified in LAMC Section 57.507.3.1."⁷ The Staff Report provides that "2 public fire hydrants are required."⁸ Mr. Burt's comments provide substantial evidence that the fire hydrants at the Project site exceed maximum spacing requirements. Therefore, additional infrastructure improvements are required, including the installation of up to 6-10 additional hydrants adjacent to the Project site and the replacement of existing hydrant infrastructure with 4-inch x 4-inch double fire hydrants to meet LAMC hydrant type and spacing requirements for the Project.⁹ Mr. Burt found that the FEIR and Staff Report lack substantial evidence to show that the planned upgrade of 400 feet of water main in 7th Place to 12-inch ductile main would provide adequate fire flow.¹⁰ Mr. Burt's comments provide substantial evidence that additional infrastructure improvements including several thousand feet of additional water main upgrades will likely be required.¹¹

Fire flow infrastructure improvements would result in significant impacts to traffic and transportation, require street excavation and subsequent repair to access water mains.¹² Excavation would require demolition, disruption, and removal of portions of the street along the entire length of water main upgrade, and would entail excavation and removal asphalt, soils, and trench backfill materials.¹³ New, upsized piping would likely be required, along with new trench backfill, soil, compaction, and new street asphalt work along the entire length of work. This information must be analyzed in a revised and recirculated EIR which accurately addresses and mitigates the potentially significant impacts associated with fire flow infrastructure and construction and installation of the upgrades to achieve the minimum necessary fire flow for the Project.

For the foregoing reasons, the City cannot make the necessary findings to approve the Vesting Tentative Tract Map for the Project due to the Project's significant environmental, air quality, public health, and utility impacts. Thank you for your attention to these comments. Please include them in the record of proceedings for the Project.

Sincerely,



Kelilah D. Federman

⁷ DEIR, Appendix J, p. IV.J.1-31.

⁸ Staff Report, Exhibit B VTT-83382 LOD and Tract Map VTT-83382-1A, p. 7.

⁹ **Exhibit B** - Burt Comments, p. 2.

¹⁰ *Id.*

¹¹ *Id.* at 4.

¹² *Id.*

¹³ *Id.*

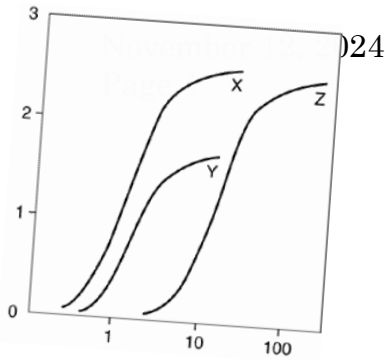


Exhibit A

November 11, 2024

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

Attn: Ms. Kelilah Federman

Clark & Associates

Environmental Consulting, Inc.

OFFICE

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**Subject: Response To City of Los Angeles Department of City
Planning Appeal Recommendation Report Violet Street
Creative Office Campus Project. ENV-2021-2232-EIR.**

Dear Ms. Federman:

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed materials related to the above referenced project. After reviewing the City of Los Angeles (the City) Department of City Planning Appeal Recommendation Report, it is clear that a revised EIR must be prepared to correct the deficiencies in the EIR and the Report regarding mitigation measures, the use of age sensitivity factors in health risk assessments, and the final calculation of cancer risks from exposure to diesel particulate matter (DPM).

1. Staff Response 1: Compliance With Dust Control Measures

On page A-4 staff asserts “the Project's compliance with dust control regulations and emission reduction measures would be consistent with Objective 1.3 and Policy 1.3.1 by reducing particulate pollutants from unpaved areas and construction sites. As indicated in the Draft EIR, the Project would adhere to the Southern California Air Quality Management District (SCAQMD) Rule 403, implementing best practices for dust management, and utilizing cleaner construction equipment, thereby minimizing particulate emissions.” SCAQMD Rule 403’s stated purpose is to reduce the amount of particulate matter entrained in the ambient air as a result of anthropogenic fugitive dust sources by requiring actions to prevent, reduce or mitigate fugitive dust emissions. Fugitive dust in Rule 403 is defined “as any solid particulate matter that becomes airborne, other than that emitted from an exhaust stack, directly or indirectly as a result of the activities of any person.” The exclusion of material from an exhaust stack in the Rule clearly means that DPM, which is by definition emitted from an exhaust stack or tailpipe is clearly not covered by Rule 403. Project DPM emissions are therefore not mitigated by Rule 403 and remain significant.

2. Staff Response 2: Use of Age Sensitivity Factors In HRA/Input Values To HRA

The Staff's response regarding the use of age sensitivity factors (ASFs) ignores the well-established practice of incorporating ASFs in HRA of mutagenic compounds. The Staff asserts that "for diesel particulates, polycyclic aromatic hydrocarbons, and their derivatives, which are known to exhibit a mutagenic mode of action, comprise less than one percent of the exhaust particulate mass.¹ Given that the estimate of the increased cancer risk from inhalation exposure is expressed in terms of total diesel particulate, it is not reasonable to apply mutagenic mode of action to the total amount of diesel particulate." This specious argument is not supported by the well documented analyses from U.S. EPA and the State of California which included epidemiological data as well as in vivo and in vitro studies of exposure to DPM.

U.S. EPA and the State of California spent considerable time and resources to evaluate the literature regarding exposure to diesel exhaust (DE) and in DPM, and determined that there was "extensive supporting data including the demonstrated mutagenic and/or chromosomal effects of DE and its organic constituents, and knowledge of the known mutagenic and/or carcinogenic activity of a number of individual organic compounds that adhere to the particles and are present in the DE gases."

The State of California's Scientific Review Panel's 1998 Report On Diesel Exhaust is very clear about the mode of action for DPM. In the Health Effects Section of the Report's Summary¹⁴, the Board (made up of health scientists and toxicologists) states "Diesel exhaust particles or extracts of diesel exhaust particles are mutagenic in bacteria and in mammalian cell systems, and can induce chromosomal aberrations, aneuploidy, and sister chromatid exchange in rodents and in human cells in vitro. Diesel exhaust particles induced unscheduled DNA synthesis in vitro in mammalian cells."

Therefore, to be consistent with the SCAQMD's guidance on the preparation of health risk analyses in the Air Basin¹⁵ which includes ASFs in the calculation of exposure for the maximum individual cancer risk (MICR) and the State's designation of DPM as a mutagenic chemical, the City must evaluate the health risk from exposure to DPM in a manner consistent with State guidance.¹⁶

Using the modeled concentrations of DPM (0.354 ug/m³) from the City's HRA, the Project's resultant cancer risk is 130 in 1,000,000, well above the SCAQMD's significance threshold. Several of the input values, including the frequency at home (FAH) and the exposure duration were input based on

¹⁴ CARB. 1998. Findings of the Scientific Review Panel on The Report On Diesel Exhaust as adopted at the Panel's April 22, 1998, Meeting. <https://ww2.arb.ca.gov/sites/default/files/classic/toxics/dieseltac/de-fnds.pdf>

¹⁵ SCAQMD. Risk Assessment Procedures For Rules 1401, 1401.1 and 212. Version 8.1. Dated September 2, 2017 pgs 7,12

¹⁶ OEHHA. 2015. *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments*. Dated February 2015.

November 12, 2024

Page 6

the values report in the DEIR and FEIR (construction duration for the ED). OEHHA recommends a value of 1.0 for scenarios where children are living and going to school in areas with risks in excess of 1 in 1,000,000. Based on the screening results of this Project it was clear that the nearby residents would be within the 1 in 1,000,000 zone.

Staff reported a different value for the construction phase of 30 months. Even if the exposure duration is shortened to 30 months, the exposure in the community (based on the use of the ASFs and the age of the sensitive populations) would still exceed 10 in 1,000,000. Changing the FAH to the standard values does not take the risk below the significance threshold. (see table below).

Age Group	Risk Per Million	Age Sensitivity	FAH	ED	CPF	Dose Air	Cair	EF
3rd Trimester	4	10	0.85	0.25	1.1	1.23E-04	0.354	0.958904
0-1	49	10	0.85	1	1.1	3.70E-04	0.354	0.958904
1-2	49	10	0.85	1	1.1	3.70E-04	0.354	0.958904
2-3	2	3	0.72	0.25	1.1	1.94E-04	0.354	0.958904

Based on this analysis it is clear that even when the values critiqued by the City in my analysis of the risk are changed there will still be a significant risk to nearby residence from exposure to DPM from the construction phase of the Project.

Regardless of whether the Project is a stationary source regulated under the Toxic Hot Spots Program, the methodology outlined by the OEHHA for preparation of health risk assessments under the Toxic Hot Spots Program is utilized frequently by regulatory agencies throughout California in the preparation of CEQA compliant analyses. The example I previously provided included the use of ASFs in the Norwalk Entertainment District Specific Plan. In its 2022 construction activities HRA, the City of Norwalk specifically used the ASFs consistent with the OEHHA Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments and the SCAQMD's Risk Assessment Procedures for Rules 1401, 1401.1, and 212 to ensure that the health impacts from construction activities would assess risks for susceptible subpopulations such as children.

3. Conclusion

The facts identified and referenced in this letter lead me to reasonably conclude that the Staff's Report has not addressed the well-supported concerns regarding the exposure of residents near the Project to toxic air contaminants that will result in significant impacts if allowed to proceed.

Sincerely,

A handwritten signature in black ink, appearing to read "J. J. Corra", is written above the word "Sincerely,".

November 12, 2024

Page 7

Exhibit B

BURTT ENGINEERING

120 Village Square #150, Orinda CA. 94563

DIRECT 925-528-8081

November 11, 2024

Fire Flow / Fire Response Engineering Opinion Letter

Dear Ms. Federman:

Per your request, I have reviewed the Violet Street Office Campus Project (the "Project") and the Environmental Impact Report (the "EIR") relative to the fire flow and response distance requirements of the Project in the City of Los Angeles (the "City"). The EIR includes the Draft Environmental Impact Report (the "Draft EIR") and the Final Environmental Impact Report (the "Final EIR"). The Project represents a unique and unusual construction development with significant fire water demand under California Code of Regulations and City of Los Angeles Municipal Code (LAMC). Overall, there are several outstanding items within the Project documentation that appear to require further consideration in accordance with the provided Los Angeles Fire Department (LAFD) requirements, California Code of Regulations, LAMC, and the EIR to ensure that the minimum standards of fire hazard safety are maintained for the Project.

Required Fire Flow Availability

The EIR states that at least 12,000 GPM of water shall be required for the Project's fire flow in accordance with the LAFD correspondence. Page 3 of Appendix J: *Los Angeles Fire Department Letter* of the Draft EIR states: "the required fire-flow for this project has been set at **12,000 G.P.M. available to any block (where local conditions indicate that consideration must be given to simultaneous fires, [an] additional 2,000 to 8,000 G.P.M. will be required).**" Based on information provided throughout the report, there is no substantial evidence that existing infrastructure can provide the required fire flow for the Project. Page 1 of the Appendix K: *Water Utility Technical Report* confirms that at least "400 feet of water main in 7th Place would be required to be upgraded... resulting in...construction-related impacts". Page IV.G.1-22 of the Draft EIR reiterates "the Project Site does not currently have adequate fire flow to demonstrate compliance with LAMC Section 57.507.3", and will require infrastructure improvements to comply with LAMC Section 57.507.3. This provides substantial evidence that infrastructure improvements are required for the Project.

Furthermore, there is substantial evidence that additional infrastructure improvements beyond those noted in the EIR may be required, and there is not substantial evidence that the water main infrastructure improvements noted in the EIR will provide adequate fire flow for the Project. Page IV.J.1-31 of the Draft EIR state that the LADWP outlines that "the Project would be required to upgrade 400 feet of water main in 7th Place to 12-inch ductile main which would provide the adequate [fire] flow". However, the IFFAR and documentation provided in the EIR by LADWP does not appear to provide any substantial evidence or analysis to confirm that 400 feet of water main upgrade are sufficient. The IFFAR dated February 26, 2024 only provides substantial evidence that the existing

Additionally, there is substantial evidence that additional infrastructure improvements beyond those noted in the EIR are likely required. Page IV.G.1-22 of the Draft EIR states “the Project Site does not currently have adequate fire flow to demonstrate compliance with LAMC Section 57.507.3”, and will require infrastructure improvements to comply with LAMC Section 57.507.3. LAMC Table 57.507.3.1, correspondence with LAFD (Appendix J), and the Los Angeles Zone Information and Map Access System (ZIMAS) indicate that the Project would be considered “High Density Industrial and Commercial”. In accordance with LAMC Table 57.507.3.2, to achieve required fire flow, fire hydrants adjacent to the Project shall be spaced no greater than 300 feet apart, and shall be of type 4-inch x 4-inch double fire hydrants.

In accordance with the Appendix C – *Water System Maps* within Appendix K: *Water Utility Technical Report*, it appears that the fire hydrants at the Project site exceed maximum spacing requirements (Figure 1). Therefore, there is substantial evidence that additional infrastructure improvements may be required, including the installation of up to 6-10 additional hydrants throughout the community directly adjacent to the Project site and the replacement of existing hydrant infrastructure with 4-inch x 4-inch double fire hydrants to meet LAMC hydrant type and spacing requirements for the Project.

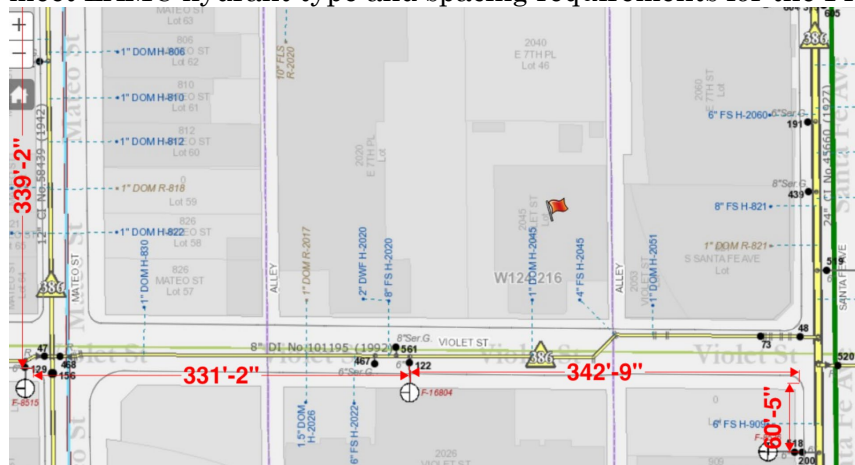


Figure 1. Appendix C – Water System Map within Appendix K: Water Utility Technical Report. Fire hydrant spacing exceeding 300 feet between hydrants.

Page IV.G.1-23 of the Draft EIR also states that “in accordance with LAFD Regulation No. 10 Option 2, the Project will incorporate a fire sprinkler suppression system to reduce or eliminate the public hydrant demands... subject to LAFD review and approval.” However, LAMC Section 57.507.3 does not provide for modification or reduction of fire flow when fire sprinkler systems are present. LAMC Section 57.507.3 requires the minimum fire flow to be provided, regardless of fire sprinkler installation. Furthermore, fire flow and fire hydrant requirements are required in accordance with the California Fire Code (CFC) and LAMC.

Fire sprinkler requirements (NFPA 13) and standpipe requirements (NFPA 14) are separate from fire flow requirements, and do not limit the fire flow requirements. Additionally, LAFD Regulation No. 10 Option 2 as referenced applies only to Emergency Helicopter Landing Facilities. A minimum fire flow of 12,000 GPM is required for the Project in accordance with the review and written guidance provided by LAFD. The existing fire flow infrastructure for the Project does not meet minimum fire flow requirements as provided by the LAFD, and appears to not meet maximum hydrant spacing requirements.

Potential Infrastructure Upgrades / Requirements

The EIR and evidence provided suggests that the Project water main infrastructure will require substantial and extensive improvement to provide the minimum required fire flow of 12,000 GPM and the maximum hydrant spacing of 300 feet in all areas adjacent to the Project site. In accordance with the IFFAR provided by the LADWP, the fire flow supply for the site appears to be approximately 11,450 GPM. This is approximately 550 GPM below the required fire flow for the site. While 400 feet of infrastructure improvement is suggested within the EIR, no substantial evidence or secondary IFFAR has been provided confirming that 400 feet of infrastructure improvement would be sufficient to achieve 12,000 GPM of fire flow (an additional 550 GPM for the Project). At least several thousand feet of additional water main upgrades may be required.

Furthermore, in accordance with LAMC Table 57.507.3.2, to achieve required fire flow fire hydrant spacing adjacent to the Project, hydrants shall be spaced no greater than 300 feet apart, and shall be of type 4-inch x 4-inch double fire hydrants. This will likely require an additional 6-10 hydrants be installed throughout the community directly adjacent to the Project site to meet minimum required hydrant spacing for the Project. Installation of the hydrants would require approximately 300 to 400 feet of additional trenching, with significant impacts to traffic, local pedestrians and vehicles, and require street excavation and subsequent repair to access water mains. Additional hydrants and infrastructure upgrades are anticipated to be required along Violet Street, S Santa Fe Avenue, Mateo Street, 7th Street, and E 7th Street. Once additional hydrants are added, additional analysis should be provided to confirm the most demanding fire flow scenario. Hydrants spaced closer together in accordance with the requirements of LAMC Table 57.507.3.2 will likely significantly increase the water supply demand on the existing infrastructure along Violet Street, S Santa Fe Avenue, Mateo Street, 7th Street, and E 7th Street as each water main will supply more hydrants. Given that existing infrastructure does not meet minimum fire flow requirements, once fire hydrants are added to meet spacing requirements, it is highly likely that significant infrastructure improvements would likely be required throughout the area around the Project to provide minimum required fire flow. While additional study is needed to determine the full extent of the improvements required for this specific project, this may include infrastructure upgrades of several thousand feet of water main along Violet Street, Mateo Street, and/or 7th Street.

Such improvements would have significant impacts to traffic, local pedestrians and vehicles, and require street excavation and subsequent repair to access water mains. Excavation would require demolition, disruption, and removal of portions of the street along the entire length of water main upgrade, including removal asphalt, soils, and trench backfill materials. New, upsized piping would likely be required, along with new trench

backfill, soil, compaction, and new street asphalt work along the entire length of work. Traffic control would be required for the duration of the infrastructure improvement project, with careful protection and control to prevent congestion or accidents due to street lane closures. We would suggest further investigation, calculations, and review of the required infrastructure upgrades and severity of the impacts that would occur from construction and installation of the upgrades to achieve the minimum necessary fire flow for the Project.

Conclusion

Fire flow is a critical piece of infrastructure that represents the minimum required amount of water needed during an emergency fire event to safely assist with extinguishing a fire and achieving public safety. The minimum fire flow for the Project is required to be 12,000 GPM in accordance with the LAFD and the City of Los Angeles Municipal Code, and is critical to public safety. Inadequate fire flow can result in a hazard and danger to public safety, occupant safety, firefighter safety, and the safety of adjoining properties and the community. If inadequate fire flow is present, significant hazards that may arise including, but not limited to:

- Increased Fire Severity: Deficiencies in available firefighter water may result in the potential for extended fire growth and fire spread as less water is available to suppress the fire, posing an immediate threat to the safety of occupants and neighboring properties.
- Limited Firefighting Capabilities: Firefighters rely on adequate fire flow to combat fires. Deficit fire flow may hinder firefighting efforts to contain and extinguish fires promptly.
- Increased Loss of Life and Property: Inadequate fire flow may result in decreased effectiveness of firefighting efforts, increasing the risk of loss of life and property in the event of a fire emergency.
- Increased Risk of Fire Spread: Inadequate fire flow may increase the likelihood of fire spreading to adjacent properties, increasing fire risks for the area and community.

The Project EIR clearly states that at least 12,000 GPM of water shall be required for the Project's fire flow in accordance with the LAFD correspondence. Page 3 of Appendix J: *Los Angeles Fire Department Letter* of the Draft EIR states: "the required fire-flow for this project has been set at **12,000 G.P.M. available to any block**". The Project IFFAR and Page IV.J.1-31 of the Draft EIR state that the Project existing infrastructure can provide up to 11,450 GPM, before additional hydrants are added to meet hydrant spacing requirements. However, there is no evidence provided indicating that the Project's existing infrastructure can provide 12,000 GPM of fire flow. Furthermore, once additional hydrants are added throughout the surrounding neighborhood to provide the minimum safe hydrant spacing in accordance with LAMC Table 57.507.3.2, it is highly likely that the water supply demand on the existing infrastructure along Violet Street, S Santa Fe Avenue, Mateo Street, 7th Street, and E 7th Street will significantly increase as each water main will supply more hydrants. To achieve the additional fire flow required to the project site, it is likely that at least a thousand to several thousands of linear feet of water main would require upgrade.

Sincerely,

Robert E. Burt, P.E., *Fire Protection Engineer*



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VIA EMAIL

November 8, 2024

Monique Lawshe, President
And Honorable Commissioners
Los Angeles City Planning Commission
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**Re: Appeal Comment for the California Environmental Quality Act Class 32
Categorical Exemption for the 638 South Berendo Street Project (Case Nos.: DIR-
2023-4545-TOC-SPR-VHCA-1A; ENV-2023-4546-CE)**

Dear Honorable Members of the Los Angeles City Planning Commission and Mr. Woon:

This comment is submitted on behalf of Supporters Alliance for Environmental Responsibility ("SAFER") and its members living or working in the City of Los Angeles ("City"), in support of SAFER's appeal of the Planning Director's August 16, 2024 determination that the California Environmental Quality Act ("CEQA") Class 32 Categorical Exemption ("Infill Exemption" or "Exemption") applies to the 638 South Berendo Street Project (DIR-2023-4545-TOC-SPR-VHCA-1A; ENV-2023-4546-CE) ("Project"). The Project proposes the construction and use of a new eight-story residential building with 163 dwelling units, one ground-level of parking, and one subterranean level of parking, located at 638 South Berendo Street, Los Angeles, CA 90005.

After reviewing the Director's Determination ("Determination") and the City's Class 32 Categorical Exemption Report ("Report") prepared for the Project, we conclude that the Project does not qualify for CEQA's Infill Exemption because it will have significant adverse impacts on air quality, indoor air quality, noise, and historical resources. The City therefore cannot rely on the Exemption because (1) the Exemption does not apply on its face, (2) the Unusual Circumstances Exception to the Exemption applies, and (3) the Historical Resources Exception to the Exemption applies.

SAFER's review of the Project has been assisted by expert environmental engineers Patrick Sutton, P.E., and Yilin Tian of Baseline Environmental Consulting ("Baseline"); indoor air quality expert Francis Offermann, P.E., C.I.H.; and expert architectural historian Michael Corbett. Baseline's comment and CV are attached as Exhibit A and are incorporated herein by

reference in their entirety. Mr. Offermann's comment and CV are attached as Exhibit B and are incorporated herein by reference in their entirety. Mr. Corbett's comment and CV are attached as Exhibit C and are incorporated herein by reference in their entirety.

For the reasons discussed below, the Project does not qualify for CEQA's Infill Exemption. Instead, the Project requires CEQA review to examine its effects on historical resources, and an initial study to determine the appropriate level of CEQA review for the air quality, indoor air quality, and noise impacts before approval, whether an EIR or a mitigated negative declaration ("MND"). SAFER thus respectfully requests that the Planning Commission grant SAFER's appeal and find that the CEQA Infill Exemption does not apply to the Project.

I. PROJECT DESCRIPTION

The Project involves the demolition of an existing surface parking lot and the construction, use, and maintenance of a 99.75-foot-tall, eight-story residential building with a total combined floor area of 86,700 square feet. It will have 163 studio apartment dwelling units, 18 of which will be reserved for Extremely Low Income Households. The Project would also contain at least 12,225 total square feet of open space, including private balconies, two recreation rooms, a second-floor courtyard, and an eighth-floor terrace. Additionally, the Project will have two parking levels, one ground-floor and one subterranean, that together would provide 39 parking spaces and 118 bicycle parking spaces.

The Project site will occupy 36,066 square feet (1.99 acres) of buildable lot area. Its Assessor Parcel Numbers are 5502-026-021 and 5502-026-022. The site is located at 638-646 South Berendo Street and 3273-3289 West Wilshire Boulevard, in the City of Los Angeles. The site is bounded by South Berendo Street to the west, West Wilshire Boulevard to the south, a medical clinic and multi-story commercial-office building to the east, and a five-story residential building and surface parking lot to the north. Located in the urbanized mixed-use neighborhood of Wilshire Center-Koreatown, the site is surrounded by residential, commercial, community, and public facility uses. The site is also within the Wilshire Community Plan Area and is zoned R5P-2, C4-2, and C2-2, with a corresponding General Plan Land Use Designation of Regional Center Commercial.

The site is currently developed with a 15,119-square-foot surface parking lot in the northern portion, and a 33,057-square-foot historic commercial building, the Roseberry Building ("Building"), in the southern portion. While the parking lot would be demolished, the Building would be retained, but the Project would alter the Building's utilitarian rear façade. The Project would also remove two existing non-protected street trees and plant 41 trees on-site.

II. LEGAL STANDARD

CEQA mandates that "the long-term protection of the environment . . . shall be the guiding criterion in public decisions" throughout California. (Pub. Res. Code § 21001(d) ["PRC"].) 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 Cal. Code Regs. § 15378(a) [“CCR”].) CEQA requires environmental factors to be considered at the “earliest possible stage . . . before [the project] gains irreversible momentum,” (*Bozung v. Loc. Agency Formation Com.* (1975) 13 Cal. 3d 263, 284), “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 [“Hollywoodland”].) First, if a project falls into an exempt category, or if 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 environmental effect, then the agency must perform an initial threshold study. (14 CCR § 15002(k)(2).) Third, if the initial study indicates that there is no substantial evidence that the project may have a significant environmental effect (*id.*), then a mitigated negative declaration (“MND”) is required, but if the initial study shows that the project may have a significant environmental effect, then an environmental impact report (“EIR”) is required. (14 CCR § 15002(k)(3).) Here, because the City exempted the Project from CEQA entirely, the first step of the CEQA process applies.

CEQA identifies certain classes of projects as exempt from CEQA’s provisions. 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.’ [Citations.]” (*Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 125.) The determination as to the appropriate scope of a categorical exemption is a question of law subject to independent, or de novo, review. (*San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.*, (2006) 139 Cal. App. 4th 1356, 1375 [“[Q]uestions of interpretation or application of the requirements of CEQA are matters of law. [Citations.] Thus, for example, interpreting the scope of a CEQA exemption presents ‘a question of law, subject to de novo review by this court.’”].) Here, the City has recommended that the Project is categorically exempt from CEQA’s requirements pursuant to the Class 32 Exemption, or “Infill Exemption.” (14 CCR § 15332.)

Under CEQA’s Infill Exemption, a project is exempt from CEQA’s requirements 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 [emph. added].) 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”].) Agencies 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.

III. DISCUSSION

A. CEQA’s Infill Exemption does not apply on its face to the Project and thus a full CEQA analysis is required.

The City relies on the CEQA Infill Exemption for the Project. However, the Exemption does not apply on its face if the project will have any significant effects related to traffic, noise, air quality, or water quality. (14 CCR § 15332(d).) Here, the Exemption does not apply to the Project on its face because the Project will have significant adverse impacts on air quality, indoor air quality, and noise. Therefore, the City must prepare an initial study to determine the proper level of CEQA review for these impacts before approval, whether an EIR or an MND.

1. The Project will have significant adverse effects related to air quality health risks, precluding reliance on the Infill Exemption.

Expert environmental engineers Patrick Sutton, P.E., and Yilin Tian from Baseline Environmental Consulting (“Baseline”) have reviewed the Project’s air quality analysis, finding that the Project will create significant air quality health risks that the Project’s Categorical Exemption Report (“Report”) failed to identify. Baseline’s expert comments constitute substantial evidence of the Project’s adverse air quality impacts. The CEQA Infill Exemption does not apply if a project results in significant air quality effects. (14 CCR § 15332(d).) Thus, the Exemption is not allowed.

Baseline concluded that the Project will pose significant health risks from the cancer-causing diesel particulate matter (“DPM”) emitted during the Project’s construction. (Ex. A at 1.) The California Air Resources Board (“CARB”) has identified DPM as a toxic air contaminant (“TAC”), due to its carcinogenic nature. (*Id.*) According to the Report’s air quality analysis, the exhaust from the off-road diesel equipment used during Project construction would generate DPM emissions. (*Id.* at 1, 4.) The Project site is within 80 to 160 feet of nearby residential apartments, where sensitive receptors, such as infants and children, would be exposed to these emissions. (*Id.* at 2, 4.) However, the Report failed to provide a quantitative assessment of the health risks the receptors would face from exposure to the DPM emissions. (*Id.* at 2.) Instead, the Report merely provided a qualitative analysis, concluding without substantial evidence that the

Project would not expose sensitive receptors to significant DPM concentrations. (*Id.* at 2-3.)

Baseline thus performed a quantitative health risk assessment (“HRA”) to measure the cancer risk for the closest sensitive receptors to be exposed to the DPM emissions from Project construction. (*Id.* at 4.) For the HRA, Baseline used the U.S. Environmental Protection Agency’s AERMOD air dispersion model to assess the annual average DPM concentrations around the Project site. (*Id.* at 4.) Additionally, Baseline used the Report’s own calculations of the exhaust DPM emitted from the off-road diesel construction equipment the Project will use. (*Id.*) In particular, the HRA evaluated the incremental increase in cancer risk from exposure to the Project’s DPM emissions for the maximally exposed individual resident (“MEIR”), or infants located in the apartment building only 80 feet north of the Project site and exposed to DPM starting from the third trimester of pregnancy until age two during the Project’s 27-month construction period. (*Id.* at 5.) This exposure scenario represents the most sensitive individual who could be exposed to adverse air quality conditions at the Project site. (*Id.* at 5.)

From its HRA, Baseline found that emissions of less than one pound of DPM per day would result in substantial pollutant concentrations in nearby sensitive receptors. (*Id.* at 3.) During the Project’s 27-month construction period, the estimated cancer risk from exposure to the Project’s unmitigated DPM emissions will be about 49 per million for the MEIR. (*Id.* at 5.) This far exceeds the cancer risk threshold of 10 per million for the South Coast Air Quality Management District (“SCAQMD”). (*Id.*) Therefore, Baseline concluded that “project construction would expose sensitive receptors to substantial pollutant concentrations and the air quality impact would be significant.” (*Id.*)

2. The Project will pose significant health risks from indoor air quality impacts, precluding reliance on the Infill Exemption.

Certified industrial hygienist, Francis Offermann, P.E., C.I.H., has reviewed the Project, the Director’s Determination, and other documents regarding the Project’s indoor air emissions. These documents provide no analysis of the Project’s indoor air quality impacts. Mr. Offermann concludes that the Project will expose its future residents to significant health impacts related to indoor air quality, particularly emissions of the carcinogenic chemical formaldehyde. Mr. Offermann is a leading expert on indoor air quality and has published extensively on the topic.

Mr. Offermann explains that many composite wood products used in building materials commonly found in residences contain formaldehyde-based glues which release formaldehyde gas over a very long period of time. He states, “The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and 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. B at 2-3.)

Formaldehyde is a known human carcinogen, classified by the State as a TAC. The SCAQMD has established a CEQA significance threshold for airborne cancer risk of 10 per

million. Mr. Offermann found that future Project occupants may be exposed to a cancer risk from formaldehyde emissions of about 120 per million for residents, even assuming that all materials comply with the CARB's formaldehyde airborne toxics control measure. (*Id.* at 4-5.) This exceeds the SCAQMD's CEQA significance threshold for airborne cancer risk. (*Id.* at 2.)

Mr. Offermann concludes that the Project will have significant environmental impacts that must be analyzed in an EIR or MND and mitigation measures must be imposed to reduce the raised cancer risk. (*Id.* at 12-13.) Mr. Offermann prescribes a methodology for estimating the Project's formaldehyde emissions for a more project-specific health risk assessment. (*Id.* at 6-10.) He also identifies feasible several mitigation measures to decrease the significant health risks, like installing air ventilation systems and requiring the use of composite wood materials only for all interior finish systems that are made with CARB-approved no-added formaldehyde ("NAF") resins or ultra-low emitting formaldehyde ("ULEF") resins. (*Id.* at 12-14.)

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 has shown the importance an air district significance threshold has 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 shows 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.)

The City's failure 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 ("CBIA"). The Court held in CBIA that CEQA does not generally require lead agencies to analyze the impacts of adjacent environmental conditions on a project. (*Id.* at 800-01.) However, to the extent that a project may exacerbate existing environmental conditions at or near a project site, those effects would still have to be considered pursuant to CEQA. (*Id.* at 801 ["CEQA calls upon an agency to evaluate existing conditions in order to assess whether a project could exacerbate hazards that are already present"].) In so holding, the Court expressly held that CEQA's statutory language requires 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 Mr. Offermann has identified are not an existing environmental condition. Those emissions will be from the Project. Residential tenants will be the Project's users. Currently, there is presumably little to no formaldehyde emissions at the site. Once built, the Project will start emitting formaldehyde at levels posing significant direct and cumulative health risks to the Project's users. The California Supreme Court in *CBIA* expressly found that this air emission and health impact from the Project on the environment and a "project's users and residents" must be addressed under CEQA.

The California 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.'" (*CBIA*, 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.*, citing *e.g.*, §§ 21000, subds. (b), (c), (d), (g), 21001, subds. (b), (d).) It goes without saying that the Project's future residents are humans, and their health and safety 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 Project will have significant effects on indoor air quality and health risks by emitting formaldehyde that will expose future residents to cancer risks exceeding SCAQMD's significance threshold for cancer risk of 10 per million. In light of this impact and the City's lack of any evidence to the contrary, the Project does not qualify for the Infill Exemption and must undergo CEQA review before approval.

3. The Project will have significant adverse impacts on noise levels, precluding reliance on the Infill Exemption.

Baseline also reviewed the Project's noise and vibration analyses, concluding that the Project will generate significant noise impacts related to construction. Baseline's expert comments constitute substantial evidence of the Project's significant noise impacts, thereby disqualifying the Project from the Infill Exemption.

Baseline modeled the Project's construction noise levels at adjacent noise-sensitive receptors along the western side of the language school and the medical building next to the Project site, where the potential noise impacts would be the greatest. (Ex. A at 5.) After conducting this modeling and reviewing the construction noise level contour map from the Report's noise analysis, Baseline found that the Project's construction activities will generate noise levels ranging from 65 to 80 dBA along the western side of the neighboring buildings. (*Id.* at 6.) According to the Report, the existing ambient noise level along the western side of the neighboring buildings is about 61.3 dBA. (*Id.*) Hence, the modeled construction noise levels at

noise-sensitive receptors on the western side of the adjacent buildings would be at least 5 dBA higher than the existing ambient noise level. (*Id.*)

According to the City’s 2006 *L.A. CEQA Thresholds Guide*, a project has significant impacts on noise levels from construction if the construction activities, lasting more than ten days in a three-month period, would exceed existing ambient exterior noise levels by at least 5 dBA (hourly Leq) at a noise-sensitive receptor. (*Id.* at 7.) Here, for about 27 months of construction, the modeled construction noise levels along the western side of the language school and medical building would be at least 5 dBA higher than the existing ambient noise level at these sensitive receptors. (*Id.*; Categorical Exemption Report at 2-84.) Thus, “the project’s construction noise impact would be significant . . . [T]herefore, the project does not qualify for a Class 32 CE. As a result, Baseline recommends that the City of Los Angeles prepare a full CEQA analysis . . .” (Ex. A at 7.)

B. The Project does not qualify for CEQA’s Infill Exemption due to the Unusual Circumstances Exception.

The Unusual Circumstances Exception prohibits categorical exemptions where there is a “reasonable possibility” that a project will significantly impact the environment “due to unusual circumstances.” (14 CCR § 15300.2(c).) To determine whether this Exception applies, agencies use a two-part test. They first ask whether a project presents unusual circumstances. If it does, they then ask whether there is a reasonable possibility that a significant environmental effect will result from those unusual circumstances. (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1098 [“*Berkeley Hillside*”].) The California Supreme Court has held that “a party may establish an unusual circumstance with evidence that the project *will* have a significant environmental effect.” (*Id.* at 1105 [emph. added].) That evidence, if convincing, necessarily also establishes a reasonable possibility that the project will significantly affect the environment due to those unusual circumstances. (*Id.*)

As discussed above, we have submitted substantial evidence that the Project will have significant adverse environmental effects on air quality, indoor air quality, and noise levels. The fact that these impacts will occur constitutes an unusual circumstance, thereby precluding the City’s reliance on the Exemption.

C. The Project does not qualify for CEQA’s Infill Exemption due to the Historical Resources Exception.

CEQA and its Guidelines, codified in the California Code of Regulations, expressly prohibit reliance on any categorical exemptions where a project “*may* cause a substantial adverse change in the significance of a historical resource.” (PRC § 21084.1(e); 14 CCR § 15300.2(f) [emph. added].) The California Supreme Court held early on that the fair argument standard applies when CEQA uses the phrase “may have a significant environmental impact.” (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 7m5; *Friends of “B” St. v. City of Hayward* (1980) 106 Cal.App.3d 988, 1001.) Thus, in reviewing an agency’s decision to rely on a

categorical exemption, “the fair argument standard applies to the question whether the proposed project ‘may cause a substantial adverse change in the significance of a historical resource’ . . . and thereby have a significant effect on the environment.” (*Berkeley Hillside, supra*, 60 Cal.4th at 1117, quoting *Valley Advocates v. City of Fresno* (2008) 160 Cal.App.4th 1039, 1072).

Under the “fair argument standard,” an agency must prepare an EIR if substantial evidence shows that a project may have a significant environmental impact, even if there is substantial evidence to support a contrary conclusion. (*Architectural Heritage Assn. v. Cnty. of Monterey* (2004) 122 Cal.App.4th 1095, 1110 [“If such evidence is found, it cannot be overcome by substantial evidence to the contrary”]; 14 CCR § 15064(f).) The “fair argument” standard thereby sets an extremely “low threshold” for requiring an EIR. (*No Oil, Inc., supra*, 13 Cal.3d at 84.) Indeed, “if there is a disagreement among experts over the significance of an effect, the agency is to treat the effect as significant.” (*Sierra Club v. Cnty. of Sonoma* (1992) 6 Cal.App.4th 1307, 1317.)

1. There is a fair argument that the Project will have substantial adverse effects on a historical resource, thus precluding reliance on the Infill Exemption.

Expert architectural historian Michael Corbett has reviewed the Project’s 2024 historical resources analysis (“2024 Report”), the Historic Resources Group’s 2022 *Historic Resources Impacts Assessment Report* (“2022 Report”) prepared for an earlier version of the Project at the same site, and other relevant documents. He concluded that the 2024 Report’s analysis failed to recognize the Roseberry Building (“Building”) as a historic resource and that the Project will adversely impact the Building’s significance. Mr. Corbett’s expert comments constitute substantial evidence of the Project’s adverse impacts on a historic resource, thereby creating a fair argument that the Project will substantially affect a historic resource. The CEQA Infill Exemption does not apply if a project results in significant effects on a historic resource. (14 CCR § 15300.2(f).) Thus, the Exemption is not allowed.

i. There is a fair argument that the Roseberry Building is a historic resource.

Whereas the 2024 Report claims that the Roseberry Building is not a historic resource, Mr. Corbett found that the 2022 Report clearly established the Building as a historic resource. (Ex. C at 1-3.) The 2022 Report states that the Building is eligible for listing in the National Register of Historic Places and the California Register of Historical Resources and as a City of Los Angeles Historic-Cultural Monument, so “the Roseberry Building is therefore considered a historical resource.” (*Id.* at 3-4; Historic Resources Group 2022 at 61.) In particular, the 2022 Report found that the Building is historically significant for its association with the surge in commercial development along Wilshire Boulevard in the 1920s and 1930s. (Ex. C at 4.) Furthermore, the 2022 Report found that the Building is significant “as a rare and exceptional example of Churrigueresque style commercial architecture designed by master architects Morgan, Walls & Clements.” (*Id.*) For the current Project, the Historic Resources Group reaffirmed its conclusions from its 2022 evaluation in a memo. In addressing the Project’s effects on historic resources, including the Building, the memo states that “all other aspects of the

evaluation . . . remain valid.” (*Id.* at 5; Historic Resources Group 2023 at 2.) Thus, Mr. Corbett concluded that the Building is a historic resource for the purposes of CEQA. (Ex. C at 5.)

ii. There is a fair argument that some of the Roseberry Building’s elements increase its historical significance.

Mr. Corbett concluded that, for purposes of environmental review of the Project, the list of Character Defining Features for the Building should be amended to include the spaces inside the northern part of the Building that are lit by industrial steel sash windows. (*Id.* at 12.) He found that to label these windows as Character Defining Features but not the spaces behind them is “to divorce the windows from their function and to disregard the windows as highly significant elements of the building type.” (*Id.*) He also noted that, depending on its date of construction, an existing exterior stairway on the north side of the Building could constitute an additional Character Defining Feature, due to its distinct decorative iron details. (*Id.* at 2-3, 12-14.)

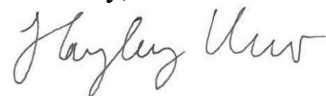
iii. There is a fair argument that the Project will adversely affect the Roseberry Building’s significance as a historical resource.

In the 2024 Report, the City proposes modifying the north side of the Building by blocking the industrial steel sash windows and removing the exterior stairway. (*Id.* at 13.) However, Mr. Corbett found that if the windows were blocked and the spaces behind them were altered, as the 2024 Report proposes, then the interior spaces would lose an essential quality because the spaces behind the windows are distinct features of the Building and are integral to its function and historical significance, thereby constituting an adverse effect on the Building. (*Id.* at 12, 14.) Likewise, pending additional review, removal of the exterior stairway with its unique decorative iron details would adversely affect the Building’s historical significance. (*Id.* at 13-14.) Therefore, due to its substantial impacts on the Building, “the Project would not be eligible for a categorical exemption.” (*Id.* at 15.)

IV. CONCLUSION

The City cannot rely on a CEQA Infill Exemption because the Project does not meet the terms of the Exemption, and the Unusual Circumstances and Historical Resources Exceptions to the Exemption applies. Instead, in accordance with CEQA, the City must prepare an Initial Study followed by either an MND or EIR to examine the Project’s effects on historical resources, air quality, indoor air quality, and noise impacts before approval. Therefore, SAFER respectfully requests that the Planning Commission grant SAFER’s appeal.

Sincerely,



Hayley Uno
LOZEAU DRURY LLP

DAY OF HEARING SUBMISSIONS

ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

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November 13, 2024

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Re: Agenda Item 6 & 7 Violet Street Creative Office Campus

On behalf of the CREED LA, we submit these supplemental comments on Agenda Item 6 CREED LA's Appeal of the City of Los Angeles ("City") Deputy Advisory Agency's ("DAA") 8/29/2024 approval of the Violet Street Creative Office Campus Project (VTT-83382-1A; ENV-2021-2232-EIR) ("Project") and Agenda Item 7 (CPC-2021-2231-GPA-VZC-HDVCU-ZV-SPR) for the 11/14/2024, City Planning Commission ("CPC") hearing.

CREED LA respectfully requests that, with respect to Agenda Item 6, the CPC uphold its appeal and vacate the DAA's certification of the EIR and adoption of CEQA Findings, Statement of Overriding Considerations, and Conditions of Approval, due to the EIR's errors and omissions requiring revision and recirculation. With respect to Agenda Item 7¹, the CPC cannot make the Findings, Recommendations, and Approvals of the Project's entitlements, including the General Plan Amendments, Vesting Zone Change and Height District Change, Vesting Conditional Use Permit, Zone Variance and Site Plan Review because the Project contravenes the General Plan and results in significant health and safety risk from diesel particulate matter impacts and fire safety impacts which must be analyzed and mitigated in a revised and recirculated EIR. Approval of the Project without recirculation of the EIR would violate the Municipal Code's mandate not to approve the Project's entitlements unless "an appropriate environmental review clearance has been prepared in accordance with the requirements of CEQA."²

Agenda Item 6. The City improperly segmented approval of the Project's CEQA document from its underlying entitlements. The DAA's 8/29/24 "certification" of the FEIR was premature and in violation of CEQA because the majority of the Project's entitlements

¹ Recommendation Report, Agenda Item 7. (Nov. 14, 2024) ("Staff Report: Agenda Item 7").

² LAMC Section 16.05(E)(4).

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November 13, 2024

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(General Plan Amendments, Vesting Zone Change and Height District Change, Vesting Conditional Use Permit, Zone Variance and Site Plan Review) have not yet been considered or approved by the City. California courts have firmly established that “environmental review is not supposed to be segregated from project approval,”³ and CEQA mandates that agencies refrain from certifying an EIR prior to full consideration of all aspects of a project.⁴ The DAA violated CEQA by certifying the EIR before project approval.

Agenda Item 7. The CPC cannot rely on the DAA’s premature certification of the EIR (Agenda Item 6) to thereafter utilize CEQA’s subsequent review standards (PRC § 21166) to approve the Project’s remaining entitlements. CEQA’s subsequent review standards apply to subsequent modifications to projects which were previously approved and for which an EIR was previously certified.⁵ These legal standards do not apply to projects which have not yet received their initial entitlement approvals. The Project has not yet received the initial entitlement approvals proposed for the Project in Agenda Item 7.⁶ The Project also requires additional entitlements to be considered by the City Council at a later date. Therefore, approval of the Project’s remaining entitlements is not subject to PRC § 21166. As the Court of Appeal has explained, there is “nothing in the text of [CEQA] or common law interpreting [CEQA]” suggesting that a project’s impact analysis or mitigation may be divided across different types of environmental review such that some impacts are analyzed in an EIR and others are analyzed in an addendum or another different CEQA document.⁷ That is precisely the error the CPC proposes to make here. Moreover, the DAA’s EIR certification was not final because it is appealable to the elected decision maker (City Council) pursuant to PRC § 21151(c) and the LAMC.⁸

Finally, the CPC cannot make the necessary findings to approve the remaining entitlements⁹ because the Project results in significant cancer risk from diesel particulate matter emissions to children and infants, which will significantly degrade public health and safety, and contravenes the General Plan.¹⁰ The Project’s Fire Code violation results in significant public safety impacts and results in nonconformance with General Plan policies.

/s/ Kelilah Federman

³ *California Clean Energy Committee v. City of San Jose* (2013) 220 Cal.App.4th 1325, 1341.

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

⁵ Pub. Res. Code, § 21166; CEQA Guidelines Sections 15162-15164.

⁶ This case is distinguishable from *Guerrero v. City of Los Angeles* (2024) 98 Cal.App.5th 1087. Here, the DAA’s EIR certification is subject to further appeal to the elected decisionmaker and is not final.

⁷ *Farmland Prot. Alliance v. Yolo* (Cal. Ct. App., 11/3/2021, No. C087688) 2021 WL 5103355, at *5.

⁸ Agency decision not final if it may be reviewed by appealing the decision to a higher administrative body. See *Sea and Sage Audubon Society, Inc. v. Plan. Comm. of City of Anaheim* (1983) 34 Cal.3d 412; *Alta Loma School Dist. V. San Bern. Comm. On Sch. Dist. Reorg.* (1981) 124 Cal. App. 3d 542.

⁹ Los Angeles Municipal Code §§ 13B.2.2(E)(1)(b)-(c); 13B.5.3(E)(d)-(e).

¹⁰ Letter from CREED LA to the City of Los Angeles Department of City Planning, Appeal of Vesting Tentative Tract No. 83382 for Violet Street Creative Office Campus Project (VTT-83382, ENV-2021-2232-EIR; SCH # 2021110015) (Nov. 12, 2024).

**DOWNTOWN LOS ANGELES
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November 29, 2023
Los Angeles Department of City Planning
Office of Zoning Administration, 7th Floor
200 North Spring Street
Los Angeles, California 90012

RE: Planning Case No: ENV-2021-2232-EIR; CPC-2021-2231-GPA-VZC-HD-VCU- ZV-SPR
Project Address: 2045 East Violet Street (2030 - 2060 East 7th Street; 715
- 829 East Santa Fe Avenue; 2016 - 2043 East 7th Place and 2017 - 2051
Violet Street, Los Angeles, California 90021)
Applicant: Jonathan Lonner, AI VIOLET B2, LLC

Project Description: Continued use and maintenance of the 244,795 square-foot Warner Music Group building and associated automobile parking garage. Construction of a new 13-story, 450,599 square-foot building featuring 435,100 square feet of office uses, 15,499 square-feet of ground floor retail, 20,418 square-feet of open space in balconies/roof decks for office use, 10,643 square-feet of shared deck area, and 42,957 square-feet of shared publicly accessible open space at the ground level. Parking is both underground and wrapped by the building in a 7-story structure that includes four below-grade levels, one at-grade and two above-grade levels.

Dear Zoning Administrator:

At our regularly held public meeting on November 14, 2023, the Board of Directors of the Downtown Los Angeles Neighborhood Council ("DLANC") voted to support the below request.

DLANC supports the Applicant's requests in Planning Case No. ENV-2021-2232-EIR; CPC-2021-2231-GPA-VZC-HD-VCU- ZV-SPR. DLANC support is conditioned on Applicant agreeing to the following stipulations for the project.

In DLANC's view, the information presented provides adequate justification for granting the Applicant's requests. *Subject to the conditions set forth below* and any additional conditions recommended by the LAPD or City Council, DLANC encourages the Los Angeles Department of City Planning to approve the Applicant's project.

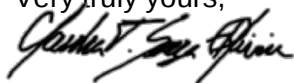
CONDITION 1: Applicant will maintain pedestrian access if the sidewalk is temporarily closed during construction.

November 29, 2023

- CONDITION 2: Applicant will ensure any temporary walkways covered due to construction (e.g., scaffolding) are well-lit at all hours.
- CONDITION 3: Storefronts of ground floor retail retain transparency at all times to allow for eyes on the street and pedestrian safety.
- CONDITION 4: Applicant includes a designated space for accommodating pet waste within the project to mitigate pet waste polluting public right of ways. If this is not feasible, a designated area should be provided in the public right away along with a specific plan for cleaning and maintenance.
- CONDITION 5: Applicant places architectural and security lighting on the west side of the building.
- CONDITION 6: Applicant work with DTOP regarding traffic patterns along vacated alley along 7th place.

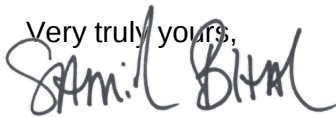
If possible, please send a digital copy of your decision letter via e-mail to planning@dlanc.com in lieu of a hard copy. Thank you in advance for your consideration of the comments presented in this Letter.

Very truly yours,



Claudia Oliveira
DLANC President

Very truly yours,



Samir Bitar
DLANC Planning & Land Use Committee Chair

CC: Gerald Gubatan (Council District 14) (via email)
Sgt. Mark Aceves, LAPD Central Division (via email)



- COMMUNITY IMPACT STATEMENT -

Summary:

At our meeting on November 6, 2024, the North Westwood Neighborhood Council voted to support the request for a subdivision for condominium purposes by the development located at 1361 Kelton Avenue in our district. The vote to support was approved with nine votes in favor, three votes against, and one abstention.

The Council thanks the applicant for the outreach to our community and Council stakeholders and Board Members. The applicant appeared before both our Planning and Land Use Committee and Governing Board and answered questions. The construction of the building is in progress. Our Council supports more opportunities for homeownership in the area and sees no reason to stand in the way of a responsive property owner's plan to do just that.

Written by authority delegated under the Council bylaws and Community Impact Statement filer designation

City Planning Case Number: [VTT-84622-CN-HCA](#)

Title: A VTT Map for 15 Residential Condominiums in Conj. w./ a Development Previously Approved via DIR-2017-2639-DRB-SPP-SPPA Located in the Westwood Community DRB SP Zoned [Q]R4-1L

Position: For

City Planning Case Number: [ENV-2024-5844-CE](#)

Title: A VTT Map for 15 Residential Condominiums in Conj. w./ a Development Previously Approved via DIR-2017-2639-DRB-SPP-SPPA Located in the Westwood Community DRB SP Zoned [Q]R4-1L

Position: For

City Planning Case Number: [DIR-2017-2639-DRB-SPP-SPPA](#)

Title: 15 UNIT, 5 STORY APARTMENT RENTAL PROJECT OVER 2 LEVELS OF SUBTERRANEAN PARKING GARAGE

Position: Neutral

City Planning Case Number: [ENV-2017-2640-CE](#)

Title: 15 UNIT, 5 STORY APARTMENT RENTAL PROJECT OVER 2 LEVELS OF SUBTERRANEAN PARKING GARAGE

Position: Neutral

City Planning Case Number: [ZA-2018-1717-ZAA](#)

Title: 15 UNIT, 5 STORY APARTMENT RENTAL PROJECT OVER 2 LEVELS OF SUBTERRANEAN PARKING GARAGE

Position: Neutral

Craig Lawson & Co., LLC

Land Use Consultants

November 13, 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 – 638 Berendo Project
Case Nos.: DIR-2023-4545-TOC-SPR-VHCA; ENV-2023-4546-CE
November 14, 2024, Planning Commission Hearing, Agenda Item No. 10

Honorable Members of the Planning Commission:

We write on behalf of 3275 Wilshire LP (“Applicant”), applicant for the 638 Berendo Project, a proposed seven story residential development (“Project”) located at 638 S. Berendo St. (“Property”) in the Wilshire Community Plan Area. The Project provides 163 new residential units including 18 affordable units at the Extremely Low Income level. The Project is located in a “Tier 4” transit priority area a vacant parking lot with a high-quality new residential development.

The Project was approved by the Director of Planning via a Director’s Determination dated August 16, 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 August 30, 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 is its custom, less than a week before the scheduled November 14th appeal hearing before the Commission, on November 8, 2024, SAFER submitted a supplemental letter that included a total of 66 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 explained in the separate submissions from our technical team.

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 August 30, 2024, 14 days after the August 16, 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.

Three months later, on November 8, 2024, six days before the scheduled Appeal hearing, SAFER submitted the SAFER Letter, setting forth 64 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.

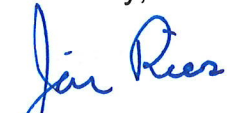
Because the SAFER Letter came well over 15 days after the Director's final decision, it is untimely under the LAMC and thus should not be considered by the Commission to support the Appeal. (See, e.g., *Sea & Sage Audubon Society, Inc. v. Planning Com.* (1983) 34 Cal.3d 412, 416 [A city is well within 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 stated in the separate memoranda by the Project's technical team, however, the late submitted SAFER Letter is also substantively invalid.

I. Conclusion: The Appeal Should be Denied.

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

Sincerely,



Jim Ries
Partner



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Chatsworth, CA 91311
Phone 310-469-6700

November 13, 2024

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

Responses to Administrative Appeal re: 638 Berendo Project (Project) Case Nos.: DIR-2023-4545-TOC-SPR-VHCA; ENV-2023-4546-CE; 11/14/24 Planning Commission Hearing, Item No. 10.

We write in response to the appeal (Appeal) dated August 30, 2024, submitted by appellant Supporters Alliance for Environmental Responsibility (SAFER) prepared by Lozeau Drury (Appellant), challenging the Director of Planning's (Director) issuance of a Site Plan Review Approval in case No. DIR-2023-4545-TOC-SPR-VHCA (Approval) and the related adoption of a Categorical Exemption (CE) in Case No. ENV-2023-4546-CE for a new proposed 163-unit, seven-story residential development (Project) pursuant to the California Environmental Quality Act (CEQA).

While the Appeal purports to challenge the Project's Site Plan Review approval, it only addresses CEQA issues and only makes the same generic arguments SAFER makes for all of the dozens of appeals it has filed in the City that do not address the Project or the CE. The Appeal, in fact, lacks any evidence whatsoever in support of its generalized claims of CEQA violations.

On November 8, 2024 – less than a week before the scheduled hearing on the Appeal – the Appellant submitted a new letter that, with attachments, is 66 pages in total (Appellant Letter). The Appellant Letter does not address the Site Plan Review approval but instead raises a variety of new CEQA issues and arguments that were not addressed the August 30th Appeal. The fatal flaws in the Appeal Letter related to Air Quality, Noise and Historic Resource issues are addressed in the separate submittals by DKA Planning and Historic Resources Group. We write to address two specific issues raised in the Appeal Letter: the alleged requirements for the Project to prepare a Health Risk Assessment (HRA) and to analyze indoor air impacts from alleged formaldehyde gas released by building materials and furniture.

The Appellant Letter claims the City was required to prepare an HRA for the Project due to alleged diesel particulate matter (DPM) emissions. This claim fails for several reasons. First, the Appellant Letter again ignores the extensive analysis of the Project's construction and operational DPM emissions in the July 2024 CE prepared by CAJA that determines that human health impacts from potential emissions of DPM emissions are less than significant based on substantial evidence.¹ Thus, the Appellant Letter yet again fails to meet its burden for this reason, alone.²

While the specific flaws in the HRA provided with the Appellant Letter are addressed by DKA Planning, we note that the claim that an HRA was required here by any applicable regulation is false. The Department of City Planning relies on methodologies established by the regional expert air quality agency, the South Coast Air Quality Management District (SCAQMD), for preparation of CEQA air quality analyses. SCAQMD

¹ See CE, at pp. 2-69 through 2-85

² Defend the Bay, 119 Cal.App.4th at 1266.

published the CEQA Air Quality Handbook in November 1993 to assist lead agencies, as well as consultants, project proponents, and other interested parties, in evaluating potential air quality impacts of projects proposed in the region. The SCAQMD CEQA Handbook does not recommend analysis of toxic air contaminants (TACs) from short-term construction activities. Rather, as stated in the CE:

*SCAQMD recommends that health risk assessments be conducted for substantial sources of diesel particulate emissions (e.g., truck stops and warehouse distribution facilities) and has provided guidance for analyzing mobile source diesel emissions. The Project would not generate a substantial number of truck trips. Based on the limited activity of TAC sources, the Project would not warrant the need for a health risk assessment associated with on-site activities.*³

The Appellant Letter also misrepresents the Office of Environmental Health Hazards Assessment (OEHHA) requirements under AB 2588, the Air Toxic Hot Spots Program. AB 2588 only applies to “facilities” as defined in Health and Safety Code Section 44322(a), which the state has determined applies to industrial facilities requiring operational air permits that use, manufacture, formulate, or release certain listed hazardous substances. Covered facilities do not include residential developments, which are not regulated under the Toxic Hot Spots Program. Notably, the OEHHA Guidelines assess cancer risks over 30-year exposures and do not mandate analysis for “short-term” projects even under the Toxic Hot Spots Program. Thus, the OEHHA Guidelines do not apply here, where the only DPM emissions would occur during a few months of construction activities as part of the Project. SCAQMD only requires quantitative HRAs to be prepared for substantial mobile sources of DPM emissions, including truck stops and warehouse distribution facilities that generate more than 100 trucks per day or more than 40 trucks with operating transport refrigeration units.⁴ SCAQMD’s AB 2588 Supplemental Guidelines for Preparing Risk Assessments for the Air Toxics Hot Spots Information and Assessment Act only applies to permitted industrial facilities and does not address so called “short term” projects.⁵

SCAQMD Rule 1402, which implements the Toxic Hot Spots Program in the region, only applies to facilities with one or more AQMD permit to operate that the Project is not required to obtain and does not require analysis of short-term TAC or DPM emissions. Thus, the comment’s assertion that a quantitative HRA is required for the Project is incorrect, as no agency has recognized multi-family residential development as a significant source of toxic air emissions requiring quantitative HRAs. As Project construction activities would vary throughout the site and would be short-term during only one brief portion of onsite construction activities, stationary source rules would not be appropriate for assessing impacts associated with DPM emissions, and an HRA is not required.

Thank you for your consideration.

Sincerely,

Kerrie Nicholson

Kerrie Nicholson, Principal

³ CE, at p. 2-74 (citing South Coast Air Quality Management District, Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Emissions, December 2002.)

⁴ SCAQMD, *Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis*, 2002, found at <http://www.aqmd.gov/home/rules-compliance/ceqa/air-quality-analysis-handbook/mobile-source-toxics-analysis> last accessed Nov. 14, 2022.

⁵ SCAQMD, *AB 2588 and Rule 1402 Supplemental Guidelines (Supplemental Guidelines for Preparing Risk Assessments for the Air Toxics Hot Spots Information and Assessment Act)*, October 2020, found at <http://www.aqmd.gov/docs/default-source/planning/risk-assessment/ab-2588-supplemental-guidelines.pdf>, last accessed Nov. 14, 2022.



Nov 13, 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 638 South Berendo Street;
DIR-2023-4545-TOC-SPR-VHCA-1A**

By email: cpc@lacity.org

Cc: David Woon, Planning Assistant, david.woon@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 163-unit housing development project at 638 South Berendo Street, which includes 18 units for very low-income households. These laws include the Housing Accountability Act ("HAA") and California Environmental Quality Act ("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 render the project infeasible 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. The Commission must therefore approve the project unless it makes written findings regarding health and safety as mentioned above – which it cannot do since the preponderance of the evidence in the record does not support such findings. (*Id.* at subd. (j).)

Additionally, the project is exempt from state environmental review under the Class 32 CEQA categorical exemption (In-Fill Development Projects) pursuant to § 15332 of the CEQA Guidelines, as the project is consistent with the applicable general plan designation and all applicable general plan policies as well as the applicable zoning designation and

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www.calhdf.org**

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 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. And recent caselaw from the California Court of Appeal affirms 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.)

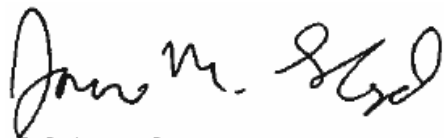
As you are well aware, California remains in the throes of a statewide crisis-level housing shortage. New housing such as this is a public benefit: by providing affordable housing, it will mitigate the state's homelessness crisis; it will bring new customers to local businesses; it will grow the City's 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



James M. Lloyd
CalHDF Director of Planning and Investigations



DOUGLASKIM+ASSOCIATES,LLC

To: File
From: Douglas Kim, AICP
November 11, 2024
Re: 638 South Berendo Street

This memorandum provides responses to comments from the November 8, 2024 letter from Lozeau Drury LLP and November 4, 2024 letter from Baseline Environmental Consulting regarding the air quality and noise analyses prepared for the Class 32 Categorical Exemption relied on by the City for the 638 South Berendo Street project.

1. Lozeau Drury Letter; Page 4, Discussion: “However, the Report failed to provide a quantitative assessment of the health risks the receptors would face from exposure to the DPM emissions.”

Response: The appellant ignores the analysis of the Project’s construction and operational DPM emissions in the CE, which determines that human health impacts from DPM emissions are less than significant based on substantial evidence. The claim that an HRA was required here by any applicable regulation is false. The Department of City Planning relies on protocols from the regional air quality agency, SCAQMD and its CEQA Handbook, which do not recommend analysis of toxic air contaminants (TACs) from short-term construction activities, the only source of TACs here. Rather, as stated in the CE, “SCAQMD recommends that health risk assessments be conducted for substantial sources of diesel particulate emissions (e.g., truck stops and warehouse distribution facilities) and has provided guidance for analyzing mobile source diesel emissions. The Project would not generate a substantial number of truck trips. Based on the limited activity of TAC sources, the Project would not warrant a health risk assessment (HRA) for on-site activities.”

The appellant also misrepresents the Office of Environmental Health Hazards Assessment (OEHHA) requirements under AB 2588, which only applies to “facilities” as defined in Health and Safety Code Section 44322(a). This includes industrial facilities requiring operational air permits that use, manufacture, formulate, or release certain listed hazardous substances, not residential developments. OEHHA Guidelines assess cancer risk over long-term exposures, not for “short-term” projects where DPM emissions would occur during a few months of construction activities. (See pages 8-17 and 8-18 of the 2015 OEHHA HRA Guidelines.)

SCAQMD’s AB 2588 Supplemental Guidelines only apply to permitted industrial facilities and do not address short term projects. Further, SCAQMD Rule 1402, which implements the Toxic Hot Spots Program, only applies to facilities with one or more permits to operate and does not require analysis of short-term TAC emissions. No agency has recognized infill residential development as a significant source of toxic air emissions requiring quantitative HRAs. As Project construction activities would be short-term, stationary source rules would not be appropriate for assessing impacts associated with DPM and an HRA is not required.

2. Lozeau Drury Letter; Page 5, Discussion: “The Project Will Pose Significant Health Risks from Indoor Air Quality Impacts, Precluding Reliance on the Infill Exemption”

Response: The commentor ignores the substantial evidence supporting the conclusion that the Project would not result in significant TAC impacts. As a result, the arguments regarding formaldehyde impacts do not meet the appellant’s burden of showing the City violated CEQA in adopting the CE for the Project. In addition, the Offermann report’s analysis is based on alleged effects of the Project on future Project residents, which is not considered an environmental impact under CEQA and need not be analyzed in a CE. CEQA is only concerned with the impacts a project has on the broader human environment and not on future users. The air quality study is appropriate in light of CEQA’s general focus on projects’ potential impacts on the human environment in general and not future project users. The State’s CEQA Guidelines require air quality analyses to assess the impacts a project would have on outdoor air quality, directing air quality analyses to address whether a project would conflict with or obstruct implementation of the applicable air quality plan, contribute to an existing air quality violation, or result in a cumulatively considerable increase in a criteria pollutant for which the region is in non-attainment, among other similar relevant factors. Indoor air quality is also not regulated by the applicable air quality plan. The USEPA, California Air Resources Board (CARB) and SCAQMD have not promulgated standards for indoor air quality. Thus, the Offermann Report’s indoor air quality analysis is not a CEQA analysis, but relies on an alleged “threshold” not adopted by the City or SCAQMD to assess alleged project impacts on indoor air quality.

3. Lozeau Drury Letter; Page 7: “The Project will have significant adverse impacts on noise levels, precluding reliance on the Infill Exemption.”

Response: The Project noise study’s analysis is fully consistent with City guidance. The analysis properly assumes compliance with applicable regulatory standards, which include LAMC section 112.05, which creates a performance standard of 75 dBA for powered construction equipment on construction sites. Moreover, the commentor provides no technical analysis or documentation to support its assertion that the Project’s construction would elevate ambient noise levels at nearby sensitive receptors by 5 dBA L_{eq} or more.

4. Baseline Environmental Consulting, Construction Health Risk Analysis: The HRA provides inadequate documentation on the numerous variables that determine health risks from exposure to DPM emissions. However, of the assumptions documented in the two-page summary, there are several errors that distort and ultimately overstate health risks. First, The HRA is incorrectly based on gross emissions of PM_{10} during construction and should be based on $PM_{2.5}$, which is the pollutant of concern emphasized by OEHHA. PM_{10} includes coarse particulates that have different and generally lesser health impacts. Applying the same toxicity levels to the larger range of PM_{10} emissions overstates health impacts, as PM_{10} emissions are 8.2% higher for exhaust emissions than $PM_{2.5}$. Second, the HRA conflates exposure for children and for the entire population up to the age 70. The Summary of HRA results focuses on the third trimester and 0-2 year infant life stages. However, the SCAQMD’s 10 in a million threshold is lifetime cancer risk over a 70-year period. As such, the HRA’s conclusions focusing on in utero and 0-2 age ranges is misleading. Third, the HRA assumes an 85% fraction of time at home for residents. This is inconsistent with OEHHA guidance on the topic, which includes age-specific guidelines for the entirety of a 70-year life.
5. Baseline Environmental Consulting, Construction Noise Impacts: This analysis provides no documentation on the modeling assumptions and results used to conclude that construction noise impacts would be significant. Instead, it provides a map showing unsubstantiated noise exposure levels without any justification. The conclusion that the Project would not result in significant noise impacts is supported by substantial evidence in the form of the Project noise report the appellant fails to address. The appellant fails to meet its burden.

HISTORIC RESOURCES GROUP

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Pasadena, CA 91105

Tel 626-793-2400
historicresourcesgroup.com

MEMO

TO: DAVID WOON, PLANNING ASSISTANT
ATTN: LOS ANGELES CITY PLANNING
FROM: JOHN LOCASCIO, AIA, PRINCIPAL ARCHITECT
DATE: NOVEMBER 12, 2024

**Re: SAFER Appeal Comment, 638 Berendo Project, November 8, 2024, Lozeau Drury LLP
Case Nos.: DIR-2023-4545-TOC-SPR-VHCA-1A; ENV-2023-4546-CE
November 14, 2024 Planning Commission Hearing, Agenda Item No. 10**

This memorandum is submitted in response to section III.C. beginning on page 8 of the above referenced Appeal Comment submitted by Lozeau Drury LLP, and the letter dated November 5, 2024 from Michael R. Corbett to Lozeau Drury (attachment beginning on page 47 of the Appeal Comment), submitted on behalf of Supporters Alliance for Environmental Responsibility (SAFER) in support of SAFER's appeal of the Planning Director's determination that the CEQA Class 32 Categorical Exemption applies to the 638 South Berendo Street Project (the Project). Historic Resources Group (HRG) prepared two documents for the Project: a historical resources impacts analysis report, dated July 2022 (2022 Report); and an addendum dated May 2023 to evaluate potential impacts from modifications to the Project (2023 Addendum). Both the 2022 Report and the 2023 Addendum determined that a) the parking lot on the Project Site is not a historical resource, and b) the Roseberry Building is a historical resource but the minor alterations proposed by the Project would not result in a substantial adverse change in the building's significance. Section III.C. of the Appeal Comment summarizes claims made in the November 5 Corbett letter that the Project does not qualify for the CEQA exemption because there is a "fair argument" that the Project may cause substantial adverse effects on a historical resource. This claim is incorrect and has no merit, for the following reasons:

1. Section III.C.1.i. of the Appeal Comment references a "2024 historical resources analysis" ("2024 Report") and claims that it does not recognize the Roseberry Building as a historical resource. Both the 2022 Report (page 4) and the 2023 Addendum (page 1) identify the Roseberry Building as a historical resource as defined by CEQA.

2. Section III.C.1.ii. of the Appeal Comment claims that the interior spaces in the north range of the Roseberry Building should be identified as character-defining features because the steel sash windows that light these spaces are identified as character-defining features. This is incorrect and is not founded in any guidance from the National Park Service (NPS), the California Office of Historic Preservation (OHP), or the City of Los Angeles Office of Historic Resources (OHR), nor on any generally accepted professional practice. The NPS states that “Some historic buildings are virtually defined by their exteriors, and their contribution to the built environment can be appreciated even if their interiors are not accessible.”¹

The Roseberry Building is significant as one of the most prominent and distinctive examples of the high-end commercial development that characterized Wilshire Boulevard in the 1920s and 1930s, and as an excellent and rare example of Churrigueresque style commercial architecture by master architects Morgan, Walls & Clements. The Roseberry Building’s significance is expressed in its exterior architecture, particularly the two street façades. The interior spaces are mostly utilitarian, have been repeatedly altered, and do not convey the Roseberry Building’s association with the development of Wilshire Boulevard, nor its Churrigueresque style architecture.

The Appeal Comment also claims that the exterior staircase on the north side of the Roseberry Building could be a character-defining feature. It is not. There is no documentation to date the construction of the exterior staircase; however, its design, materials, and construction techniques make it obvious that it is of more recent construction and thus does not date from the property’s period of significance. It is therefore not a character-defining feature.

3. Section III.C.1.iii. of the Appeal Comment claims that blocking the windows on the Roseberry Building’s north façade would constitute an adverse effect because the interior spaces behind the windows “would lose an essential quality” because they are “distinct features...and are integral to its function and historic significance.” This is incorrect. As discussed above, the interior spaces in the north range of the Roseberry Building are not character-defining features; the Building’s historic significance is expressed primarily on its two street façades; and blocking the windows on the north façade would therefore not materially alter the Roseberry Building such that it could no longer convey its historic significance.

The Appeal Comment also claims that removal of the exterior stairway on the north façade would adversely affect the Building’s historic significance. This is incorrect. As discussed above, the north exterior staircase does not date from the property’s period of significance and is not a character-defining feature. Therefore, removal of the staircase would not negatively impact the Roseberry Building’s historic integrity nor materially alter the Building such that it could no longer convey its historic significance.

¹ U.S. Department of the Interior, National Park Service, National Register Bulletin 15, “How to Apply the National Register Criteria for Evaluation,” revised for internet 1995, 46.