

## Communication from Public

**Name:** Dale Goldsmith  
**Date Submitted:** 04/18/2025 05:10 PM  
**Council File No:** 25-0209  
**Comments for Public Posting:** I have attached Eyestone Environmental's response to the appeal and a letter from the Mitchell M. Tsai Law Firm.



**TO:** The Honorable Planning and Land Use Committee  
Los Angeles City Council

**FROM:** Eystone Environmental

**DATE:** April 18, 2025

**SUBJECT:** **April 22, 2025 PLUM Hearing, Item 3**  
6260-6290 W Sunset Blvd, 1460-1480 N Vine St. & 6251-6165 Leland Way  
(CPC-2021-10588-DB-MCUP-SPR-VHCA, ENV-2021-10589-SCEA) —  
Responses to Mitchell M. Tsai Comment Letter and SAFER Appeal

**cc:** Heather Bleemers and Stephanie Escobar, Department of City Planning

---

Eystone Environmental prepared the Sustainable Communities Environmental Assessment (SCEA) for the Sunset Vine–SV2 Project (City of Los Angeles ENV-2021-10589-SCEA) (Project), which Los Angeles City Planning Commission (CPC) approved on December 12, 2024, along with Site Plan Review. The CPC's Letter of Determination (LOD) was released on January 22, 2025.

On December 9, 2024, The Law Offices of Mitchell Tsai, on behalf of the Western States Regional Council of Carpenters (WSRCC) submitted a last-minute comment letter (WSRCC Letter) to CPC. In addition, on January 29, 2025, Supporters Alliance for Environmental Responsibility (SAFER) filed an appeal (Appeal) of the CPC's actions except for Density Bonus Off-Menu Incentives and Waivers or Modifications of Development Standards. Provided below are responses to each of the substantive comment topics in the WSRCC Letter and the SAFER Appeal. As demonstrated below, none of the comments contained in the WSRCC Letter or the SAFER Appeal raise new topics not previously addressed nor do the comments result in new or substantially increased environmental impacts.

## **WSRCC COMMENT LETTER**

### **WSRCC Comment No. 1**

The SCEA's air quality impact analysis is flawed as it relies on flawed assumptions and also ignores the project's adverse impacts on human beings in disadvantaged communities, requiring mandatory findings of significance and an EIR.



The Honorable Planning and Land Use Committee

April 18, 2025

Page 2

### **Response to WSRCC Comment No. 1**

WSRCC claims that the SCEA's air quality analysis ignored impacts on certain schools in the Project area and as a result the SCEA "understated the Project's air impacts and adverse impacts on human health safety by underreporting or completely ignoring schools and thousands of student sensitive receptors in close proximity to the Project." This is incorrect. The SCEA's air quality analysis assessed impacts at the closest sensitive receptor, where concentrations of localized emissions are highest. Here, the closest sensitive receptor is the residential use directly east of the Project Site. Consistent with South Coast Air Quality Management District (SCAQMD) guidance, the closest receptor distance provided in the LST look-up tables was used (25 meters). As shown in Tables 5 and 6 of the SCEA, regional localized impacts would be Less Than Significant at this closest receptor and receptors located further away from the Project Site. As the schools cited in the Comment Letter are farther away than 25 meters, emissions concentrations will be lower than at the closest receptor, and impacts will also be Less Than Significant. (SCEA, Section 5.III. Air Quality, pages 71 – 97 (including Tables 5 and 6); SCEA Appendix A.) Thus, issues concerning the measured distance to the cited schools are irrelevant and would not change the Less Than Significant impact determination for these sensitive receptors. In any event, the air quality assessment used correct distances for the sensitive receptors. Moreover, there was no understating of the Project's air quality impacts; air quality impacts were accurately assessed using approved SCAQMD methodology. WSRCC provides no credible evidence of a potential significant impact.

WSRCC also claims the SCEA's air quality impact analysis ignored that the Project is located in a disadvantaged community area and, thus, concludes, without providing any evidence, that air quality impacts on this community are significant. This is wrong. First, the SCEA did not ignore that the Project area is classified as a disadvantaged community; that the area is designated as a disadvantaged community is clearly indicated in the technical report air quality model runs. (SCEA Appendix A (CalEEMod Project Detailed Report, Section 7.3, page 83/84: "Project Located in a Designated Disadvantaged Community (Senate Bill 535) Yes".) Second, the classification of the Project area as a disadvantaged community is merely a descriptor of existing baseline conditions. CEQA only requires analysis of physical changes to existing baseline conditions. The determination of whether that physical change is significant requires the application of significance thresholds. That is precisely what was done here. The air quality impact analysis applied the SCAQMD's air quality significant thresholds to the Project's construction and operational regional and localized emissions and determined that the Project's emissions were below the



The Honorable Planning and Land Use Committee

April 18, 2025

Page 3

significance thresholds; thus, the Project would result in Less Than Significant air quality impacts. (SCEA, Section 5.III. Air Quality, pages 71 – 97 (including Tables 5 and 6); SCEA Appendix A.) Third, SB 535, SB 1000 and AB 617 do not require separate consistency analysis; the Project Site is identified as a SB 535 disadvantaged community, which is the existing condition. Neither CEQA nor any other law requires any further analysis. The commenter provided no credible evidence of a potential significant impact.

WSRCC also speculates, without providing any evidence, that the Project's proximity to so many other projects, including schools nearby, is evidence of a significant cumulative air quality impact. The City uses the SCAQMD's threshold for assessing cumulative air quality impacts. Under that threshold, a project's cumulative air quality impacts are less than significant if the project's individual impacts are less than significant. As set forth in the SCEA (Section 5.III. Air Quality, pages 71 – 97 (including Tables 5 and 6); SCEA Appendix A.), the Project's individual air quality impacts are less than significant. Therefore, the Project's cumulative air quality impacts are also less than significant.

WSRCC cites guidance from the Bay Area Air Quality Management District (BAAQMD). As the Project is within the jurisdiction of the SCAQMD and not the BAAQMD, the cited guidance does not apply to the Project and is not relevant.

WSRCC also refers to its prior assertions in its October 25, 2024 letter that the Project's SCEA analysis is based on flawed baseline assumptions, omissions of critical information, and an incomplete Project description, and therefore its air quality impact analysis is flawed, as a matter of law, requiring an EIR. As also set forth in the SCEA Response to Comments, Response Nos. 4-16 and 4-21 to 4-23, these assertions are without merit.

### **WSRCC Comment No. 2**

The SCEA's impact analysis of historical resources is flawed, and the project may have impacts on historical resources and related aesthetic impacts, requiring an EIR.

### **Response to WSRCC Comment No. 2**

The WSRCC comment alleges significant historic impacts to the Morgan Camera Shop Building. WSRCC makes many misstatements as to this topic. First, it is irrelevant whether there are any reported cases upholding a SCEA that includes a historic resource.



The Honorable Planning and Land Use Committee

April 18, 2025

Page 4

Second, the SCEA did not presume that rehabilitation of the Morgan Camera Shop Building would not affect the building's historic significance. SCEA Appendix C, Cultural Resources Assessment (CRA), an expert technical report, fully assessed the potential impacts of the rehabilitation of the Morgan Camera Shop Building. The SCEA identifies the Morgan Camera Shop Building as a local historic resource and notes that it will be rehabilitated according to the Secretary of the Interior Standards (which are very detailed), consistent with Mitigation Measure PMM CULT-1(d) from the 2020–2045 RTP/SCS PEIR. The SCEA and CRA found that impacts would be Less Than Significant because the building will be rehabilitated according to the Secretary of the Interior Standards. (SCEA Section 5.V. Cultural Resources (pages 124 – 135); SCEA Appendix C.)

WSRCC claims "it is apparent that the Project's proposed adaptive reuse of the Morgan Camera Shop historic resource and additions to it, as well as building a massive Project in its immediate vicinity create a fair argument that the Project may have a significant impact on the designated historic resource, including effects to its immediate surrounding." WSRCC provides no credible evidence of a significant impact, only argument. The CRA provides detailed expert analysis supporting the Less Than Significant determination, which is owed deference. Furthermore, the SCEA is subject to the deferential substantial evidence standard of review, not the fair argument standard. (Pub. Resources Code, Section 21155.2(b)(7).)

WSRCC incorrectly speculates that the Morgan Camera Shop Building will be damaged during project construction. The SCEA includes an analysis of building damage due to construction vibration. As shown in Table 26 on page 279 of the SCEA, the estimated groundborne vibration velocity levels from construction equipment would exceed the significance criterion of 0.12 PPV for the onsite Morgan Camera Shop Building. However, with implementation of Mitigation Measure NOI-MM-1, potential building damage impacts to the onsite Morgan Camera Shop Building would be reduced to Less Than Significant. (SCEA, Section 5.XIII Noise, pages 278 – 280; see also SCEA Response to Comments, Response No. 4-26.)

In addition, WSRCC speculates that the Project will have an aesthetic impact on the Morgan Camera Shop Building. The SCEA and CRA analyzed the potential for indirect impacts on the Morgan Camera Shop Building and determined impacts are Less Than Significant. As concluded in the CRA:



The Honorable Planning and Land Use Committee

April 18, 2025

Page 5

The proposed project is in conformance with [Secretary of Interior] Standard 9. It will not destroy any spatial relationships that characterize adjacent and nearby historical resources. The setting of the Morgan Camera Shop has changed since its period of significance and most recently with construction of a new, seven-story building almost immediately adjacent. The proposed new building does not compound impacts to the setting such that the Morgan Camera Shop would no longer be eligible for designation.

\*\*\*

The proposed project is also in conformance with [Secretary of Interior] Standard 10. The new building could be removed in the future without impairing the essential form and integrity of any adjacent or nearby historical resources.

In any event, because the Project qualifies as a Transit Priority Project (TPP), the Project's aesthetic impacts are deemed Less Than Significant as a matter of law (SB 743). The commenter provided no credible evidence of a potential significant impact.

Finally, WSRCC claims that rehabilitation of the Morgan Camera Shop will be inconsistent with the Hollywood Redevelopment Plan (Redevelopment Plan). The Redevelopment Plan indicates that Morgan Camera at 6262 Sunset appears to meet local criteria for historical designation only. The Project treats Morgan Camera as a potential CEQA historical resource for purposes of environmental impact analysis, and the Project would retain and rehabilitate this structure according to the Secretary of Interior Standards. As such, the Project would not result in significant impacts to historical resources. Thus, the Project would be consistent with the land use designation and other provisions of the Redevelopment Plan. (See also Response to WSRCC Comment No. 5, below.)

### **WSRCC Comment No. 3**

The SCEA's GHG impacts analysis is flawed; the project may have significant GHG impacts.



The Honorable Planning and Land Use Committee

April 18, 2025

Page 6

### **Response to WSRCC Comment No. 3**

WSRCC claims there will be significant GHG impacts because the Project area is designated as a disadvantaged community. As set forth above, this is incorrect. First, the SCEA did not ignore that the Project area is classified as a disadvantaged community. (SCEA Appendix A (CalEEMod Project Detailed Report, Section 7.3, page 83/84: "Project Located in a Designated Disadvantaged Community (Senate Bill 535) Yes".) Second, the classification of the Project area as a disadvantaged community is merely a descriptor of existing/baseline conditions. CEQA only requires analysis of physical changes to existing baseline conditions. And the determination of whether that physical change is significant requires the application of significance thresholds. That is precisely what was done here. The GHG impact analysis applied the appropriate significance thresholds and determined that the Project's GHG emissions were Less Than Significant. (SCEA, Section 5.VIII. Greenhouse Gas Emissions; SCEA Appendix A.) Neither CEQA nor any other law requires any further analysis. WSRCC provided no credible evidence of a potential significant impact.

WSRCC claims there is missing GHG analysis under SB 32, but fails to identify what that missing analysis consists of. In any event, there is no missing analysis regarding SB 32. The commenter provides no credible evidence of a GHG significant impact based on SB 32.

WSRCC also claims that a health risk assessment (HRA) needed to be conducted to assess the potential for operational health risks from Project-related diesel particulate matter (DPM), but provides no evidence of a significant health risk from the Project. As stated in the SCEA (page 95): "The SCAQMD recommends [HRAs] for substantial sources of diesel particulate matter such as warehouse distribution and cold storage facilities. No such facilities are located in proximity to the Project Site, and the Project does not propose any such uses. As such, an HRA was not required for the Project."<sup>1</sup> The commenter provided no credible evidence of a potential significant impact or requirement that an HRA should have been conducted. (*Assn. of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1396 ("CEQA does not require a lead agency to conduct every

---

<sup>1</sup> Similarly, an HRA was not required to assess construction DPM emissions as they are temporary and short-term and SCAQMD standard risk-assessment methodology looks at long term (70-year lifetime) exposure. (SCEA, page 95.)





The Honorable Planning and Land Use Committee

April 18, 2025

Page 7

recommended test and perform all recommended research to evaluate the impacts of a proposed project. The fact that additional studies might be helpful does not mean that they are required.”.)

#### **WSRCC Comment No. 4**

The SCEA’s hazards and hazardous materials’ analysis is flawed.

#### **Response to WSRCC Comment No. 4**

WSRCC claims, without providing any evidence, that the routine use of typical cleaning products at the existing Chipotle will result in a significant impact. The SCEA correctly determined, based on the Phase I Environmental Assessment (ESA), that impacts with respect to hazardous materials would be Less Than Significant. (SCEA, Section 5.IX; see also SCEA Response to Comments, Response No. 4-33.) Hazards and Hazardous Materials; SCEA Appendix H.) WSRCC speculates that prior commercial uses at the site “may” have used hazardous chemicals and splits hairs in attempting to distinguish “cleaners” from “drycleaners” claiming that both were not addressed in the Phase 1 ESA. WSRCC provides no list of missing “cleaners” not included in the Phase 1 ESA, and the alleged distance issue for the Paragon drycleaner (900’ versus 818’) is irrelevant; the drycleaner was assessed as a potential recognized environmental condition (REC).

Furthermore, WSRCC has no basis to claim that the Phase 1 ESA used the wrong definition of a REC. E1527-21 clarifies what constitutes a “likely presence of hazardous substances or petroleum products due to a likely release to the environment.” It is based on “the environmental professional’s experience regarding the likelihood of certain conditions resulting in releases.” That was exactly what was done here by the expert consultant in concluding Chipotle was not a REC. WSRCC provides no credible evidence to the contrary.

WSRCC makes numerous general claims of missing information in the Phase 1 ESA, but fails to provide any specifics or evidence that had this information been included, a different impact conclusion would have resulted. The SCEA’s Less Than Significant hazards impact determination is supported by the expert Phase 1 ESA and WSRCC provided no credible evidence to the contrary; merely speculation.





The Honorable Planning and Land Use Committee  
April 18, 2025  
Page 8

### **WSRCC Comment No. 5**

The SCEA's analyses of land use impact [sic] is flawed, including because of the Project's inconsistency with the Hollywood Redevelopment Plan and other applicable development policies and plans, which the SCEA failed to note.

### **Response to WSRCC Comment No. 5**

WSRCC makes numerous claims of inconsistency with General Plan policies that touch on issues with disadvantaged communities. As set forth above, the designation of the Project area as a disadvantaged community is merely a description of the existing baseline environment. The implementation of the Project will not change or exacerbate that existing condition, as all of the applicable environmental impact analyses, in particular air quality and GHG, demonstrate that the Project's impacts will be Less Than Significant. WSRCC fails to provide any credible evidence that the Project's purported inconsistency with such policies would result in a significant impact on the physical environment. Further, to the extent the policies require implementation of programs, etc. to assist disadvantaged communities, those are directives to be implemented by the City and are not the responsibility of the Project applicant.

WSRCC asserts that the SCEA is flawed because it does not provide any definitive or significant measures to address GHG emissions. However, the SCEA correctly concludes that the Project will not result in a significant GHG impact, and WSRCC provides no credible evidence to the contrary. Therefore, no further measures are warranted.

WSRCC also claims the Project is inconsistent with the Redevelopment Plan. The City recently amended the Redevelopment Plan as a part of the Hollywood Community Plan Update (Ordinance No. 188455) to delete all provisions in the Redevelopment Plan that regulate the use and development of land in the Hollywood Community Plan Area. As such, the Redevelopment Plan has "no force or effect with respect to City Planning land use approvals."<sup>2</sup> Further, the Redevelopment Plan, as amended, will expire May 7, 2028. Nonetheless, the Project Site is designated for Regional Commercial uses by the Redevelopment Plan. The proposed uses would be consistent with this designation. In addition, the density of the Project (3.88 FAR) would be below the density permitted for

---

<sup>2</sup> <https://planning.lacity.gov/plans-policies/overlays/hollywood>, accessed March 25, 2025



The Honorable Planning and Land Use Committee

April 18, 2025

Page 9

Regional Commercial Areas by the Redevelopment Plan (4.5:1 to up to 6:1), and, therefore, consistent.

WSRCC claims that FAR averaging is not permitted, yet ignores that the Project sought, and the CPC approved, a Density Bonus On-Menu Incentive that expressly allows FAR averaging. (LOD, p. 2 & F-1.) WSRCC also claims the actual FAR increase needed to be disclosed (as opposed to the average), but cites no such requirement. With regard to historical resources, the Redevelopment Plan indicates that Morgan Camera Shop at 6262 Sunset appears to meet local criteria for historical designation only. As discussed in the SCEA, the Project treats Morgan Camera Shop as a potential CEQA historical resource for purposes of environmental impact analysis, and the Project would retain and rehabilitate this structure according to the Secretary of Interior Standards. As such, the Project would not result in significant impacts to historical resources. Thus, the Project would be consistent with the land use designation and other provisions of the Redevelopment Plan. (See also, SCEA Response to Comments, Response No. 4-36.)

WSRCC further claims that the Redevelopment Plan's 15 percent affordable requirement must be applied to the existing 64 units on site, not just to the proposed new 170 units. As a preliminary matter, Health & Safety Code Sections 34170–34191.6 (Dissolution Law) provides that “all provisions of the Community Redevelopment Law that depend on the allocation of tax increment to redevelopment agencies . . . shall be inoperative.” (section 34189(a).). Therefore, Dissolution Law rendered the 15 percent requirement inoperative because complying with that requirement depends upon the allocation of tax increment to redevelopment agencies.<sup>3</sup> Further, WSRCC cites no rule, regulation or law that stands for the proposition that the density bonus percentage applies to existing units when new units are to be constructed on the same site. State Density Bonus law applies to housing development projects. (Government (Gov't) Code section 65915.) A housing development project is defined under Government Code Section 65912.101, which uses the same definition as Public Resources Code (PRC) Section 65589.5, which clearly defines a housing development project as a proposed development, not an existing development. Here, the 64 units in the existing 19-story building on the Project Site are part of the existing baseline conditions, not the proposed Project. WSRCC has no legal or factual basis to claim that the prior adaptive reuse of the existing tower to residential use was Phase 1 of the Project. The conversion was completed in 2009 as a

---

<sup>3</sup> *AIDS Healthcare Foundation v. City of Los Angeles* (2022) 78 Cal.App.5th 167



The Honorable Planning and Land Use Committee

April 18, 2025

Page 10

separate and independent project by a different applicant, years before the application was filed for the Project. So, not only do the 64 existing units not count as part of the Project, but there is no basis to claim improper piecemealing. (See also Response to WSRCC Comment No. 6, below.)

WSRCC also claims it is unclear whether the density bonus replacement requirement applies to the demolition of the existing duplex. There is no requirement to demonstrate compliance with relocation benefits for the vacant duplex or require replacement units. The duplex has not been occupied by residents for well over five years. Although the Project is demolishing the duplex, it is providing 170 dwelling units of which 34 will be affordable units, which far exceeds the number of units demolished and complies with the Density Bonus replacement requirement.

WSRCC claims the Project qualifies as a Commercial Corner Development and, therefore, violates certain development standards. Commercial corner does not apply to properties zoned with height district 2, such as this property. (See definition of commercial corner in Los Angeles Municipal Code (LAMC) Section 12.03 (Commercial Corner only applies to commercially or multi-family residentially used corner lots in Height District Nos. 1, 1-L, 1-VL or 1-XL).)

#### **WSRCC Comment No. 6**

The Project and its SCEA violate CEQA as they engage in piecemealing and fail to consider the impacts of Sunset Vine Phase I along with the Project.

#### **Response to WSRCC Comment No. 6**

WSRCC claims the Project is Phase II of the original Sunset Vine project and that the SCEA engaged in improper piecemealing for failing to consider the combined impacts from both phases of the project. The existing 19-story tower was constructed in the 1960's, has been operating for decades, and the adaptive reuse to residential uses took place in 2009. As such, the existing tower and its current uses are part of the existing baseline conditions and not part of the Project. The adaptive reuse project was a separate and independent project. WSRCC asserts that the current Project applicant, SRG Development



The Honorable Planning and Land Use Committee  
April 18, 2025  
Page 11

L.P., was “behind” this adaptive reuse. In fact, CIM/Sunset & Vine, an affiliate of CIM Group that is unrelated to the current applicant, was the applicant for that project.<sup>4</sup> WSRCC cites no evidence that at the time of the adaptive reuse project, the current Project was contemplated. And even if they had, the piecemealing argument would have applied to the adaptive reuse project for allegedly failing to include the impacts from the Project as part of its CEQA impacts analysis. There is no legal support, and WSRCC cites none, for the proposition that piecemealing applies to long-ago completed projects. WSRCC merely speculates that the Project is part of a larger, past development program, and the time to have challenged that project expired years ago.

#### **WSRCC Comment No. 7**

The City does not show (provide any factual support) that the Project’s sought waivers and incentives are warranted by law.

#### **Response to WSRCC Comment No. 7**

WSRCC claims that the City needed to demonstrate that the requested (and granted) density bonus waivers and incentives were required to be granted. Yet, density bonus law requires exactly the opposite. The City must approve incentives for qualifying projects, unless the City makes one of three specified negative findings. Consistent with Government Code section 65915, LAMC section 12.22 A.25 states that the Commission “shall approve a density bonus and requested incentive(s) unless the Commission finds that . . .” (Emphasis added.) (See also *Schreiber v. City of Los Angeles* (2021) 69 Cal.App.5th 549, 592 [“By requiring the city to grant incentives *unless* it makes particular findings, the statute places the burden of proof on the city to overcome the presumption that incentives will result in cost reductions.” (Emphasis original)].) WSRCC does not identify any credible evidence that would permit the City to affirmatively make any of the negative findings; rather, it repeats its arguments regarding the disadvantaged community designation that is nothing more than a descriptor for the environmental baseline. Moreover, there is none, as specifically stated in the findings:

---

<sup>4</sup> Letter of Determination for TTM 67718-TTM,  
<https://planning.lacity.gov/pdiscaseinfo/document/OTE0NTI0/0adcf4f1-673b-40c4-8f45-98866eb1693a/pdd>,  
accessed March 25, 2025



The Honorable Planning and Land Use Committee

April 18, 2025

Page 12

There is no evidence that the proposed incentives and waivers will have a specific adverse impact upon public health and safety or the physical environment, or any real property that is listed in the California Register of Historical Resources. A "specific adverse impact" is defined as "a significant, quantifiable, direct and unavoidable impact, based on objective, identified \written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" (LAMC Section 12.22 A.25(b)). The project does not involve a contributing structure in a designated Historic Preservation Overlay Zone or on the City of Los Angeles list of Historical-Cultural Monuments. Accordingly, the project will not have a significant impact on any on-site resource or any resource in the surrounding area. The property is not located on a substandard street in a Hillside area or in a Very High Fire Hazard Severity Zone, Methane Zone, or any other special hazard area; accordingly, the project will not have a specific adverse impact upon public health and safety or the physical environment. The project is required to comply with all other pertinent regulations including those governing construction, use, and maintenance, and will not create any significant direct impacts on public health and safety. Therefore, there is no substantial evidence that the proposed project, and thus the requested incentives and waivers will have a specific adverse impact on the physical environment, on public health and safety or the physical environment, or on any Historical Resource.

(LOD at F-3.)

WSRCC claims that the requested (and granted) On-Menu incentive for "Averaging of FAR, Density, Open Space and Vehicular Access" is actually a request for multiple incentives and not allowed based on the percentage of affordable housing provided. LAMC On-Menu Incentive 8 (LAMC section 12.22.A,25(e)(8)) expressly provides: "A Housing Development Project that is located on two or more contiguous parcels may average the floor area, density, open space and parking over the project site, and permit vehicular access from a less restrictive zone to a more restrictive zone" as a single incentive. WSRCC cannot use this project to challenge the LAMC. WSRCC's claim that On-Menu Incentive 8 should be treated as multiple incentives and/or waivers is erroneous.



The Honorable Planning and Land Use Committee

April 18, 2025

Page 13

WSRCC also claims that the Project is not increasing density on the site, so there is no basis for granting the density bonus incentives. However, there is no requirement under Government Code Section 65915 (State Density Bonus Law) or the LAMC that an applicant must utilize all or even some of the by right density bonus to request incentives or waivers. Here, the subject property is zoned C4-2D-SN, [Q]C4-2D-SN and R4-2D. The C4-2D-SN zone limits the Project's density to one (1) dwelling unit per 200 square feet of lot area with a maximum FAR of 2:1 (per "D" Limitation), the [Q]C4-2D-SN zone limits the Project's density to one (1) dwelling unit per 200 feet of lot area with a maximum FAR of 2.3:1 (per "D" Limitation) and the R4-2D limits the density to one (1) dwelling unit per 400 square feet of lot area with a maximum FAR of 2:1 (per "D" Limitation). Therefore, with 32,628 square feet of lot area in the [Q]C4-2D-SN zone, 22,889 square feet of lot area in the C4-2D-SN zone and 13,632 square feet of lot area in the R4-2D zone the subject property has a total base density of 347 dwelling units. Thus, pursuant to LAMC Section 12.22-A,25, the applicant sought (and was granted) an Off-Menu incentive to allow a FAR increase from 2:3 to 3.88:1 FAR to allow 284,909 square feet in floor area. The requested increase in FAR will allow for the construction of affordable units in addition to larger-sized dwelling units and retail space at the ground level, and allows certain fixed development costs to be spread out over more floor area resulting in lower per-square-foot development costs and allows for additional market rate floor area whose rents will support operational costs of the affordable units. (LOD at F-2.) Therefore, the requested incentives will result in actual and identifiable cost savings to provide for affordable rents, consistent with State Density Bonus Law and the LAMC.

WSRCC further claims the density bonus waivers cannot be granted because the waivers would have significant adverse impacts. Again, WSRCC repeats its non-meritorious claims about significant impacts from the disadvantaged communities designation. The City expressly found that "There is no evidence that the proposed incentives and waivers will have a specific adverse impact upon public health and safety or the physical environment, or any real property that is listed in the California Register of Historical Resources." (LOD at F-3.) WSRCC has provided no credible evidence to the contrary. Similarly, WSRCC claims the City failed to demonstrate the waivers "will not have the effect of physically precluding the construction of a development meeting the [affordable set-aside percentage] criteria of subdivision (b) at the densities or with the concessions or incentives permitted under [State Density Bonus Law]" (Gov't. Code section 65915(e)(1).) The LOD contains the following findings:

#### Easterly Side Yard Setbacks





The Honorable Planning and Land Use Committee

April 18, 2025

Page 14

Pursuant to LAMC Section 12.11-C,3 the project is required to provide 11-feet easterly side yard setbacks. The project has requested to provide a zero-foot easterly side yard. The additional 11 feet of building depth allows the project to accommodate the requested density of 170 dwelling units with 34 units set aside for affordable units and the requested floor area. Adherence to the 11-foot side yard setback would physically preclude the construction of the floor area granted in the incentives and prevent the construction of the units and floor area that currently encroach into the yard. Thus, waiver supports the applicant's decision to provide 34 units as affordable housing units with 26 reserved for Very Low Income Households and eight (8) units reserved for Low Income Households.

#### Building Separation

Pursuant to LAMC Section 12.21.C.2 the project is required to provide 22 feet of building separation. The project has requested reduced building separation between the existing buildings and the new building. Strict compliance with the building separation requirements would physically preclude the development by substantially reducing the footprint and floor area of the building that could otherwise be dedicated to the number, configuration, and livability of the units including the affordable housing units. Adherence to the existing building separation requirements would physically preclude the construction of the floor area granted in the incentives and prevent the construction of the units and floor area that currently encroach into the yard. Thus, waiver supports the applicant's decision to provide 34 units as affordable housing units with 26 reserved for Very Low Income Households and eight (8) units reserved for Low Income Households.

(LOD at F-3.) WSRCC also claims that the waiver findings are equivalent to variance findings under LAMC Section 12.27. WSRCC cites no legal basis to require variance findings for density bonus waivers. On the contrary, State Density Bonus clearly specifies the negative findings to disapprove an incentive or waiver, and the CPC properly found that there is no evidence to support such findings in this case. Moreover, the Project did not seek, and the CPC did not consider or approve, a variance.





The Honorable Planning and Land Use Committee  
April 18, 2025  
Page 15

### **WSRCC Comment No. 8**

The Project does not meet the requirements for a conditional use permit and site plan review.

### **Response to Comment No. 8**

WSRCC claims the Project does not meet the requirements for a conditional use permit and site plan review because the necessary findings cannot be made. However, the CPC made all of the necessary findings in its Letter of Determination, which are supported by substantial evidence. (LOD at F-6 – F-19; see also SCEA Response to Comments, Response No. 4-13.) WSRCC provides no credible evidence that these findings were deficient in any way.

### **WSRCC Comment No. 9**

The City should require use of a local workforce and impose training requirements regarding the COVID-19.

### **Response to Comment No. 10**

WSRCC requests that the City require the use of a local workforce for Project construction and impose training requirements to prevent the spread of COVID-19. There is no CEQA provision, nor any City or other law, applicable to the Project that mandates the hiring or use of such construction labor. Furthermore, the Commenter does not present any evidence of a Project-specific air quality, GHG, or transportation impact that such a condition would mitigate. As demonstrated in the SCEA, the Project would not result in any significant air quality, GHG, transportation, or other impacts. CEQA Guidelines Section 15126.4(a)(3) provides that mitigation measures are not required for effects determined to be less than significant. Therefore, no local labor workforce condition or other mitigation measure is warranted for the Project's air quality, GHG, transportation, or other impacts.

Regarding COVID-19, effects of the environment on a project are not subject to CEQA review (PRC Sections 21065 and 21068). CEQA is generally not concerned with the effect the existing environment might have on proposed projects, and such effects are not treated as changes in the physical environment (See, e.g., *California Bldg. Indus. Assn. v.*



The Honorable Planning and Land Use Committee

April 18, 2025

Page 16

*Bay Area Air Quality Mgmt. Dist.* (2015) 62 Cal. 4th 369, 378 (CEQA does not require analysis of impact that existing environmental conditions might have on project, its residents, or its users, except when required by specific statutory exception).) As any resurgence of COVID-19 would be an existing condition that might impact the Project, the City does not need to analyze it. Moreover, in the absence of any applicable methodology, such an analysis would be speculative. Nonetheless, should there be a resurgence of COVID-19 during Project construction, the applicant's contractor would be required to adhere to the Center for Disease Control and Prevention's (CDC) workplace guidelines for construction workers, including the Construction COVID-19 Checklist for Employers and Employees. Adherence to these measures would ensure that potential health impacts are minimized during construction. Furthermore, the Project would be required to adhere to the City and County of Los Angeles workplace guidelines in effect at the time. Adherence to the CDC, the City, and the County workplace guidelines would be sufficient to reduce exposure and transmission risk of COVID-19. (See also SCEA Response to Comments, Response Nos. 4-4 & 4-5.)

## **SAFER APPEAL**

### **SAFER Comment No. 1**

The City may not rely on the SCEA because the Project is inconsistent with the General Plan's zoning designations.

### **Response To SAFER Comment No. 1**

SAFER claims the Project is inconsistent with the General Plan zoning designation restricting a portion of the site to 2:1 FAR and the Project's FAR will be 3.88:1. Here, the subject property is zoned C4-2D-SN, [Q]C4-2D-SN and R4-2D. The C4-2D-SN zone limits the Project's density to one (1) dwelling unit per 200 square feet of lot area with a maximum FAR of 2:1 (per "D" Limitation), the [Q]C4-2D-SN zone limits the Project's density to one (1) dwelling unit per 200 feet of lot area with a maximum FAR of 2.3:1 (per "D" Limitation) and the R4-2D limits the density to one (1) dwelling unit per 400 square feet of lot area with a maximum FAR of 2:1 (per "D" Limitation). Therefore, with 32,628 square feet of lot area in the [Q]C4-2D-SN zone, 22,889 square feet of lot area in the C4-2D-SN zone and 13,632 square feet of lot area in the R4-2D zone, the subject property has a total base density of 347 dwelling units. Thus, pursuant to LAMC Section 12.22-A.25, the applicant sought (and



The Honorable Planning and Land Use Committee

April 18, 2025

Page 17

was granted) an Off-Menu incentive to allow a FAR increase from 2:3 to 3.88:1 to allow 284,909 square feet in floor area. The granting of a density bonus incentive allowed the City to find the Project consistent with the General Plan. (LOD at F-19; see *Wollmer v. City of Berkeley* (2011) 193 Cal.App.4th 1329, 1348–1349 [city properly concluded zoning standards waived under State Density Bonus Law were “not ‘applicable’ to the project”].)

### **SAFER Comment No. 2**

The City may not rely on the SCEA because the Project is inconsistent with the 2020 and 2024 Connect SoCal Sustainable Community Strategies.

### **Response to SAFER Comment No. 2**

SAFER claims the Project is inconsistent with the 2020 and 2024 Connect SoCal Sustainable Community Strategies (SCS) because the Project fails to implement mitigation measures and performance standards in the SCS related to electric vehicle (EV) Charging and Solar Energy. The SCEA contains an extensive consistency analysis of the 2020 and 2024 SCS. (SCEA, Tables 3 and 4.) Specifically, while the SCS includes policies to promote low-emission technologies such as EV, SAFER admits the Project is providing EV chargers at 10% of its proposed parking spaces (which would meet the CALGREEN 2022 requirement) and 40% of all new residential parking spaces would be required to be EV ready, which would be capable of supporting future EV charging equipment. (SCEA, page 183.) Thus, the Project is consistent with the SCS EV policy. SAFER does not identify any SCS mitigation measure or performance standard requiring a specific percentage of provided parking spaces to have EV charges or be EV-ready, as there is no such requirement. However, as noted above, the Project meets the CALGREEN 2022 requirements and will comply with the City’s EV charging station requirements, California Building Code Title 24 requirements, and the California Energy Code. (SCEA Response to Comments, Response No. 29.) As to solar, SAFER claims the Project does not identify ways to incorporate solar energy. However, the Project would include the provision of a conduit that is appropriate for future photovoltaic and solar thermal collectors and would allocate roof area for future solar panels. (SCEA, page 147; SCEA Response to Comments, Response No. 29.) SAFER did not provide any credible evidence of an inconsistency with the SCS.



The Honorable Planning and Land Use Committee

April 18, 2025

Page 18

### **SAFER Comment No. 3**

The City may not rely on the SCEA because project-level CEQA review is required for impacts that were not mitigated to a less-than-significant level in the 2020 and 2024 SCS environmental impact reports ("EIRs").

### **Response to SAFER Comment No. 3**

SAFER claims that an EIR was required for the Project to assess impacts the 2020 and 2024 RTP/SCS determined to be significant and unavoidable. Nothing in CEQA prohibits or otherwise restricts the preparation of a SCEA where the EIR for an RTP/SCC discloses significant impacts. Rather, PRC Section 21155.2 only requires that the project meets specified criteria (which the Project does) and not result in any significant unmitigable impacts. In this case, the SCEA contains detailed impact analyses for all significant and unavoidable impacts identified in the 2020 and 2024 RTP/SCS EIRs, as applicable. These analyses used the same methodology and significance thresholds as would have been used if an EIR was conducted. The SCEA concluded that for all of the identified impact categories, the Project would have a Less Than Significant impact. SAFER provides no legal basis to require an EIR as opposed to a SCEA.

### **SAFER Comment No. 4**

The SCEA fails to comply with CEQA because it fails to incorporate "all feasible mitigation measures, performance standards, or criteria set forth in the prior applicable environmental impact reports."

### **Response to SAFER Comment No. 4**

SAFER claims that the SCEA fails to comply with CEQA because it fails to incorporate "all feasible mitigation measures, performance standards, or criteria set forth in the prior applicable environmental impact reports." Chapter 4, Mitigation Measures from Prior EIRs, contains a discussion of the Project's consistency with the applicable mitigation measures contained in Southern California of Governments' (SCAG) 2020–2045 RTP/SCS Program Environmental Impact Report (PEIR). Thus, the Project meets the requirements of a SCEA by including a discussion of consistency with the RTP/SCS goals, policies and mitigation measures. SAFER maintains that the SCEA should have adopted verbatim every



The Honorable Planning and Land Use Committee

April 18, 2025

Page 19

mitigation measure from the PEIRs. SCAG, which prepared and certified the PEIR, does not require implementation of all these mitigation measures, but rather gives the City, as lead agency, the discretion to require these measures as applicable. Chapter 4 of the SCEA discusses whether the mitigation measures apply to the Project and the applicable regulations that supersede the mitigation measures, and, where there is a potential project impact, identifies mitigation that would apply. While the SCEA's mitigation measures may not be the exact mitigation measures identified in the SCAG PEIR, the SCEA incorporates elements of these measures where applicable and feasible and otherwise requires Project-specific measures to reduce potential impacts to less than significant. Per CEQA Guidelines Section 15126.4, subdivision (a)(3), mitigation measures are not required for less-than-significant impacts. PRC Section 21155.2 does not alter this fundamental CEQA principle. As such, "all feasible mitigation measures" must be read in conjunction with Guidelines section 15126.4, subdivision (a)(3). (*Don't Cell Our Parks v. City of San Diego* (2018) 21 Cal.App.5th 338 ["words must be construed in context, and provisions relating to the same subject matter must be harmonized to the extent possible"].) Thus, a TPP reviewed in a SCEA need only adopt mitigation measures from PEIRs for impacts determined to be significant. SAFER provides no authority that PRC Section 21155.2 should be applied contrary to Guidelines Section 15126.4, subd. (a)(3). Therefore, the SCEA did not require mitigation measures from the PEIRs that are not needed to avoid a significant impact.<sup>5</sup> (See SCEA Response to Comments, Response No. 4-19.)

---

<sup>5</sup> Moreover, applicable case law prohibits the imposition of mitigation measures unless they have a nexus to and are proportional to a project's significant impacts. (*Nollan v. California Coastal Comm.* (1987) 483 U.S. 825; *Dolan v. City of Tigard* (1994) 512 U.S. 374.) Absent a nexus to a significant impact, mitigation is legally infeasible.