

in the comment, Table 3-6 of the IS/MND shows that concrete mixer trucks typically generate a noise level of 74.8 dBA  $L_{eq}$  at a distance of 50 feet and concrete pump trucks typically generate a noise level of 74.4 dBA  $L_{eq}$  at a distance of 50 feet. As analyzed, construction activity would result in temporary increases in ambient noise levels in the Project Area on an intermittent basis, but would still be in compliance with the LAMC.

As discussed in Response 2, above, the project includes comprehensive mitigation measures to control noise from individual pieces of equipment, which would also reduce noise generated by multiple pieces of equipment. These mitigation measures would apply to concrete mixing and pumping and are reasonably anticipated to reduce equipment noise to be further below 75 dBA at 50 feet. (See **Table 1**) For example, Mitigation Measure **XII-21** provides the contractor will ensure proper maintenance of all construction equipment, which will prevent additional noise due to worn or improperly maintained parts. Also, Mitigation Measure **XII-23** ensures the contractor will minimize the use of equipment or methods with the greatest peak noise generation potential. This can be done by staggering noisier activities and equipment on different days or segments of days. Mitigation Measure **XII-25** will locate construction staging areas away from sensitive uses, including but not limited to multi-family residences across Beatrice Street and single-family residences east of the Project Site.

With the incorporation of these mitigation measures, the Project's construction related impacts, including those associated with concrete mixing and pumping, will be less than significant.

#### **COMMENT 8-6**

##### **Off-Site Construction Noise Impact: Undisclosed potential noise impact from off-site improvements in adjacent rights-of-way.**

According to the project's description, the project's connection to existing utility infrastructure (e.g., water mains, sewer lines, etc.) "could require off-site improvements in adjacent rights-of-way." Such improvements could similarly require construction activities at off-site locations closer to receptors than construction activities that may occur on-site and behind any potential sound barriers. They also commonly require equipment such as backhoes, jackhammers, and mounted impact hammers. According to the construction source noise levels provided by the noise analysis in Table 3-6, each of these pieces of equipment would be capable of increasing noise levels at roadway-adjacent sensitive receptors, for example the multi-family residences directly south of the project site, by greater than the L.A. CEQA Thresholds Guide's 5 dBA noise increase threshold for construction activities. It is unlikely that noise barriers or sound curtains could be installed on public rights-of-way and questionable how these specific impacts could be mitigated at all. Additional analysis is recommended with regard to this potentially significant impact.

#### **RESPONSE 8-6**

Comment 6 incorrectly asserts that off-site improvements and associated impacts were not considered and analyzed. In fact, potential off-site improvements and associated impacts were considered and analyzed in Table 3-6 of the IS/MND. In particular, Table 3-6 analyzed equipment noise levels, including those that might be used for potential off-site improvements (e.g., excavator, concrete pump truck, concrete saw, etc.).

As discussed in Response 1, above, the City utilizes the LAMC noise regulations as a threshold for construction noise for in-fill development in IS/MNDs rather than the 5 dBA CNEL incremental noise level cited in the Comment. Therefore, the commenter is applying the wrong threshold standard to this comment analysis.

Any utilization of equipment for off-site improvements would be subject to the City's Standard Conditions of Approval (Regulatory Compliance Measures **RC-NO-1** through **RC-NO-3**) and would

implement Mitigation Measures **XII-20** through **XII-27**, as appropriate. For example, Mitigation Measure **XII-23** requires that the contractor minimize the use of equipment or methods with the greatest peak noise generation potential. This can be done by staggering noisier activities and equipment on different days or segments of days. Mitigation Measure **XII-25** requires the contractor to locate construction staging areas away from sensitive uses, including but not limited to multi-family residences across Beatrice Street and single-family residences east of the Project Site. Therefore, as mitigated, the construction activity related to off-site improvements is also anticipated to be less than significant.

#### **COMMENT 8-7**

##### **Off-Site Construction Noise Impact: Outdated traffic model, incorrect receiver setback distances, and use of peak hour traffic baselines understate the construction vehicle noise impact.**

On page 3-43 of the project's noise impact analysis, the study explains that the off-site mobile construction noise impact from construction-related vehicles "was estimated using the Federal Highway Administration RD-77-108 calculation methodology." According to the FHWA, this traffic noise prediction model "was comprised of acoustic algorithms, computer architecture, and source code that dated to the 1970s. Since that time, significant advancements have been made in the methodology and technology for noise prediction, barrier analysis and design, and computer software design and coding."<sup>5</sup> This traffic model has been obsolete since the 1998 release of TNM version 1.0. The FHWA's current traffic noise prediction model, TNM version 2.5, is presently the industry standard method for traffic noise prediction. While there is some discretion as to the modeling tool used, the more contemporary TNM model is a more robust tool for modeling off-site mobile noise impacts from construction vehicles.

Ultimately, the analysis determined that excavation phase construction vehicle impacts could increase noise levels along Westlawn Avenue and Grosvenor Boulevard, between Beatrice Street and Jefferson Boulevard, by 3.6 dBA.<sup>6</sup> However, as shown in the noise appendix's "Mobile Noise With Haul Trips Analysis" calculation sheets, roadside noise levels were predicted from a distance of 50 feet from the right-of-way. Predicting roadway noise levels from this distance understates the noise levels that could be experienced by land uses along Westlawn Avenue and Grosvenor Boulevard. For example, multifamily residences along Westlawn Avenue are located no more than 15 feet from that roadway's right-of-way, and approximately 40 feet from its centerline. Single-family residences along Grosvenor Boulevard are also located no more than 15 feet from that roadway's right-of-way, and no more than 35 feet from its centerline.

Further, the analysis modeled the noise impact of construction vehicles by adding their trips to the existing P.M. peak hour traffic volumes of West lawn Avenue, Grosvenor Boulevard, and Jefferson Boulevard. This is not advisable for the two reasons. First, vehicles such as haul and delivery trucks would access the site regularly during construction work hours, not just during peak hours of traffic. For example, the study estimates that approximately 19 haul trucks could access the project site per hour during the excavation phase. During peak hours of traffic with relatively higher noise levels, additional noise from 19 haul trucks would not have as great an incremental noise impact as during mid-day hours with reduced traffic levels. Noise increases related to haul trucks would clearly be more pronounced during mid-day, non-peak hours. By modeling the impact of construction vehicles during the peak hour only, the analysis ignored the potential for construction vehicles to contribute to significantly considerable noise increases of 5 dBA or greater during off-peak hours. Second, to further understate the potential noise impact from construction vehicles, the analysis modeled noise impacts using P.M. peak hour traffic volumes, specifically. In the noise appendix's "Mobile Noise With Haul Trips Analysis" calculation sheets, the analysis assigns Westlawn Avenue a total hourly traffic volume of 492 vehicles; Grosvenor Boulevard, 502 vehicles; and Jefferson Boulevard, 3609 vehicles. These traffic volumes are also utilized in their "CNEL Noise Estimates for the Proposed Project" appendix calculation sheet, which is "Based on [the] PM Peak Hour." According to page 18 of the project's traffic impact study, the P.M. peak hour for these roadways was determined to begin at 5 P.M.



It is inaccurate to use traffic volumes of such a late hour to model the project's construction vehicle impacts, as Regulatory Compliance Measure RC-NO-2 itself specifies that construction activities may not occur after 6 P.M., Monday through Saturday. By utilizing P.M. peak hour traffic volumes to model the impact of the project's construction vehicles, the analysis ignores the greater noise impact that these vehicles would have during other hours. Westlawn Avenue and Grosvenor Boulevard, in particular, have far lower traffic volumes during the A.M. peak hour than during the P.M. peak hour, let alone during non-peak times.

In summary, the analysis should reflect the project's off-site noise impact from construction vehicles with the following corrections:

- The FHWA's TNM 2.5 Noise Model should be used to project the off-site noise impact from construction vehicles, rather than the obsolete RD-77-108 methodology.
- Off-site noise levels should be predicted at roadway distances representative of actual receiver setbacks.
- Baseline existing traffic volumes should be representative of mid-day traffic conditions to conservatively predict the maximum noise increases that could be caused by the project's construction vehicles.

---

6. Though the existing and existing plus construction truck results shown in Table 3-9 do not actually show a 3.6 dBA difference. While this is likely a typo. The "Mobile Noise With Haul Trips Analysis" calculation sheets in the noise appendix do show this 3.6 dBA increase in noise levels.

## **RESPONSE 8-7**

Comment 7 states that a newer version of the Federal Highway Administration (FHWA) traffic noise model should have been utilized. In fact, the newer FHWA Traffic Noise Model (TNM) model is only required when evaluating new highway or roadway projects, as specified in the Caltrans, Traffic Noise Analysis Protocol (Protocol), August 2006. This Protocol applies to Caltrans and local agency projects that receive Federal funding or require FHWA approval action. As acknowledged in Comment 7, the City has discretion as to which model to be used to assess roadway noise from urban-infill projects. Comment 7 is inaccurate in stating that the older model is "obsolete."

Nevertheless, in response to the comment, an analysis was completed to demonstrate the similarity between the two models. A TNM model run was conducted for Westlawn Avenue between Jefferson Boulevard and Beatrice Street. The increase for the Future with Project conditions over the Future without Project conditions would be approximately 1.0 dBA CNEL, which is 0.1 dBA less than the increase calculated using the FHWA RD-77-108 calculation methodology. The resulting increase for Future with Project Conditions over Existing Conditions was 3.6 dBA CNEL, the same incremental increase calculated using the FHWA RD-77-108 calculation methodology. The distance from the center of the roadway to the receiver was approximately 40 feet. Thus, the two models do not result in any significant difference in application to this project.

Also to be conservative, model runs utilizing the newer TNM model were conducted using AM peak hour traffic volumes. The increase for the Future with Project conditions over the Future without Project conditions would be approximately 2.7 dBA CNEL, which is slightly higher than the 1.0 dBA CNEL increase disclosed in the IS/MND, but still below the 5 dBA CNEL threshold. The increase for the Future with Project condition over Existing conditions was 2.8 dBA CNEL, which is less than the 3.6 dBA CNEL disclosed in the IS/MND (IS/MND, p. 3-43) and less than significant. The TNM model runs are included as Attachment A. As demonstrated, the results of the TNM model (even including AM peak

hour traffic) are substantially similar to or less than the RD-77-108 methodology and associated impacts would be less than significant.

Comment 7 also disagrees with the noise receptor distances used in the modeling. In regards to the original analysis's receptor distances, the CNEL or  $L_{eq}$  noise level at 50 feet is the normalized noise level along the roadway. Sensitive receptors were evaluated using the equivalent lane distance, which is the distance of the closest sensitive receptor along a roadway to the center of the nearest lane and the distance to the center of the farthest lane. As such, receptor distance and setback from the roadway are taken into account in the calculation of noise levels.

Comment 7 states that AM peak or mid-day traffic data should have been used for a baseline, rather than PM peak. The IS/MND mobile noise levels were calculated using information provided in the City-approved traffic study. The higher PM peak hour was utilized as the proposed project is an office project and higher traffic volumes are experienced when tenants and employees arrive and leave the workplace and because the City-approved traffic study does not include any mid-day traffic projections. As demonstrated above and in Attachment A, utilization of AM peak data resulted in decreased impacts.

However, in order to add the most conservative approach in response to Comment 7, haul truck noise was reassessed using mid-day, off-peak hours and the newer TNM 2.5 Model. Midday off-peak traffic volumes were calculated using guidance provided by the L.A. County Metro Regional Model and using AM peak hour traffic volumes as the baseline. In the Metro Regional Model, daily traffic is broken down such that peak hour traffic volumes are 10 percent of average daily traffic (ADT). Midday (9:00 a.m. to 3:00 p.m.) off-peak hour traffic volumes are considered to be 33 percent of ADT, or 5.5 percent of ADT for each off-peak hour. **Table 2** provides a breakdown of traffic volumes for Westlawn Avenue between Jefferson Boulevard and Beatrice Street. **Table 3** provides the breakdown of traffic volumes for Grosvenor Boulevard between Jefferson Boulevard and Beatrice Street.

**TABLE 2: 8-HOUR TRAFFIC TRIP DISTRIBUTION WESTLAWN AVENUE**

| Traffic Period       | Hour                     | Volume (trips) |
|----------------------|--------------------------|----------------|
| AM Peak Hour         | 7:00 a.m. to 8:00 a.m.   | 282            |
| AM Peak Hour         | 8:00 a.m. to 9:00 a.m.   | 282            |
| Midday Off-Peak Hour | 9:00 a.m. to 10:00 a.m.  | 155            |
| Midday Off-Peak Hour | 10:00 a.m. to 11:00 a.m. | 155            |
| Midday Off-Peak Hour | 11:00 a.m. to 12:00 p.m. | 155            |
| Midday Off-Peak Hour | 12:00 p.m. to 1:00 p.m.  | 155            |
| Midday Off-Peak Hour | 1:00 p.m. to 2:00 p.m.   | 155            |
| Midday Off-Peak Hour | 2:00 p.m. to 3:00 p.m.   | 155            |

SOURCE: TAHA, 2017.

**TABLE 3: 8-HOUR TRAFFIC TRIP DISTRIBUTION GROSVENOR BOULEVARD**

| Traffic Period       | Hour                     | Volume (trips) |
|----------------------|--------------------------|----------------|
| AM Peak Hour         | 7:00 a.m. to 8:00 a.m.   | 804            |
| AM Peak Hour         | 8:00 a.m. to 9:00 a.m.   | 804            |
| Midday Off-Peak Hour | 9:00 a.m. to 10:00 a.m.  | 442            |
| Midday Off-Peak Hour | 10:00 a.m. to 11:00 a.m. | 442            |
| Midday Off-Peak Hour | 11:00 a.m. to 12:00 p.m. | 442            |
| Midday Off-Peak Hour | 12:00 p.m. to 1:00 p.m.  | 442            |
| Midday Off-Peak Hour | 1:00 p.m. to 2:00 p.m.   | 442            |
| Midday Off-Peak Hour | 2:00 p.m. to 3:00 p.m.   | 442            |

SOURCE: TAHA, 2017.

Mid-day traffic, haul truck noise was assessed over an 8-hour period in order to accurately represent average perceived noise increases. The incremental increase was calculated assuming a baseline noise

level over an 8-hour construction work day (7:00 a.m. to 3:00 p.m.). Total daily haul trucks (150 daily haul truck trips) and total daily delivery trucks (20 daily truck trips) were added over the baseline to calculate elevated noise levels resulting from project related construction trips. The resulting noise level increase for Westlawn Avenue between Jefferson Boulevard and Beatrice Street was 4.8 dBA 8-hour  $L_{eq}$  and the resulting increase for Grosvenor Boulevard between Jefferson Boulevard and Beatrice Street was 2.4 dBA 8-hour  $L_{eq}$ . This result is below the 5 dBA threshold and is consistent with the increases disclosed in the IS/MND.

#### **COMMENT 8-8**

**Total Construction Noise Impact: Analysis fails to account for the cumulative impact of the project's on- and off-site construction-related noise levels at receptors.**

The analysis failed to consider the cumulative noise impact of on-site construction activities and off-site construction vehicle travel on nearby receptors. For example, Table 3-9 shows that noise levels along Westlawn Avenue could increase by 3.6 dBA as a result of the project's haul trucks and other construction-related vehicles. A multi-family residence along Westlawn Avenue could experience this noise level increase. However, this receptor would also be simultaneously exposed to additional noises as a result of the project's on-site construction activities. If on-site construction noise would further elevate noise levels at this receptor by just 1.4 dBA or greater, then the receptor would experience a cumulative construction-related noise increase in excess of 5 dBA, the L.A. CEQA Thresholds Guide's noise increase threshold. And, as has been previously discussed, it is all but certain that the project's onsite construction noise alone would exceed this threshold, even without considering the addition of off-site noise from construction vehicles.

#### **RESPONSE 8-8**

As discussed in Response 1, above, the City utilizes the LAMC noise regulations as a threshold for construction noise for in-fill development in IS/MNDs rather than the 5 dBA CNEL incremental noise level cited in Comment 8. Therefore, the commenter is applying the wrong threshold standard to this comment analysis.

Also, refer to Response 5 related to noise levels from multiple pieces of equipment. LAMC noise regulations regulate the noise level of equipment, not off-site noises from construction vehicles. Noise levels from construction vehicles including haul trucks have been assessed separately and is further discussed in Response 7.

#### **COMMENT 8-9**

**Operations Noise Impact: Outdated traffic model, incorrect receiver setback distances, and reliance on a P.M. peak hour traffic baseline understate the project's off-site operational noise impact.**

The analysis modeled the project's off-site operational noise impact from its related vehicle travel by using the FHWA's RD-77-108 methodology. As discussed earlier, this method has been obsolete for nearly 20 years. TNM 2.5 is the FHWA's current traffic noise model, as well as the industry standard method of predicting traffic noise.

The study also predicted traffic noise levels at a distance of 50 feet from the right-of-way. Modeling noise levels at this distance underestimates the actual noise levels that would occur at receptors located much closer to these rights-of-way. For example, the multi-family residence along Westlawn Avenue is located at a setback of no more than 15 feet from that roadway's right-of-way. As a result, it would experience noise levels in excess of those projected to occur at a 50 feet distance.

Page 3-43 of the noise analysis claims that "the proposed project would generate 2,200 trips per day and this number was used as the baseline for off-site traffic noise impacts for the project." However, the analysis did not model the project's impact on daily CNEL noise levels. The off-site operational noise impact analysis relies on the use of a P.M. peak hour traffic baseline. Weighing the project's impacts against only this elevated period of traffic and related noise diminishes the project's incremental impact on noise off-site noise levels. During non-peak hours of travel, the project's impact on off-site noise levels would be more pronounced. For example, adding 50 vehicle trips to an existing 200 vehicle trips would result in a lower noise increase than adding only 40 trips to an existing 180 trips.

#### **RESPONSE 8-9**

Comment 9 states that an outdated traffic model and incorrect traffic volumes and receptor distances were applied to the operational traffic noise analysis. Please see Response 7, above, for a discussion of the use of the FHWA RD-77-108 model, the use of AM peak hour and midday traffic volumes, and receptor distances being adequately analyzed.

Furthermore, with regard to operational impacts, the PM peak is clearly the period of heaviest traffic. The majority of project trips are generated within the AM and PM peak hours, as the proposed project is an office project and higher traffic volumes are experienced when tenants and employees arrive and leave the workplace. As such, the AM and PM peak hours are the time periods the project would contribute the most trips and would have the most potential for impacts.

#### **COMMENT 8-10**

**Operations Noise Impact: lack of an existing with project analysis prevents the project's individual mobile noise impact from being compared to an existing without project baseline.**

Though the noise analysis does include an existing without project off-site operational noise baseline (albeit, a baseline limited to only the P.M. peak hour of traffic), it does not include existing with project noise levels. Existing with project analyses highlight a project's individual contribution to off-site noise increases in its vicinity. By comparing a future with project scenario to existing baseline conditions, the analysis does not compare the project's impact with existing conditions. An existing scenario should be directly compared with an existing with project scenario to disclose the project's individual off-site operational noise impact on existing noise levels (*Sunnyvale West Neighborhood Assoc. v. City of Sunnyvale City Council*).

#### **RESPONSE 8-10**

The Comment misrepresents the use of "baseline" in the noise analysis. The noise analysis for operational noise uses a baseline of existing noise conditions. The future noise impact of the project at build out considering all other traffic in the area at that time is compared to the existing condition baseline. Therefore, the IS/MND appropriately compares noise estimated to be generated by project-related traffic in the opening year against the existing condition/environmental baseline. The IS/MND concludes that the future with project compared to existing conditions on Westlawn Avenue (for example) would increase ambient noise levels by approximately 3.6 dBA CNEL, which is within the 5 dBA threshold for operational noise impacts. (IS/MND, p. 3-43 Table 3-10). The comment suggests that this is the incorrect baseline and that a comparison should be made with existing/baseline condition against the existing with project condition. However, the existing with project analysis assumes a project would be built instantly and would start generating trips and noise associated with traffic. This is an unrealistic scenario and does not provide useful information. The approach the IS/MND has taken is the appropriate approach to assess the effect of the Project on baseline existing conditions.

**COMMENT 8-11****Construction Vibration Impact: Two vibration-sensitive studio receptors not identified/analyzed.**

As discussed previously, ATN Stages and Vista Studios are two studio land uses that have not been identified by the analysis of the project's impacts. ATN Stages is located at 5415 Jandy Place, 80 feet west of the project. Vista Studios is located at 12615 Beatrice Street, 110 feet west of the project.

To analyze the project's potential construction-related vibration impacts on nearby studio land uses, the analysis cites the Federal Transit Administration's Traffic Noise and Vibration Assessment manual, which establishes a 65 VdB significance criteria for TV and recording studios. In Table 3-14, the analysis shows the vibration levels of construction equipment that would operate at the project site. Caisson drills, large bulldozers, and hoe rams in particular are shown to be capable of producing groundborne vibration levels of 87 VdB at a reference distance of 25 feet.<sup>7</sup>

Using the same FTA vibration modeling methodology, these pieces of equipment would be projected to generate ground borne vibration levels of 71.8 VdB at ATN Stages and 67.7 VdB at Vista Studios. Both of these impacts would exceed the 65 VdB significance threshold for studios recommended by the FTA and adopted by the analysis.

---

7. Table 3-14 actually lists "Caisson Drill" twice, but it is fairly evident that one should read "Hoe Ram", as the vibration level of hoe rams are similar to caisson drills and are discussed on page 3-45.

**RESPONSE 8-11**

The comment references ATN Stages and Vista Studios, both of which are purported production studios. Although not explicitly listed in the Thresholds Guide, most noise and vibration assessment guidance documents, such as the FTA's Transit Noise and Vibration Impact Assessment Manual, do consider recording studios sensitive receptors. As such, the IS/MND analyzed 740 Sound Design and Digital Domain as potential sensitive receptors. The IS/MND concluded there would be no substantial vibration impacts to these identified private sound studio uses.

Regarding ATN Stages, this business was not identified during site visits to the project site prior to release of the IS/MND. Multiple online business records searches (ReferenceUSA, Google, Los Angeles Department of Building and Safety) completed on August 10, 2017 showed no business by this name at the referenced location. In addition, a site visit completed on August 10, 2017 to this address showed a vacant storefront with locked doors and no furniture. Multiple employees and businesses from the surrounding area were asked if they knew of ATN Stages, but no one had heard of the company. This business does not appear to exist.

Vista Studios opened for business on May 15, 2017 (Facebook Post: Vista Studios). The IS/MND was published prior to this date on April 17, 2017. The project was not listed as a related project in the relevant list provided by the City of Los Angeles, and the Applicant had no reasonable way to know this future use was planned. The environmental baseline was set on April 17, 2017 and no additional analysis is required regarding this land use. For informational purposes a discussion of vibration levels at Vista Studios is included below.

In its vibration analysis the IS/MND conservatively did not apply vibration attenuation associated with building foundations. The Vista Studios building is a large, one-story building, which is most likely constructed on spread footings. According to FTA Transit Noise and Vibration Impact Assessment guidance, a 13 dB reduction can be applied to ground-borne vibration (annoyance) for buildings that are large masonry constructed on spread footings, as the Vista Studios building appears to be. This would

reduce the vibration level to 54.7 VdB at Vista Studios, which would be below the 65 VdB significance threshold.

### **COMMENT 8-12**

#### **Construction Vibration Impact: Vibration annoyance potential at nearby multi-family residence not analyzed.**

As discussed above, the vibration analysis adopts the FTA's Traffic Noise and Vibrational Assessment manual threshold criteria for TV and recording studios experiencing disruptive groundborne vibration. In this same manual, though, the FTA also recommends threshold criteria for residences experiencing disruptive groundborne vibration. However, the study does not analyze the effects of disruptive and/or annoying ground borne vibration levels on residences in the vicinity of the project site, specifically the multi-family residences 50 feet south of the project.

According to the FTA, "infrequent" vibration events of 80 VdB or greater can be annoying to residences. "Occasional events" of at least 75 VdB or "frequent events" of at least 72 VdB would also be considered annoying to residences.<sup>8</sup> Construction activities would be considered a "frequent event," and would therefore trigger a vibration threshold of 72 VdB. Again, using the same FTA vibration modeling methodology, the project's caisson drill, large bulldozer, and hoe ram activities would be projected to generate vibration levels of up to 78.0 VdB at the aforementioned multi-family residences, exceeding both the FTA's "frequent events" and "occasional events" groundborne vibration thresholds for residential receptors.

---

8. The FTA defines "frequent events" as more than 70 vibration events of the same source per day. "Occasional events" are defined as between 30 and 70 vibration events of the same source per day. "Infrequent event~" are defined as fewer than 30 vibration events of the some source per day.

### **RESPONSE 8-12**

The City has not established a vibration annoyance standard in the LAMC or a related significance threshold in the LAMC. There is no statewide mandate to assess vibration annoyance from construction activities. Few, if any, jurisdictions assess vibration annoyance in the context of IS/MNDs for in-fill development, in part because vibration-generating activities in close proximity to existing uses is common in urban environments and does not produce significant harmful effects. The main concern with vibration is potential damage to buildings, which would not occur with the Project.

Ground-borne vibration would be generated primarily during site clearing and grading activities and by off-site haul-truck traveling on surface streets. As such, ground-borne vibration impacts are usually confined to short distances (i.e., 50 feet or less) from the source and are temporary and intermittent. Usually, ground-borne vibration decreases rapidly with distance. The nearest residential uses are located 50 feet from the Project Site. Construction activities immediately adjacent to the Project Site would produce vibration velocities that would not create potential residential building damage nor disturb sleep patterns, as all construction would only be allowed during hours specified by LAMC Section 41.40. Therefore, impacts would be less than significant.

Attachment C: Previously  
Submitted Comment Letters: 1  
through 8

**Attachment A:**  
Bracketed Comment  
Letters



# COMMENT LETTER NO. 1

## LUNA & GLUSHON

A Professional Corporation

DENNIS R. LUNA  
(1946-2016)

16255 VENTURA BOULEVARD, SUITE 950  
ENCINO, CALIFORNIA 91436  
TEL: (818) 907-8755  
FAX: (818) 907-8760

Century City Office  
1801 Century Park East, Suite 2400  
Los Angeles, CA 90067

May 17, 2017

VIA FACSIMILE (818) 374-1343; and EMAIL [darlene.navarrete@lacity.org](mailto:darlene.navarrete@lacity.org)

Nicholas Hendricks  
City of Los Angeles Department of City Planning  
200 N. Spring Street, Room 763  
Los Angeles, CA 90012

Re: ENV-2016-1209-MND/12575 Beatrice Street (12553-2575 West Beatrice Street; 5410-5454 S. Jandy Place)

Mr. Hendricks:

This letter is submitted on behalf of Karney Management Company, the owners and operators of the parcels located immediately to the west and south of the proposed construction of a new 155-foot<sup>1</sup> office building and associated parking, landscaping, and hardscape on five lots at 12553-2575 West Beatrice Street; 5410-5454 S. Jandy Place ("the Project").

For all of the reasons stated herein, the the Mitigated Negative Declaration ("MND") for the Project is deficient under the California Environmental Quality Act ("CEQA"). It either understates or completely fails to analyze numerous critical environmental impacts, including on traffic/transportation, aesthetics, and land use and planning. Indeed, substantial evidence demonstrates that the Project may have a significant effect on the environment. Therefore, an Environmental Impact Report ("EIR") is required. *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75 (a public agency must prepare an EIR whenever substantial evidence supports a fair argument that a proposed project may have a significant effect on the environment).<sup>2</sup>

<sup>1</sup> As noted hereinbelow, the Applicant's misleading "spin" will have the public believe that the Project is 135 feet in height when, in reality, it maintains a 20 foot high and large mechanical room *on top* of the 135 foot structure.

<sup>2</sup> The fair argument standard is a "low threshold" test. *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75. Where based on observation, the opinions and testimony from

I. The MND is Premature and Defers Environmental Review

A fatal flaw in the within MND is that it fails to integrate its analysis with all of the planning and environmental review procedures required under the Los Angeles Municipal Code. Instead it provides that the certain aspects of the Project, including a haul route, off-site improvements in the adjacent rights-of-way, and "additional actions as may be determined necessary" will be evaluated at a later date. This is flatly against the CEQA requirements.

CEQA sets out a fundamental policy requiring local agencies to integrate the requirements of CEQA with planning and environmental review procedures otherwise required by law or by local practice so that all those procedures, to the maximum feasible extent, run concurrently, rather than consecutively. Public Resources Code § 21003(a); *See also CEQA Guidelines* § 15080 (to the extent possible, the CEQA process should be combined with the existing planning, review, and project approval process used by each public agency). It is for that reason that CEQA requires all environmental assessment/analysis, including formulation of mitigation measures to mitigate potential environmental impacts, to occur before a Project is approved. *Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 906. By refusing to integrate the evaluation of other actions necessary to complete the Project, the City is ignoring these CEQA obligations, constituting clear error and abuse on its part. *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 652 (when an agency fails to proceed as required by CEQA, harmless error analysis is inapplicable. The failure to comply with the law subverts the purposes of CEQA if it omits material necessary to informed decisionmaking and informed public participation).

1-1  
cont.

II. Project Description

Knowledge of the regional setting is critical to the assessment of environmental impacts. Accordingly, an accurate description of the physical environmental conditions in the vicinity of the project is critical for a proper evaluation of the potential environmental effects of a proposed activity. *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730.

1-2

---

local residents are relevant to impacts such as aesthetics and traffic and constitute substantial evidence in support of a "fair argument" for an EIR. *Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 355-356.



Here, the MND completely fails to provide an environmental setting discussion, including other related projects (also necessary for a cumulative impact analysis, see below), the fact that the Project is located on a Methane Hazard site, and the schools to the north and east of the Project site. Without this information, it is impossible to adequately evaluate the potential environmental effects of the Project.

1-2  
cont.

### III. Aesthetics

The proposed Project will degrade the existing visual character or quality of the Project site and its surroundings. **It will introduce a height otherwise unknown in this area, overshadowing adjacent uses.** Even worse, the MND attempts to mask the full height of the Project by claiming the Project maximum height is 135 feet, when there is actually a 20 foot high and large mechanical room *on top* of the 135 foot structure – that room equivalent to *two additional stories*. Similarly, it will create a monotonous view of nothing more than parking garage spaces for adjacent buildings, all of which are two to three stories in height (the same height as the above ground parking garage). The MND's aesthetic "analysis" completely fails to analyze any of these factors. Indeed, it provides that there will be a "less than significant impact" on the visual character of the site and its surroundings without providing any detail about what such "character" is comprised of. The MND fails to discuss *any* height, color or façade compatibility, all of which are necessary to adequately evaluate the impacts on the visual character of this Project site and its surroundings.

1-3

### IV. Air Quality

The Air Quality analysis is based upon an old, 2012 Air Quality Management Plan (AQMP). This AQMP has been superseded by a 2016 version. The whole of the Air Quality analysis needs to be re-reviewed and analyzed under the relevant, 2016 AQMP.

1-4

Similarly, the MND fails to provide for the impacts on air quality caused by the Project being in a Methane Hazard Zone and provides inconsistent information about the anticipated motor vehicle emissions which will result (the MND provides that the average daily weekday traffic associated with the proposed project is estimated to be 2,200 vehicle trips; the CalEEMod analysis

identifies 2,758 daily vehicle trips; while the LL&G traffic study identifies 1,946 daily trips).

1-4  
cont.

V. Geology and Soils

The MND admits that the Project would expose people and structures to seismic-related ground failure, including liquefaction, and that the Project site is located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and has potential to result in on-or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse. In response, it finds that the implementation of Mitigation Measure GEO-1 would reduce impacts to a less than significant level.

1-5

But Mitigation Measure GEO-1 is nothing more than structural *recommendation*. A “recommendation” is not a “mitigation measure.” CEQA requires that mitigation measures be both feasible and “fully enforceable.” *Lincoln Place Tenants Ass’n v. City of Los Angeles* (2007) 155 Cal.App.4th 425 (the purpose of monitoring and reporting requirements for enforcement of mitigation measures is to ensure that a feasible mitigation measure will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded); *CEQA Guidelines*, § 15126.4 (a)(2) (mitigation measures must be “fully enforceable”). In order to adequately mitigate for the potential seismic-related ground failure, including liquefaction, the MND must provide fully enforceable mitigation measures.

VI. Hazards and Hazardous Materials

In evaluating the impacts of the Project with regard to hazards and hazardous materials, the MND completely fails to identify, analyze or evaluate the fact that the Project is located in both a Methane Hazard Zone and an Airport Hazard Zone.

1-6

Relying narrowly on the thresholds, the MND finds that there are no impacts at all with respect to airport or methane related impacts. However, whether or not a particular environmental effect meets a particular threshold cannot be used as an automatic determinant that the effect is or is not significant, and the use of the Guidelines’ thresholds does not necessarily equate to compliance with CEQA. *Protect the Historic Amador Waterways v. Amador Water*



Agency (2004) 116 Cal.App.4th 1099, 1108-09. Once identified, all environmental impacts must be evaluated and mitigated; they cannot be ignored. *Woodward Park Homeowners' Association v. City of Fresno* (2007) 150 Cal.App.4th 683, 728 (an agency cannot acknowledge an impact and approve the project after imposing a mitigation measure not shown to be adequate by substantial evidence). Here, in order to adequately analyze hazards and hazardous material impacts, the MND must address impacts associated with the Project's location in an Airport Hazard and Methane Hazard Zone, as designated by the City itself.

1-6  
cont.

## VII. Land Use and Planning

The MND's land use and planning section is woefully deficient. First and foremost, it only evaluates the Project's consistency with the Palms—Mar Vista—Del Rey Community Plan. But that is not all that CEQA requires. CEQA requires an analysis of whether the Project conflicts with *any* applicable land use plan, policy or regulation. This includes the applicable Do Real Planning Guidelines, Citywide Design Guidelines, the Southern California Association of Governments ("SCAG") Regional Plan (including SCAG's Regional Transportation Plan and Compass Growth Visioning effort), the South Coast Air Quality Management District Air Quality Management Plan, the Los Angeles County Metropolitan Transportation Authority Congestion Management Program ("CMP"), and the Los Angeles Municipal Code. Consistently with all of these land use plans must be adequately reviewed and evaluated in order to comply with CEQA.

1-7

Furthermore, the Project is inconsistent with several Palms—Mar Vista—Del Rey Community Plan sections:

Policy 3-1.2 – Ensure *compatibility* between industrial and other adjoining land uses through design treatments, compliance with environmental protection standards and health and safety requirements.

Policy 3-1.3 – Require that any proposed development be designed with adequate buffering and landscaping and that the proposed use be *compatible* with adjacent residential development.

Objective 13-1 – Provide parking in *appropriate* locations in accordance with Citywide standards and community needs.

Objective 16-2 - Ensure that the location, intensity and timing of development is consistent with the provision of adequate transportation infrastructure.

In order to be legally adequate, an MND cannot selectively pick and choose policies with which it deems a project to be consistent. In order to be legally adequate under CEQA, and MND must identify and discuss these **inconsistencies**. CEQA Guidelines §15125(d); L.A. CEQA Thresholds Guide<sup>3</sup>.

1-7  
cont.

It also cannot, as it purports to do here, simply list land use policies, and then without any substantial evidence to support, summarily find "consistency." Consistency requires more than incantation. The City cannot simply articulate a policy in its land use plan and then approve a conflicting project. *Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 181 (setting aside EIR based upon findings that no reasonable person could have made the consistency finding on the record before it). The City must support its findings of consistency with substantial evidence of consistent Floor Area Ratio's, density, parking requirements, open space, etc. Otherwise, the consistency findings are not supported by substantial evidence.

#### VIII. Noise

The MND utterly fails to address the fact that there are sensitive receptors that will be significantly impacted from construction noise including the underestimated volume of excavation and the operation of a large parking facility, the loading area and mobile noise from all of the likely vehicles that will have to turn around at the end of the cul-de-sac. To make matters worse, the MND proposes an utterly deficient mitigation measure to address construction noise - Noise XII-27; clearly a complaint line mitigates nothing.

1-8

---

<sup>3</sup> The L.A. CEQA Threshold Guide with respect to "land use consistency" states: The determination of significance shall be made on a case-by-case basis, considering:

- Whether the proposal is **inconsistent** with the adopted land use/density designation in the Community Plan, redevelopment plan or specific plan for the site; and
- Whether the proposal is **inconsistent** with the General Plan or adopted environmental goals or policies contained in other applicable plans.



IX. Transportation/Traffic

The MND finds that there is less than significant impact based on possible conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit. This conclusion is completely devoid of supporting substantial evidence. Indeed, the MND fails, at all, to review and analyze consistency with all applicable traffic/transportation plans, including SCAG's Regional Transportation Plan. Accordingly, it is in error.

1-9

Furthermore, the MND finds that the Project does not substantially increase hazards due to a design feature or incompatible uses. This is blatant error. Indeed, although it has numerous options along Beatrice Street and Grovesner Boulevard, the Project is designed to provide 75% of its traffic on Jandy Place, an approximately 400-foot in length cul-de-sac street, which already provides ingress/egress to the many properties owned by Karney Management Company. When considered in connection with the cumulative of effects of all such other traffic along Jandy, it is clear that such Project feature substantially increases hazards thereon. The MND completely ignores this condition.

Finally, the MND fails to analyze, *at all*, construction traffic impacts as well as parking impacts. It is incomprehensible that an adequate transportation/traffic analysis can be deemed "adequate" without a review of construction traffic and parking. Again, where an agency fails to abide the informational requirements of CEQA by omitting material necessary to informed decisionmaking and informed public participation, as it has here, harmless error analysis is inapplicable and the agency is deemed to have erred and abused its discretion. *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645.

X. Cumulative Impacts

The MND's "analysis" of cumulative impacts is indefensible. Simply put, the MND admits that significant impacts may occur if the proposed Project, in conjunction with the related projects, would result in impacts that are less than

1-10

Nicholas Hendricks  
City of Los Angeles Department of City Planning  
May 17, 2017  
Page Eight

significant when viewed separately but significant when viewed together, but concludes that it does not need to do any analysis of such impacts because each additional project will be evaluated and mitigated on a case by case basis (i.e. *separately* without regard for cumulative impacts); therefore, the cumulative impacts to which the proposed project would contribute would be less than significant.

Such "analysis" misses the whole point of the cumulative impact analysis required under CEQA. One of the basic and vital informational functions required by CEQA is a thorough analysis of whether the impacts of the Project, in connection with other related projects, are cumulatively considerable. *Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal App.4th 1209. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.<sup>4</sup> *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184; *CEQA Guidelines* §15355. Proper cumulative impact analysis is vital under CEQA because the full environmental impact of a proposed project cannot be gauged in a vacuum. Indeed, one of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact. **Therefore, cumulative effects analysis requires consideration of "reasonably foreseeable probable future projects, if any."** *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184; *Gentry v City of Murrieta* (1995) 36 Cal.App.4th 1359, 1414.

1-10  
cont.

In fact, the CEQA Guidelines mandate the preparation of an EIR where cumulative impacts are cumulatively considerable:

**An EIR must be prepared if the cumulative impact may be significant and the project's incremental effect, though individually limited, is cumulatively considerable.** "Cumulatively considerable" means that

---

<sup>4</sup> "Cumulative impacts" refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects.



Nicholas Hendricks  
City of Los Angeles Department of City Planning  
May 17, 2017  
Page Nine

the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects. 14 CCR §15064(h)(1).

Here, there is no scintilla of evidence, much less substantial evidence, to support the conclusion that the “cumulative impact” of the Project will not result in any potentially significant impacts. There are no other “reasonably foreseeable probably future projects” listed and none analyzed. Indeed, there is not even evidence that the MND *considered* whether there are cumulative impacts, since all it summarily states is that it did not need to do any such analysis because any additional project will be evaluated and mitigated, separately on a case by case basis.

Ironically, the Project’s traffic analysis actually identifies 29 *other* projects in the vicinity of the within Project, and evaluates the cumulative traffic impacts of those projects. The MND cannot ignore that existence of these identified *other* projects, which their traffic expert apparently had no problem finding or analyzing. It must evaluate the cumulative impacts of all of these projects with regard to all of the protected categories environmental impacts under CEQA.

Finally, the MND conclusively states that cumulative impacts of the Project will not result in any potentially significant impacts because any cumulative impacts (which, again, the MND fails to identify) will be mitigated to a less than significant level through compliance with the mitigation measures provided in the “previous sections” of the MND. But there is no evidence whatsoever that the cumulative impacts of the other reasonably foreseeable probable future projects, if any, were considered in formulating the mitigation measures of the MND and none of them refer, at all, to the other reasonably foreseeable probable future projects, if any. The lack of evidence in the record to support a conclusion that the Project would have *no* cumulative impacts thus tends to support a fair argument that the Project *will* have such impacts.

The failure of this MND to provide for a cumulative impact analysis as required under CEQA is fatal. *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 118 (CEQA requires strict compliance with the procedures and mandates of the statute).

1-10  
cont.

Nicholas Hendricks  
City of Los Angeles Department of City Planning  
May 17, 2017  
Page Ten

Each public agency is required to comply with CEQA and meet its responsibilities, including evaluating mitigation measures and project alternatives. *CEQA Guidelines* §15020. For all of the reasons set forth herein, the City has failed to do so here.

Very truly yours,

LUNA & GLUSHON  
A Professional Corporation

A handwritten signature in dark ink, appearing to read "Rob Glushon", written in a cursive style.

ROBERT L. GLUSHON

1-10  
cont.



## COMMENT LETTER NO. 2

### LUNA & GLUSHON

A Professional Corporation

DENNIS R. LUNA  
(1946-2016)

16255 VENTURA BOULEVARD, SUITE 950  
ENCINO, CALIFORNIA 91436  
TEL: (818) 907-8755  
FAX: (818) 907-8760

Century City Office  
1801 Century Park East, Suite 2400  
Los Angeles, CA 90067

June 1, 2017

VIA PERSONAL SERVICE AND EMAIL (Jenna.Monterrosa@lacity.org)

City Planning Commission  
Attn: Jenna Monterrosa, City Planner  
200 N. Spring Street, Room 763  
Los Angeles, CA 90012

Re: CPC-2016-1208-CU-SPR/ENV-2016-1209-MND  
12575 Beatrice Street (12553-12575 West Beatrice Street; 5410-5454 S.  
Jandy Place)

Honorable Commissioners:

Our law firm represents Karney Management Company, the manager and owners' representative of the parcels located immediately to the west and south of the proposed construction of a new 155-foot<sup>1</sup> high office building and associated parking, landscaping, and hardscape at 12553-2575 West Beatrice Street; 5410-5454 S. Jandy Place ("the Project"). Our clients and their tenants will be the most impacted, both directly and negatively, if the Project, as proposed, is approved.

For all of the reasons set forth below, we ask that this Commission deny the Project application and require the Applicant to (i) revise in a manner that is compatible with the prevailing scale and character of the adjacent properties and surrounding neighborhood, which is overwhelmingly low-height creative office, as required by the Los Angeles Municipal Code ("LAMC"), and (ii) prepare an

---

<sup>1</sup> The Applicant has attempted to disguise the true height of this Project by asserting that it is 135 feet. This height calculation, however, does not include the 20 foot high and large mechanical room (the equivalent of *two* additional stories!) *on top* of the 135 foot building.

Environmental Impact Report ("EIR"), as required by the California Environmental Quality Act ("CEQA").

2-1  
cont.

**I. The Project is Limited to a 45-foot Height Limit**

The Project is proposed on a M2-1 Zoned site, situated directly across Beatrice Street from the Avalon Playa Vista residential apartments. Accordingly, it is considered a "Commercial Corner" under LAMC § 12.03, limiting development thereon to a height of 45 feet under LAMC § 12.22.A.23.

In an attempt to skirt this 45-foot requirement, the Applicant proposes a lot line adjustment to create an approximately 20 x 20 foot "lot" adjacent to Beatrice Street on which no structure will be built. The Applicant claims that, therefore, the "Commercial Corner" restrictions do not apply to this Project.

The Applicant is wrong. The Project is not limited to just those lots on which physical buildings will be located. The Project's siting encompasses the whole of the M2-1 Zoned site which is the subject of the within action. The Applicant admits as much in its application and proposed findings, providing the location of the Project as *the total area* of all of the lots and expressly acknowledging that the 317 square foot "lot" created by the lot line adjustment will be created in connection with the Project's landscaping and open space purposes. Simply put, the whole of the Project site is a "Commercial Corner" under the LAMC. Therefore, all proposed structures that exceed 45 feet, including the massive 155 foot structure, are illegal under LAMC §12.22.A.23.

2-2

Over and above this blatant violation of the height restriction, this Commission will note that the creation of this 317 square foot "lot" is also illegal. There is no process in the Subdivision Map Act, the LAMC, or any other law to create a parcel upon which no legal structure could ever be constructed and which could never be used for any legal purpose. The creation of this sliver of land subverts not just the intent of the "Commercial Corner" Ordinance, but also the Subdivision Map Act pursuant to which the LAMC sections relating to the division of land are prescribed.

**II. The Project Violates LAMC §12.36**

LAMC §12.36.B requires applicants to file all applications for all approvals reasonably related to complete the project at the same time. LAMC §12.36.A provides that it is applicable to any legislative approval that requires any legislative, quasi-judicial or subdivision approval.

2-3



Here, it is clear that in addition to the entitlements proposed, the Project will also need at least a Condition Use Permit for beer and wine (probably a Master Conditional Use) to operate the anticipated bar and restaurant use; a haul route<sup>2</sup>; and, per the Project's own MND, "additional actions as determined necessary."

2-3

Without clear information about all approvals reasonably related to complete this Project, the City cannot continue to process the Project under LAMC §12.36.

III. The Required Findings for a Major Development Project under LAMC §12.24.U.14 Cannot be Made with Substantial Supporting Evidence

- a. The Project does not provide for an arrangement of uses, buildings, structures, open spaces and other improvements that are compatible with the scale and character of the adjacent properties and surrounding neighborhood;

The prevailing scale and character of the adjacent properties and surrounding neighborhood surrounding the Project is that of low-height, creative office uses. The majority of the surrounding uses are buildings which are one (1) to (3) three stories in height, and all of adjacent properties are single story industrial buildings [Exhibit 1].

2-4

The Project will overwhelm and overshadow these low-height, creative office buildings. Indeed, at 155 feet, the Project will introduce a height otherwise unknown in this entire neighborhood. It will be five times higher than all adjacent buildings and nearly two times higher than even the highest building along Jefferson [Exhibits 1, 2].

The Applicant's proposed findings make absolutely no effort to show how the Project will be compatible with the predominantly single-story, creative office scale and character of the adjacent properties and surrounding neighborhood. Instead, the proposed findings talk generally about how the building mass is "varied" and the Project will provide setbacks and landscaping. But what does that have to do with whether the Project is *compatible* with the *scale and character* of the adjacent properties and surrounding neighborhood? Nothing. The Applicant is providing a "smoke and mirrors" approach, hoping that the

---

<sup>2</sup> No haul route application for this Project can be found in the City's files.

Commission focuses its attention on Project details rather than the plain language of the finding that it needs to make.

Simply put, there is *no* evidence, let alone substantial evidence, to support the finding that the Project will be compatible with the scale and character of the adjacent properties and surrounding neighborhood. The only evidence is to the contrary. For this reason alone, the Project must be denied.

2-4  
cont.

b. The Project is *not* consistent with the City Planning Commission's Design Guidelines for either Commercial or Industrial Projects.

In 2013, the City Planning Commission adopted the Citywide Design Guidelines ("Guidelines") to serve as the City's vision for the future and to provide guidance and best practices for new development, encouraging projects to complement existing urban form in order to enhance the built environment of the City Los Angeles.<sup>3</sup>

As it relates to Commercial projects, the Guidelines provide the following applicable goals and objectives:

1. *Consider neighborhood context and linkages in building and site design* (objective 1, p. 8);
2. *Ensure that new buildings are compatible in scale, massing, style, and/or architectural materials with existing structures in the surrounding neighborhood. In older neighborhoods, new developments should likewise respect the character of existing buildings with regards to height, scale, style, and architectural materials (relationship to adjacent buildings, objective 1, p. 15);*
3. *Minimize the appearance of driveways and parking areas. Where alternatives to surface parking are not feasible, locate parking lots at*

2-5

---

<sup>3</sup> The City of Los Angeles' General Plan Framework Element and each of the City's 35 Community Plans promote architectural and design excellence in buildings, landscape, open space, and public space. They also stipulate that *preservation of the City's character and scale, including its traditional urban design form, shall be emphasized in consideration of future development.* To this end, the Citywide Design Guidelines have been created to carry out the common design objectives that maintain neighborhood form and character while promoting design excellence and creative infill development solutions.



the interior of the block, rather than at corner locations. Reserve corner locations for buildings (objective 4, p. 34).

As it relates to Industrial projects, the Guidelines similarly provide the following applicable goals and objectives:

1. *Consider neighborhood context and compatible design of uses* (objective 1, p. 8);
2. *Ensure that new buildings are compatible in scale, massing, style, and/or architectural materials with existing structures in the surrounding neighborhood.* In older neighborhoods, new developments should likewise respect the character of existing buildings with regards to height, scale, style, and architectural materials (relationship to adjacent buildings, objective 1, p. 13)
3. *Facilitate safe access for loading areas* while buffering pedestrians and non-industrial uses (objective 4, p. 29).

In sum, the Guidelines promote one main goal: development that is *compatible* with adjacent and surrounding properties.

The within Project's mass, scale, and height, as well as location immediately abutting low-rise, predominantly single story industrial and creative office structures puts it at odds with all of these land use purposes and objectives. The Project completely ignores the neighborhood context, failing to provide *any* sense of compatibility in scale or massing to the buildings surrounding it. Instead of minimizing the appearance of parking areas, it puts above-grade parking *immediately* adjacent to the front door of 5404 Jandy Place. Instead of facilitating safe access for loading areas, it proposes 75% of its ingress/egress along Jandy Place, a 400-foot long cul-de-sac street which is already congested most of the day. This Commission should be aware that Jandy Place serves as the only access to several buildings, including at 5404 Jandy Place and 12615 Beatrice Street, both of which are past the choke point created by the Project.

Accordingly, the Project is *not* consistent with the City Planning Commission's design guidelines for either Commercial or Industrial projects, and any finding to the contrary would be lacking in substantial evidence.

IV. The Required Findings for Site Plan Review under LAMC §16.05  
Cannot be Made with Substantial Supporting Evidence

- a. The Project is *not* in substantial conformance with the purposes, intent and provisions of the General Plan and the Palms-Mar Vista-Del Rey Community Plan;

As set forth above, the Project is inconsistent with the City Planning Commission's design guidelines for both Commercial and Industrial projects, a part of the City's General Plan Framework Element. The Project is also inconsistent with the following Palms-Mar Vista-Del Rey Community Plan goals and purposes:

1. *Require that commercial projects<sup>4</sup> be designed and developed to achieve a high level of quality, distinctive character and compatibility with surrounding uses and development (policy 2-1.4, p. III-5).*
2. *Require that the design of new development be compatible with adjacent development, community character and scale (policy 2-3.1, p. III-6).*
3. *To provide a viable industrial base with job opportunities for residents with minimal environmental and visual impacts to the community (objective 3-1, p. III-6).*
4. *Ensure compatibility between industrial and other adjoining land uses through design treatments, compliance with environmental protection standards and health and safety requirements (policy 3-1.2, p. III-7).*
5. *Provide parking in appropriate locations in accordance with Citywide standards and community needs (objective 13-1, p. III-19).*
6. *Ensure that the location, intensity and timing of development is consistent with the provision of adequate transportation infrastructure (objective 16-2, p. III-24).*

Again, as with the Design Guidelines, the Community Plan focuses on a primary goal for development that is *compatible* with adjacent and surrounding

---

<sup>4</sup> Notably, the Community Plan specifically provides that Commercial land use in the Palms-Mar Vista-Del Rey Community Plan area is **primarily small-scale and neighborhood-oriented** (p. III-4).



properties. But, as already discussed, the Project makes absolutely no effort to provide for compatibility with its adjacent, predominantly single story industrial neighbors. Its height, scale and inappropriate location of above ground parking immediately abutting other low rise uses will cause visual blight, toxic emissions, odors, and noise.

In contravention of Palms-Mar Vista-Del Rey Community Plan objective 3-1, p. III-6, the Project even fails to provide for an EIR to analyze the environmental impacts it will inevitably cast.

Instead of analyzing the Project against the Palms-Mar Vista-Del Rey Community Plan, the Applicant's proposed findings purport to nothing more than general descriptions of Project elements, without regard for whether such elements are in fact consistent with and satisfy the Community Plan requirements or not. But the Courts have been clear that findings of "consistency" with land use plans require more than simple incantation, as the Applicant proposes. The City cannot simply articulate a policy in its land use plan and then approve a conflicting project. *Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777.

The City cannot and should not approve the Project, as proposed, because it conflicts with all of the above adopted land use policies.

- b. The Project does not consist of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, that is or will be compatible with existing and future development on adjacent properties and neighboring properties.

In addition to all of the aesthetic, height, scale, and mass incompatibilities discussed above (which alone show that this finding cannot be made), the Project's proposed traffic/parking design is at complete odds with the buildings surrounding it. The Project proposes the majority of its ingress/egress along Jandy Place, a 400-foot long cul-de-sac street which is already congested most of the day. Jandy Place already serves as the only access to several buildings, including at 5404 Jandy Place and 12615 Beatrice Street. If the Project is constructed, Beatrice Street, which is also a congested cul-de-sac, would experience enormous spill-over, severely and negatively impacting adjacent uses' ability to access their businesses.

V. The Required Findings for Floor Area Averaging under LAMC §12.24.W.19 Cannot be Made with Substantial Supporting Evidence.

- a. The Project will not enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city, or region;
- b. The Project's location, size, height, operations and other significant features will be incompatible with and will adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety;

As stated above, the Project is entirely incompatible with the adjacent properties and surrounding neighborhood. Its height and scale next to single story industrial/office uses will cause visual blight. Its above-ground parking structure immediately next to 5404 Jandy Place will expose employees and customers to constant noise, light and exhaust fumes. Its proposed parking configuration will severely worsen the already exiting congestion along Jandy and Beatrice, both narrow and short cul-de-sac streets. It will destroy the prevailing creative office character of this established community.

For all of these reasons, the Project will *adversely* affect and degrade adjacent properties, the surrounding neighborhood, and the public health, welfare, and safety.

- c. The Project does not substantially conform with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan.

For the reasons discussed above, the Project does not conform to the General Plan or the Palms-Mar Vista-Del Rey Community Plan.

VI. The Mitigated Negative Declaration is Inadequate under CEQA.

The foremost principle under CEQA is that the Legislature intended the act to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language. *Friends of Mammoth v. Bd. of Supervisors* (1972) 8 Cal.3d 247, 259.

2-7

2-8



The heart of CEQA is the Environmental Impact Report ("EIR"). *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214. Accordingly, a public agency must prepare an EIR whenever substantial evidence supports a fair argument that a proposed project may have a significant effect on the environment. The fair argument standard is a "low threshold" test, and public controversy concerning environmental effect of a project indicates that preparation of an EIR is desirable. *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75. CEQA requires strict compliance with the procedures and mandates of the statute. *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 118.

2-8  
cont.

For all of the reasons set forth below, and as set forth in the independent review by CAJA Environmental Services, LLC and Kimley-Horn and Associates, Inc. [Exhibits 3, 4] the CEQA procedures and mandates have not been met. Substantial evidence supports a fair argument that the Project may have a significant effect on the environment, and an EIR must be prepared.

a. The MND is Premature and Defers Environmental Review

A fatal flaw in the proposed MND is that it fails to integrate its analysis with all of the planning and environmental review procedures required under the Los Angeles Municipal Code. Instead it provides that the certain aspects of the Project, including a haul route, off-site improvements in the adjacent rights-of-way, and "additional actions as may be determined necessary" will be evaluated at some later date. This is plainly against the CEQA requirements.

CEQA sets out a fundamental policy requiring local agencies to integrate the requirements of CEQA with planning and environmental review procedures otherwise required by law or by local practice so that all those procedures, to the maximum feasible extent, run concurrently, rather than consecutively. Public Resources Code § 21003(a); *See also CEQA Guidelines* § 15080 (to the extent possible, the CEQA process should be combined with the existing planning, review, and project approval process used by each public agency). It is for that reason that CEQA requires all environmental assessment/analysis, including formulation of mitigation measures to mitigate potential environmental impacts, to occur before a Project is approved. *Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 906. By refusing to integrate the evaluation of other actions necessary to complete the Project, the City is ignoring these CEQA obligations, constituting clear error and abuse on its part. *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 652.

2-9

b. The MND Fails to Provide Consistent and Accurate Information

On numerous occasions, specific Project information in the MND does not match what is proposed on the accompanying figures within the MND and which are supposed to serve as the substantial evidence that supports the conclusions in the MND. [See Exhibit 3].

All of this information needs to be corrected and reassessed to comply with CEQA. *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645 (where an agency fails to abide the informational requirements of CEQA by omitting material necessary to informed decisionmaking and informed public participation, harmless error analysis is inapplicable and the agency is deemed to have erred and abused its discretion).

2-10

c. Project Description

Knowledge of the regional setting is critical to the assessment of environmental impacts. Accordingly, an accurate description of the physical environmental conditions in the vicinity of the project is critical for a proper evaluation of the potential environmental effects of a proposed activity. *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730.

Here, the MND completely fails to provide an adequate environmental setting discussion, including other related projects (also necessary for a cumulative impact analysis, discussed below), the fact that the Project is located on a Methane Hazard site, and the schools to the north and east of the Project site (necessary to adequately provide an assessment of the Project in relation to its surrounding uses). Without this information, it is impossible to adequately evaluate the potential environmental effects of the Project.

2-11

d. Aesthetics

The proposed Project will degrade the existing visual character or quality of the Project site and its surroundings. It will introduce a height otherwise unknown in this area, overshadowing adjacent uses.<sup>5</sup> Even worse, the MND attempts to mask the full height of the Project by claiming the Project maximum

2-12

---

<sup>5</sup> See Exhibit 3, the MND fails to mention that there exists an outdoor gathering space directly north of the Project which is considered a "shadow-sensitive" use under the L.A. CEQA Thresholds Guide. The impacts on "shadow-sensitive" uses must be evaluated under the City's own Thresholds Guide.



height is 135 feet, when there is actually a 20 foot high and large mechanical room *on top* of the 135 foot structure – that room equivalent to *two additional stories*. Similarly, it will create a monotonous view of nothing more than parking garage spaces for adjacent buildings, all of which are two to three stories in height (either the same height as or lower than the above ground parking garage). [See *Exhibits 1, 2*]. The MND's aesthetic "analysis" completely fails to analyze any of these factors. Indeed, it provides that there will be a "less than significant impact" on the visual character of the site and its surroundings without providing any detail about what such "character" is comprised of. The MND fails to discuss *any* height, color or façade compatibility, all of which are necessary to adequately evaluate the aesthetic impacts of this Project on its surroundings.

2-12  
cont.

e. Air Quality

The Air Quality analysis in the MND is based upon an old, 2012 Air Quality Management Plan (AQMP). This AQMP has been superseded by a 2016 version. The whole of the Air Quality analysis needs to be re-reviewed and analyzed under the relevant 2016 AQMP.

What's more, the MND admits that the proposed growth in population from the Project could exceed the 2020 projections for the City in the adopted 2012 AQMP. If this is the case under the 2016 standards, the Project would conflict and obstruct implementation of the applicable, federally-approved air quality attainment plan for the region and must be fully evaluated and disclosed in an EIR.

2-13

The MND also fails to provide for the impacts on air quality caused by the Project being in a Methane Hazard Zone and provides inconsistent information about the anticipated motor vehicle emissions which will result (the MND provides that the average daily weekday traffic associated with the proposed project is estimated to be 2,200 vehicle trips; the CalEEMod analysis identifies 2,758 daily vehicle trips; while the LL&G traffic study identifies 1,946 daily trips).

In order to comply with CEQA, the whole of the "Air Quality" analysis needs to be re-reviewed and re-analyzed.

f. Cultural Resources

As disclosed and admitted by the City in the environmental reports completed for the surrounding Playa Vista residential developments, and other

2-14

recent developments in the surrounding area, there is high potential that the Project will disturb and/or destroy paleontological resources. Inconsistent with these development projects and the environmental reports completed in connection therewith, the within Project MND fails to adequately evaluate these impacts. [Exhibit 3]. This is a blatant CEQA violation.

2-14  
cont.

g. Geology and Soils

The MND admits that the Project would expose people and structures to seismic-related ground failure, including liquefaction, and that the Project site is located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and has potential to result in on-or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse. In response, it finds that the implementation of Mitigation Measure GEO-1 would reduce impacts to a less than significant level.

But Mitigation Measure GEO-1 is nothing more than structural recommendation. A "recommendation" is not a "mitigation measure." CEQA requires that mitigation measures be both feasible and "fully enforceable." *Lincoln Place Tenants Ass'n v. City of Los Angeles* (2007) 155 Cal.App.4th 425 (the purpose of monitoring and reporting requirements for enforcement of mitigation measures is to ensure that a feasible mitigation measure will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded); *CEQA Guidelines*, § 15126.4 (a)(2) (mitigation measures must be "fully enforceable").

2-15

In order to adequately mitigate for the potential seismic-related ground failure, including liquefaction, the MND must provide fully enforceable mitigation measure.

Similarly, the MND analyzes excavation up to twenty feet, the exact same number as what would be required for the proposed two-levels of underground parking. This amount of grading is impossible because it does not consider the structural elements that will need to support the two levels of underground parking. The true grading amounts must be set forth so that their environmental impacts could be evaluated as required by CEQA.

2-16

h. Hazards and Hazardous Materials

In evaluating the impacts of the Project with regard to hazards and hazardous materials, the MND completely fails to identify, analyze or evaluate

2-17



the fact that the Project is located in both a Methane Hazard Zone and an Airport Hazard Zone.

According to the City Ordinance regulating methane, methane mitigation is required for all sites located in a Methane Zone or a Methane Buffer Zone, regardless of results obtained in a methane investigation.

Relying narrowly on the thresholds, the MND also finds that there are no impacts at all with respect to airport or methane related impacts. However, whether or not a particular environmental effect meets a particular threshold cannot be used as an automatic determinant that the effect is or is not significant, and the use of the Guidelines' thresholds does not necessarily equate to compliance with CEQA. *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1108-09. Once identified, all environmental impacts must be evaluated and mitigated; they cannot be ignored. *Woodward Park Homeowners' Association v. City of Fresno* (2007) 150 Cal.App.4th 683, 728 (an agency cannot acknowledge an impact and approve the project after imposing a mitigation measure not shown to be adequate by substantial evidence). Here, in order to adequately analyze hazards and hazardous material impacts, the MND must address impacts associated with the Project's location in an Airport Hazard and Methane Hazard Zone, as designated by the City itself.

2-17

i. Land Use and Planning

The MND's land use and planning section is woefully deficient. First and foremost, it only evaluates the Project's consistency with the Palms—Mar Vista—Del Rey Community Plan. But that is not all that CEQA requires. CEQA requires an analysis of whether the Project conflicts with *any* applicable land use plan, policy or regulation. This includes the applicable Do Real Planning Guidelines, Citywide Design Guidelines, the Southern California Association of Governments ("SCAG") Regional Plan (including SCAG's Regional Transportation Plan and Compass Growth Visioning effort), the South Coast Air Quality Management District Air Quality Management Plan, the Los Angeles County Metropolitan Transportation Authority Congestion Management Program ("CMP"), and the Los Angeles Municipal Code. Consistently with all of these land use plans must be adequately reviewed and evaluated in order to comply with CEQA. [See also, Exhibit 3].

2-18

Furthermore, the Project is inconsistent with the City's Design Guidelines and the Palms—Mar Vista—Del Rey Community Plan for all of the reasons discussed hereinabove. In order to be legally adequate under CEQA, an MND

cannot selectively pick and choose policies with which it deems a project to be consistent, but must identify and discuss all noted inconsistencies. CEQA Guidelines §15125(d); L.A. CEQA Thresholds Guide<sup>6</sup>.

An MND also cannot, as it purports to do here, simply list land use policies, and then without any substantial evidence to support, summarily find "consistency." Consistency requires more than incantation. The City cannot simply articulate a policy in its land use plan and then approve a conflicting project. *Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 181 (setting aside EIR based upon findings that no reasonable person could have made the consistency finding on the record before it). The City must support its findings of consistency with substantial evidence of consistent Floor Area Ratio's, density, parking requirements, open space, etc. Otherwise, the consistency findings are not supported by substantial evidence.

2-18  
cont.

j. Noise

The MND utterly fails to address the fact that there are sensitive receptors that will be significantly impacted from construction noise including the underestimated volume of excavation and the operation of a large parking facility, the loading area and mobile noise from all of the likely vehicles that will have to turn around at the end of the cul-de-sac.

To make matters worse, the MND proposes an utterly deficient mitigation measure to address construction noise – Noise XII-27. But a "complaint line" mitigates absolutely no impact, it simply provides for a way to complain about an impact after it occurs. As such it is inadequate under CEQA, which requires that mitigation measures be feasible, enforceable and capable of mitigating the impact for which they are imposed. *Lincoln Place Tenants Ass'n v. City of Los Angeles* (2007) 155 Cal.App.4th 425; CEQA Guidelines, § 15126.4 (a)(2); *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th

2-19

---

<sup>6</sup> The L.A. CEQA Threshold Guide with respect to "land use consistency" states: The determination of significance shall be made on a case-by-case basis, considering:

- Whether the proposal is inconsistent with the adopted land use/density designation in the Community Plan, redevelopment plan or specific plan for the site; and
- Whether the proposal is inconsistent with the General Plan or adopted environmental goals or policies contained in other applicable plans.



70; CEQA Guidelines, §15126.4(n)(4)(A); *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987).

2-19  
cont.

k. Transportation/Traffic

The MND finds that there is less than significant impact based on possible conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit. This conclusion is completely devoid of supporting substantial evidence. Indeed, the MND fails, at all, to review and analyze consistency with all applicable traffic/transportation plans, including SCAG's Regional Transportation Plan. Accordingly, it is in error.

2-20

Furthermore, the MND finds that the Project does not substantially increase hazards due to a design feature or incompatible uses. This is blatant error. Indeed, although it has numerous options along Beatrice Street and Grosvenor Boulevard, the Project is designed to provide 75% of its traffic on Jandy Place, an approximately 400-foot in length cul-de-sac street, which already provides ingress/egress to the many properties owned by Karney Management Company. When considered in connection with the cumulative of effects of all such other traffic along Jandy, it is clear that such Project features substantially increase hazards thereon. The MND completely ignores these conditions. [See also, Exhibit 4].

2-21

The MND also fails to analyze, at all, construction traffic impacts as well as parking impacts. It is incomprehensible that an adequate transportation/traffic analysis can be deemed "adequate" without a review of construction traffic and parking. Again, where an agency fails to abide the informational requirements of CEQA by omitting material necessary to informed decisionmaking and informed public participation, as it has here, harmless error analysis is inapplicable and the agency is deemed to have erred and abused its discretion. *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645.

Finally, the MND fails to adequately analyze impacts on transportation/traffic for the reasons set forth in the review completed by Kimley-Horn and Associates, Inc. [Exhibit 4].

### 1. Cumulative Impacts

The MND's "analysis" of cumulative impacts is indefensible. The MND admits that significant impacts may occur if the proposed Project, in conjunction with the related projects, would result in impacts that are less than significant when viewed separately but significant when viewed together, but concludes that it does not need to do any analysis of such impacts because each additional project will be evaluated and mitigated on a case by case basis (*i.e., separately* without regard for cumulative impacts); therefore, the cumulative impacts to which the proposed Project would contribute would be less than significant.

Such "analysis" completely misses the mark for what is required as a cumulative impact analysis required under CEQA. One of the basic and vital informational functions required by CEQA is a thorough analysis of whether the impacts of the Project, in connection with other related projects, are cumulatively considerable. *Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.<sup>7</sup> *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184; CEQA Guidelines §15355. Proper cumulative impact analysis is vital under CEQA because the full environmental impact of a proposed project cannot be gauged in a vacuum. Indeed, one of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact. Therefore, cumulative effects analysis requires consideration of "reasonably foreseeable probable future projects, if any." *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184; *Gentry v City of Murrieta* (1995) 36 Cal.App.4th 1359, 1414.

In fact, the CEQA Guidelines mandate the preparation of an EIR where cumulative impacts are cumulatively considerable:

An EIR must be prepared if the cumulative impact may be significant and the project's incremental effect, though individually limited, is

---

<sup>7</sup> "Cumulative impacts" refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects.



cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects. 14 CCR §15064(h)(1).

Here, there is no scintilla of evidence, much less substantial evidence, to support the conclusion that the "cumulative impact" of the Project will not result in any potentially significant impacts. There are no other "reasonably foreseeable probably future projects" listed and none analyzed. Indeed, there is not even evidence that the MND *considered* whether there are cumulative impacts, since all it summarily states is that it did not need to do any such analysis because any additional project will be evaluated and mitigated separately on a case by case basis.

Ironically, the Project's traffic analysis actually identifies 29 *other* projects in the vicinity of the within Project, and evaluates the cumulative traffic impacts of those projects. The MND cannot ignore that existence of these identified *other* projects, which their traffic expert apparently had no problem finding or analyzing. It must evaluate the cumulative impacts of all of these projects with regard to all of the protected categories of environmental impacts under CEQA.

Finally, the MND conclusively states that cumulative impacts of the Project will not result in any potentially significant impacts because any cumulative impacts (which, again, the MND fails to identify) will be mitigated to a less than significant level through compliance with the mitigation measures provided in the "previous sections" of the MND. But there is no evidence whatsoever that the cumulative impacts of the other reasonably foreseeable probable future projects, if any, including the 29 other projects identified by the Project's traffic analysis, were considered in formulating the mitigation measures of the MND and none of them refer, at all, to the other reasonably foreseeable probable future projects. The lack of evidence in the record to support a conclusion that the Project would have *no* cumulative impacts thus tends to support a fair argument that the Project *will* have such impacts.

The failure of this MND to provide for a cumulative impact analysis as required under CEQA is fatal. *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 118 (CEQA requires strict compliance with the procedures and mandates of the statute). Each public agency is required to comply with CEQA and meet its responsibilities, including evaluating mitigation

2-22  
cont.

measures and project alternatives. *CEQA Guidelines* §15020. For all of the reasons set forth herein, the City has failed to do so here.

For all of these reasons, we ask that the Commission deny this Project, as proposed, and require the Applicant to revise the Project in compliance with the compatibility requirements of the LAMC and applicable land use plans governing the Project site. Only with such revisions, as well as full environmental review in an EIR, should the Commission re-consider the Applicant's requests.

2-22  
cont.

Very truly yours,

LUNA & GLUSHON  
A Professional Corporation



ROBERT L. GLUSHON

cc: [Nicholas.Hendricks@lacity.org](mailto:Nicholas.Hendricks@lacity.org); [James.K.Williams@lacity.org](mailto:James.K.Williams@lacity.org);  
[Kkropp@lunaglushon.com](mailto:Kkropp@lunaglushon.com); [Aliza\\_Guren@karney.net](mailto:Aliza_Guren@karney.net);  
[Matthew\\_Burton@karney.net](mailto:Matthew_Burton@karney.net)



# Exhibit 1











































