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October 29, 2024

## **VIA ELECTRONIC MAIL**

City Council  
PLUM Committee  
200 N. Spring St., Room 395  
Los Angeles, CA 9001  
[clerk.plumcommittee@lacity.org](mailto:clerk.plumcommittee@lacity.org)

**Re: Supplemental Appeal Justification Letter; 1115 North Berendo Street;  
Case Nos. DIR-2021-1538-TOC-SPP-HCA-1A; ENV-2021-1539-CE;  
Council File no. 24-1084**

Dear City Council:

This firm represents Linoleum City, Inc. ("Appellant") with regard to the appeal of environmental clearances issued by the City of Los Angeles ("City") for the proposed development project located at 1115 North Berendo Street.

This letter supplements Appellant's justifications for appeal and addresses the inadequacy of the expert reports prepared for the Project.

As explained in more detail below, the City has engaged in piecemealing, which is prohibited under the California Environmental Quality Act ("CEQA"). The developments at 1114 North Heliotrope Drive and 1115 North Berendo Street (1115 North Berendo Street and 1117 North Berendo Street) constitute a single "project" under CEQA and yet the City has processed them under two separate environmental cases numbers and clearances. But for the City's piecemealing, again, a practice expressly prohibited under CEQA, the "project" would trigger a Site Plan Review under LAMC Section 16.05. Without applying for and obtaining this entitlement, the Project is not "consistent with all applicable zoning regulations" and is therefore ineligible for the Class 32 categorical exemption. The City Council should grant the appeal.

Further, the Project is not eligible for the Class 32 categorical exemption because the Project will have a significant effect on air quality, noise and traffic. Appellant has commissioned three expert reports documenting this fact which are attached as exhibits to this letter. Additionally, both the unusual circumstances and cumulative impact exceptions are

applicable which preclude the City from deeming the Project exempt from CEQA. The City Council should grant the appeal.

**I. The Berendo Project is Nearly Identical to the Adjacent Development at 1114 North Heliotrope Drive – They Should be Considered One “Project” Under CEQA to Avoid Piecemealing**

The developer in this case has proposed nearly identical projects adjacent to one another. Nevertheless, the Department of City Planning has repeatedly claimed that each development is a “separate project” under CEQA. This was in error. The Department ignored the following key factors.

1. Both projects are identical in renderings and abut one another;
2. Both projects have thirty units proposed for development;
3. Both projects are five levels high;
4. Both projects are approximately 66 feet tall;
5. Both projects are approximately 15,400 square feet in size;
6. Both developments sit on approximately 6,750 square feet; and
7. Both projects are owned, operated or incorporated by the same persons



**Figure 1.0 - Picture of Project Showing Location Side by Side**

The Applicant for the project site located at 1114 North Heliotrope Drive, is Yoav Atzmon of 1114 Heliotrope Partners, LLC.

**Project Site:** 1114 North Heliotrope Drive

**Applicant:** Yoav Atzmon, 1114 Heliotrope Partners, LLC  
Representative: Ben Rocca, Rocca Development, Inc.

**Figure 1.1 - Applicant Identification from Letter of Determination dated August 13, 2024 for 1114 North Heliotrope Drive**

Likewise, the Applicant for the project site located at 1115 North Berendo Street (1115 and 1117 North Berendo Street) is Yoav Atzmon, BRK, Inc. Both entities, 1114 Heliotrope Partners, LLC and BRK, Inc. were incorporated and/or operated by Mr. Atzmon per the initial filings via the California Secretary of State's website business filings.

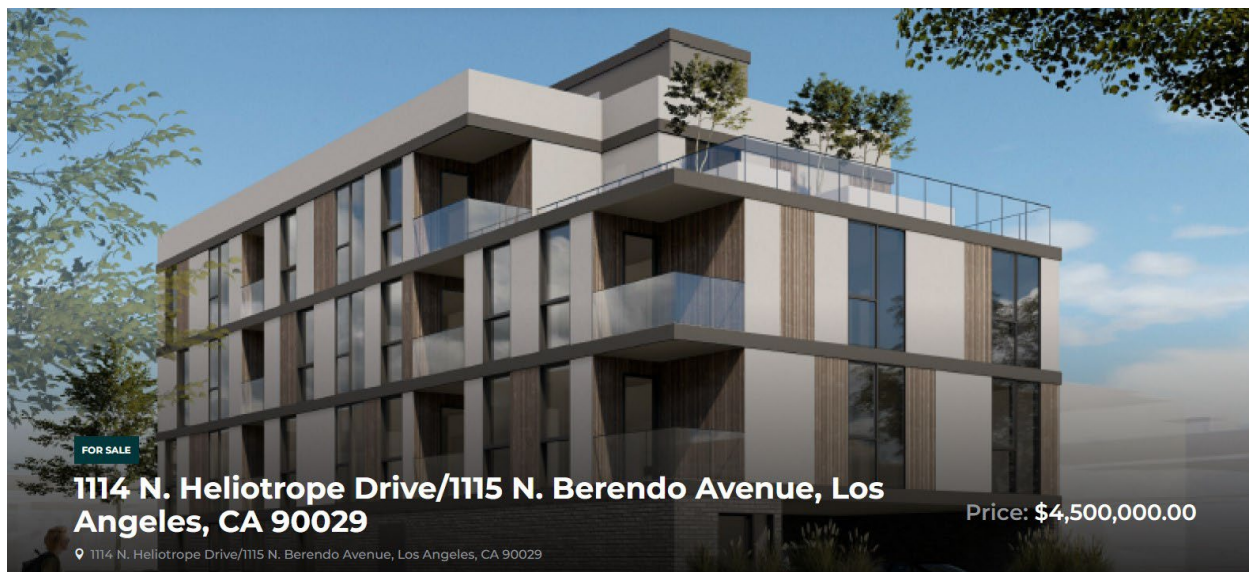
**Project Site:** 1115 North Berendo Street (1115 and 1117 North Berendo Street)

**Applicant:** Yoav Atzmon, BRK, Inc.  
Representative: Ben Rocca, Rocca Development, Inc.

**Figure 1.2 - Applicant Identification from Letter of Determination dated August 13, 2024 for 1115 North Berendo Street**

Ben Rocca of Rocca Development, Inc and representative of Yoav Atzmon, 1114 Heliotrope Partners, LLC, even identified the projects as "sister projects" at the last hearing in front of the Los Angeles City Planning Commission on July 25, 2024.

The project is also being listed for sale as one property according to Maher Commercial Realty (<https://mahercr.com/properties/1114-heliotrope-1115-berendo-los-angeles-ca-90029/>): See **Attachment D**.



**Figure 1.3 – Maher Commercial Realty Property Listing at mahercr.com**

The City has avoided environmental review and analysis through using a tactic called "piecemealing." An abundance of case law prohibits this practice, which entails separating a

project into smaller parts in order to avoid environmental review that would otherwise apply to a larger development. The prohibition against piecemealing under CEQA is primarily articulated in Cal. Code Regs., tit. 14, § 15378, subd. (a), and is supported by various court rulings that emphasize the need for comprehensive environmental review to prevent cumulative environmental impacts from being overlooked. For example, “CEQA mandates ‘that environmental considerations do not become submerged by chopping a large project into many little ones—each with a minimal potential impact on the environment—which cumulatively may have disastrous consequences.’” *McCann v. City of San Diego* (2021) 70 Cal. App. 5th 51 (quoting *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 98). Ultimately, the Project constitutes piecemealing because both developments are owned by the same entity, are almost identical in design, are located next to one another, and serve the same purpose. The City has hastily approved the Project - without conducting the required environmental analysis— and has attempted to shield itself by creating an arbitrary dividing line that conveniently insulates the developer from further scrutiny.

## **II. The Project is Not Eligible for a Class 32 Exemption under CEQA**

### **A. The Project is Not Eligible because the Project is Not Consistent with all Applicable Zoning Regulations**

The Department of City Planning has avoided conducting a Site Plan Review by splitting up the Project (which cumulatively consists of 60 total units). LAMC Section 16.05 requires a Site Plan Review for net increase of 50 or more dwelling units and/or guest rooms. The City failed to consider the two buildings as one “project,” allowing the developer to avoid otherwise applicable regulations. If the City had considered the two buildings as one project, a Site Plan Review would require mitigation of any significant environmental impacts and ensure development projects are appropriate to their sites, surrounding properties, and traffic needs. It would also control development projects that are likely to have a significant adverse effect on the environment. A project is not eligible for a Class 32 categorical exemption unless it is “consistent with all applicable zoning regulations.” Cal. Code Regs. tit. 14 § 15332(a).

Because this project has not obtained the required site plan review, it is not consistent with all applicable zoning regulations. There is real harm to the community by allowing the developer to skirt Site Plan Review. This is because the City would not be able to make the required findings to approve a Site Plan Review. First, the project would significantly alter the skyline and character of the neighborhood, potentially overshadowing existing businesses like Linoleum City. This will affect visibility and traffic, especially if parking exceptions apply. Second, the proposed height and massing of the development are incompatible with the surrounding neighborhood. This raises concerns about how the new construction would fit into the existing urban fabric and affect the local community's sense of place.

### **B. The Project is Not Eligible for a Categorical because the City Failed to Properly Analyze Significant Impacts on the Environment of Noise, Air Quality and Traffic**



As described below in more detail, the City relied on expert reports from Yorke Engineering that downplayed the significance of noise impacts, relied on incorrect source-receptor analysis of noise production, provided no guidance for appropriate noise barrier construction and, as a result, must concede that project construction noise would exceed current City CEQA daytime noise and nighttime noise thresholds. Appellant has commissioned an expert report documenting the Project's significant effects on noise. See **Attachment A**.

As described below in more detail, the City also relied on expert reports from Yorke Engineering that downplayed the significance of construction impacts on air quality and failed to include 1117 North Berendo Street in its air quality analysis. Appellant has commissioned an expert report attached documenting the Project's significant effects on air quality and public health. See **Attachment B**.

Further, and as further described below, the City has undertaken no traffic impact analysis whatsoever. However, according to transportation engineer Paul Krupka, "[t]he cumulative traffic generation of nearly 400 dwelling units in a relatively small area could be significant and should be evaluated." See **Attachment C**.

### **III. The City's Noise Report From Yorke Engineering Downplays Significance of Noise Impacts During Construction Phase of Project**

Attached with this Supplemental Appeals Justification letter is a Noise Report from Expert Steve Rogers of Steve Rogers Acoustics with CV (**Attachment A**) dated October 2, 2024 analyzing the inadequacies of Yorke Engineering's findings and conclusions of noise.

As part of the City's justification for determining that Class 32 Categorical Exemption applies to each of the two projects, the City has relied on the October 5, 2022 version of the Yorke report. There was one further updated report—dated October 26, 2022—to which the preparer had added a discussion of cumulative effects to the noise section and included table of comparable projects within a quarter-mile radius of the project sites.

#### **A. Yorke's Construction Noise Impact Analysis is based on Incorrect Source-Receptor Distance**

Table 11 on page 17 of the Yorke report provides 1-hour average noise levels for the various phases of construction, based on FHWA reference noise levels and usage factors for the equipment expected to be in use during each phase.

The noise levels reported in Yorke's Table 11 are calculated for a receptor located 82-feet from the "center of the construction zone" (which we assume to mean the center of each project site). This source-receiver distance is incorrect, because each of the project sites is only 50-feet wide, which means that the distance from the center of the site to the northern property line is 25-feet. And with a side yard setback of 5-feet on the residential properties to the north, the distance from the center of the site to the nearest residential units is 30-feet.

By assuming a source-receptor distance of 82-feet, the Yorke noise model artificially reduces the received noise level. When adjusted for the correct source-receptor distance of 30-feet, the noise predictions in Yorke’s Table 11 increase substantially, as shown below in Figure 1.4.

Construction Phase	Received Noise Level, dBA (Leq)	
	at 82-feet <sup>(1)</sup>	at 30-feet <sup>(2)</sup>
Demolition	72.5	80.4
Site Preparation	69.6	76.9
Grading	71.4	78.9
Building Construction	70.3	79.2
Paving	73.0	81.2
Architectural Coating	66.6	71.5
(1) “Modeled” noise level in Table 11 of Yorke’s October 26, 2022 Report, for a receiver located 82-feet from the center of the project site and including a 10 dBA insertion loss for noise barriers erected at the property line.		
(2) Yorke’s analysis adjusted to reflect actual distance of 30-feet between the center of the project site and the closest residential buildings.		

**Figure 1.4 – Construction Noise Levels for Receiver at 82-Feet versus 30-feet**

#### **B. Claimed Noise Reduction for Construction Noise Barriers is Not Adequately Supported**

According to the discussion of page 18 of their report, Yorke’s calculations assume that barriers around the property line between the project sites and the sensitive receptors would reduce received noise levels by 10 dBA. The report does not provide a detailed description of barriers the Applicant proposes for the projects, nor does it include calculations to support the 10 dBA noise reduction figure Yorke has assumed.

Instead, page 18 of the report offers a generic BMP (best management practices) statement about noise barriers, which reads as follows:

*“For outside work BMPs, the Projects shall implement noise barriers comprising plywood construction fencing and/or flexible sound-absorbing curtains as practicable. The noise barriers shall be erected around the perimeter of the construction site to minimize the transmission of construction noise toward nearby noise-sensitive land uses. The noise barriers shall be at least 8 feet in height and constructed of materials achieving an Insertion Loss (IL) coefficient of at least 5 dBA for flexible curtains, 8 dBA for rigid plywood fencing, or 10 dBA in combination (FHWA 2006).”*

This language seems to give the Applicant the option of providing flexible curtain (5 dBA) or plywood (8 dBA) noise barriers instead of a combination plywood/flexible sound curtain barrier, which would be required to deliver 10 dBA insertion loss. If the Applicant

chooses to use flexible curtains or plywood alone for the noise barriers, it follows that the reduction could be less than 10 dBA as Yorke's calculations assume.

More importantly, the height of the barrier is not clearly defined in Yorke's BMP statement except to say that it could be a little as 8-feet. Barrier height is critical in this case, because the residential buildings to the north are 3-story town homes that overlook the project sites as shown in Figure 1.5 below.



VIEW FROM HELIOTROPE DRIVE



VIEW FROM BERENDO STREET

**Figure 1.5 – Existing 3-story Townhomes Overlooking the Project Sites**

For a noise barrier at the property line to be effective in reducing noise incident on these buildings, it would need to be approximately 24-feet in height. An 8-foot-high barrier would offer zero reduction in construction noise at third floor level, because it would not interrupt the line-of-sight between source and receptor.

For a noise barrier at the property line to be effective in reducing noise incident on these buildings, it would need to be approximately 24-feet in height. An 8-foot-high barrier would offer zero reduction in construction noise at third floor level, because it would not interrupt the line-of-sight between source and receptor.

Building a substantial, 24-foot-tall noise barrier would be a significant undertaking, one that would surely have warranted mention in Yorke's report if this was the Applicant's intent. Indeed, construction of a 24-foot-high noise barrier at the northern property line, only 5-feet

away from the closest residential buildings, could be considered a construction project in its own right – with its own set of noise impacts – that is not discussed in Yorke’s report.

It is therefore quite possible that the Applicant proposes noise barriers that meet the minimum requirement of Yorke’s BMP statement – i.e. 8-foot high – in which case the 10 dBA reduction assumed in Yorke’s noise model is unrealistic; the actual reduction for upper-story receptors on the adjacent property would be 0 dBA, resulting in the received construction noise levels shown below in Figure 1.6.

Construction Phase	Received Noise Level at Upper Stories, dBA (Leq)
Demolition	90.3
Site Preparation	86.7
Grading	88.7
Building Construction	89.0
Paving	91.1
Architectural Coating	80.6
(1) Yorke’s analysis adjusted to reflect actual distance of 30-feet between the center of the project site and the closest residential buildings and with the 10 dBA noise barrier insertion loss removed	

**Figure 1.6 – Construction Noise Levels with 8-foot-high Noise Barriers**

### **C. Incorrect Noise Metric and Distance Used for Comparison with LAMC Noise Limits**

The noise limit of 75 dBA at 50-feet for construction equipment in Section 112.05 of the LAMC is a maximum noise level – often denoted as “Lmax”. The reference noise levels from the FHWA Roadway Construction Noise Model are Lmax values at 50-feet, so it follows that these should be compared (either directly, or after application of a realistic noise barrier reduction) to the 75 dBA LAMC noise limit.

However, Table 11 of Yorke’s report compares the Equivalent noise level (Leq) of each construction phase to LAMC noise limit. Equivalent (average) noise level is calculated for construction projects by applying a “usage factor” to the FHWA Lmax reference value. Furthermore, Table 11 assumes a source-receptor distance of 82-feet not 50-feet, which is the distance at which the LAMC noise limit applies.

### **D. Construction Equipment Exceeds LAMC Noise Limits**

Yorke’s Table 11 assumes a 10 dBA noise level reduction for noise barriers at the site perimeter, which may be unrealistic given that sensitive receptors immediately north of the project sites are three-story townhomes – which makes line-of-site noise shielding very difficult.



As The FHWA Lmax reference data for every piece of equipment proposed for construction of the projects exceeds the LAMC noise limit of 75 dBA at a distance of 50-feet. It follows that, without the benefit of an effective noise barrier (and the 10 dBA reduction that Yorke’s analysis assumes) there are a total of seven construction noise sources in the projects that do not meet the LAMC 75 dBA noise limit at 50-feet, as shown below in Figure 1.7.

Equipment Description	FHWA Reference Noise Level at 50-feet (dBA)	Barrier Insertion Loss <sup>(1)</sup> (dBA)	Net Noise Level <sup>(2)</sup> Received at 50-feet (dBA)	Meets LAMC 75 dBA noise Limit?
Concrete/Industrial Saw	90	0	90	NO
Rubber Tired Dozer	84	0	84	NO
Tractor/Loader Backhoe	80	0	80	NO
Grader	85	0	85	NO
Crane	85	0	85	NO
Forklift	80	0	80	NO
Cement & Mortar Mixer	79	0	79	NO
(1) Assumes an 8-foot high perimeter noise barrier that does not interrupt line-of-site to elevated receptors in the 3-story residential buildings to the north of the project site. (2) Received level at 2 <sup>nd</sup> or 3 <sup>rd</sup> story level on the adjacent property at a distance of 50-feet from the equipment.				

**Figure 1.7 – Equipment Noise Levels with 8-foot Noise Barrier at Perimeter of Site**

If the Applicant does commit to noise barriers of sufficient substance (plywood plus flexible noise curtain) and height (24-feet, approx.) to provide 10 dBA insertion loss to receptors on the third floor of the adjacent townhomes, then most of the equipment proposed for construction of the projects would comply with the 75 dBA LAMC noise limit – albeit just barely in the case of graders and cranes. However, even in this scenario, the concrete/industrial saw would exceed the 75 dBA noise limit at 50-feet, as shown below in Figure 1.8.

Equipment Description	FHWA Reference Noise Level at 50-feet (dBA)	Barrier Insertion Loss <sup>(1)</sup> (dBA)	Net Noise Level <sup>(2)</sup> Received at 50-feet (dBA)	Meets LAMC 75 dBA noise Limit?
Concrete/Industrial Saw	90	10	80	NO
Rubber Tired Dozer	84	10	74	YES
Tractor/Loader Backhoe	80	10	70	YES
Grader	85	10	75	YES
Crane	85	10	75	YES
Forklift	80	10	70	YES
Cement & Mortar Mixer	79	10	69	YES
(1) Assumes a perimeter noise barrier 20-feet in height – or taller, as required to provide line-of-sight shielding and deliver a 10 dBA insertion loss for third-floor receptors. (2) Received level at 3 <sup>rd</sup> story level on the adjacent property at a distance of 50-feet from the equipment.				

**Figure 1.8 – Equipment Noise Levels with 20-foot Noise Barrier at Perimeter of Site**

**E. Project Construction Noise Would Exceed Current City CEQA Daytime Noise Thresholds**

The City's new CEQA Thresholds state that the construction noise received at sensitive uses shall not exceed 80 dBA (Leq, 8-hour) between the hours of 7:00 AM and 7:00 PM, Monday through Friday and 8:00 AM to 6:00PM on Saturdays.

When adjusted for the correct distance to the townhomes to the north of the project sites, Yorke's predictions for construction noise during the demolition and paving phases would exceed the absolute limit of 80 dBA (Leq, 8-hour) as shown in Figure 1.4 of this report, even assuming that Yorke's presumed reduction of 10 dBA for noise barriers is realistic.

In the event that the Applicant elects to erect a perimeter noise barrier that meets the only minimum standard of the BMP description provided in the Yorke report (i.e. an 8-foot barrier), the received construction noise level at the upper stories of the nearest residential buildings would increase further, to the point where it would exceed the absolute limit of 80 dBA (Leq, 8-hour) during all six construction phases, as shown in Figure 1.4, 1.6 and 1.7. In this scenario, the received noise levels during the demolition and paving phases would be in excess of 90 dBA, a full 10 dBA above the allowed noise level for daytime construction activity.

**F. Project Construction Noise Would Exceed Current City CEQA Nighttime Noise Thresholds**

According to the Yorke report, the Applicant's proposed construction hours on the project sites would extend to 9:00 PM on weekdays – introducing the possibility of construction activity after 7:00 PM, which would be subject to the City's nighttime noise threshold of ambient noise level plus 5 dBA.

Yorke predicts daytime ambient noise level prediction of 65 dBA. If we assume (conservatively) that this daytime ambient noise level is also accurate for the 7:00 – 9:00 PM period, then the City's nighttime construction noise threshold for the projects would be 70 dBA.

As Figure 1.4, 1.6 and 1.7 illustrate, construction noise levels received at the townhomes to the north of the project sites would exceed 70 dBA – by a significant margin – with or without effective 10 dBA noise barriers. The net result is that the less-than-significant finding in the Yorke report for noise generated by the projects during the construction phase is not justified.

**IV. The City's Air Quality Report Underestimates NOx and Health Risk Exposure due to Diesel Particulate Matter**

Attached to this Supplemental Appeals Justification letter is an Air Quality Technical Memorandum from Expert Ray Kapahi of Environmental Permitting Specialists ("EPS") (**Attachment B**) dated October 29, 2024 analyzing the two Notices of Exemption and four Air Quality, Greenhouse Gas and Noise Studies prepared by Yorke Engineering, LLC for the

proposed development projects located at 1114 North Heliotrope Drive and 1115 North Berendo Street.

The EPS report concluded that the Project's emissions of NO<sub>x</sub> and Diesel Particulate Matter (DPM) would result in significant impacts to air quality and public health. The EPS report explained that the developer's expert reports were faulty because they did not conduct a "site specific analysis" to "confirm that NAAQS and CAAQS would not be violated. The EPS report concluded as follow:

"Because the Project will violate the federal or state ambient air quality standards and will result in significant health risks (cancer) due to exposure from diesel particulate matter, it is my opinion that the approval of the Project will result in significant air quality and public health risk impacts effects. As such, the Project is not eligible for a Class 32 categorical exemption under CEQA. Even if the two development projects were analyzed separately, it is my professional opinion that they each result in significant impacts to air quality and public health. Further, it is my opinion that the unusual circumstances exception provided for in CEQA Guidelines Section 15300.2(c) is applicable due to the Project's significant effects on the environment. Finally, it is my opinion that the cumulative impact exception provided for in CEQA Guidelines Section CEQA Section 15300.2(b) is applicable because the project and successive projects of the same type in the same place will result in cumulative impacts."

#### **V. The City Failed to Undertake Any Traffic Analysis Whatsoever**

Finally, the City has failed to substantiate that the Project will not results in any significant effects related to traffic. In fact, the City did not require any traffic analysis whatsoever. However, as explained by transportation engineer Paul Krupka, "[t]he cumulative traffic generation of nearly 400 dwelling units in a relatively small area could be significant and should be evaluated." See Attachment C. The City has not met its initial burden of demonstrating that the Project meets the eligibility requirements of the Class 32 categorical exemption.

#### **VI. Conclusion**

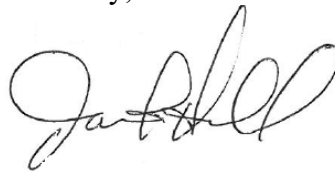
The analysis presented in Yorke's October 26, 2024 report for the 1114 North Heliotrope Drive and 1115 North Berendo Street projects do not adequately support the finding that construction noise impacts will be less than significant. To the contrary, construction of the projects would result in significant noise impacts at the closest sensitive uses because of the aforementioned analysis. Likewise, emissions of NO<sub>x</sub> and DPM would result in significant impacts to air quality and public health. The City has also failed to provide any documentation substantiating its conclusion that the Project will not results in any significant traffic impacts. As a result of these failings, the Project doesn't qualify for a Class 32 CEQA Exemption. The City

has also committed other errors as identified herein (failure to require Site Plan Review, piecemealing, inadequate project description, etc.)

We urge the City to reconsider its approach, conduct a full environmental and site plan review, and ensure that any development aligns with CEQA requirements and the area's specific plan and community needs.

Thank you for your consideration of this matter. I may be contacted at [jamie.hall@channellawgroup.com](mailto:jamie.hall@channellawgroup.com) if you have any questions, comments or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Jamie T. Hall". The signature is fluid and cursive, with the first name "Jamie" being more prominent than the last name "Hall".

Jamie T. Hall

Encls.

- Attachment A: Expert Steve Rogers of Steve Rogers Acoustics – Noise Report
- Attachment B: Expert Ray Kapahi of Environmental Permitting Specialists - Air Quality Technical Memorandum
- Attachment C: Krupka Consulting – CEQA Notice of Exemption Review
- Attachment D: Maher Commercial Realty property listing



**Channel Law Group, LLP**

October 29, 2024

**Supplemental Appeal Justification Letter**

**1115 North Berendo Street**

**Case Nos. DIR-2021-1538-TOC-SPP-HCA-1A; ENV-2021-1539-CE**

**Council File no. 24-1084**

**ATTACHMENT A**



Steve Rogers Acoustics

October 2, 2024

Jamie Hall  
Channel Law Group, LLP  
8383 Wilshire Boulevard, Suite 750  
Beverly Hills, CA 90211  
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Subject: **1114 N. Heliotrope Drive & 1115 N. Berendo Street  
Review of Applicant's Noise Studies**

Dear Jamie:

We have reviewed Air Quality, Greenhouse Gas and Noise studies prepared by Yorke Engineering on behalf of the Applicant for the 1114 N. Heliotrope Drive and 1115 N. Berendo Street projects and provide here our comments on the noise sections.

## 1. BACKGROUND

The Applicant – Rocca Development, Inc. – proposes to develop two 30-unit apartment buildings on adjacent lots located at 1114 N. Heliotrope Drive and 1115 N. Berendo Street in Los Angeles, CA. In support of the Applicant's submittal of City Planning Environmental Assessment for Class 32 Categorical Exemptions for Transit Oriented Communities infill projects, Yorke Engineering, LLC (Yorke) has prepared an Air Quality, Greenhouse Gas and Noise Study, that covers both projects.

There were several iterations of Yorke's letter report, including a draft and subsequent updates; the noise analysis in each version is essentially the same – with the preparer finding that noise impacts associated with the projects are less-than-significant.

As part of its justification for determining that Class 32 Categorical Exemption applies to each of the two projects, the City of Los Angeles has relied on the October 5, 2022 version of the Yorke report. There was one further updated report – dated October 26, 2022 – to which the preparer had added a discussion of cumulative effects to the noise section and included table of comparable projects within a quarter-mile radius of the project sites. Our review focusses on the noise analysis in the October 26, 2022 version of the Yorke report, because that represents the Applicant's most recent and most complete submission.

The purpose our review is to confirm the accuracy and adequacy of the analysis presented in the Yorke report as well as the validity of the preparers' less-than-significant finding for noise impacts associated with the two projects.

## 2. NOISE IMPACT THRESHOLDS OF SIGNIFICANCE

### a) Los Angeles Municipal Code

Section 41.40 of the Los Angeles Municipal Code (LAMC) prohibits construction activities that could disturb persons sleeping in a residential use between the hours of 9:00 PM and 7:00AM.

In addition, Section 112.05 of the LAMC prescribes the following noise limits at a distance of 50-feet for power tools/equipment operated between the hours of 7:00 AM and 10:00 PM:

- 75 dBA for construction, industrial, and agricultural machinery including crawler-tractors, dozers, rotary drills and augers, loaders, power shovels, cranes, derricks, motor graders,



paving machines, off-highway trucks, ditchers, trenchers, compactors, scrapers, wagons, pavement breakers, compressors and pneumatic or other powered equipment;

- 75 dBA for powered equipment of 20 HP or less intended for infrequent use in residential areas, including chain saws, log chippers and powered hand tools;
- 65 dBA for powered equipment intended for repetitive use in residential areas, including lawn mowers, backpack blowers, small lawn and garden tools and riding tractors.

These limits apply to the extent that achieving them is technically feasible through the use of mufflers, shields, sound barriers and/or other noise reduction techniques.

b) Los Angeles CEQA Thresholds for Evaluating Construction Noise Impact

The thresholds used for evaluating construction noise impacts in the City of Los Angeles were recently updated by the Planning Department. The new thresholds are defined and explained in a document titled "Construction Noise and Vibration Updates to Thresholds and Methodology" dated August 2024.

- **DAYTIME CONSTRUCTION NOISE**

The City's new CEQA threshold for daytime construction noise is an absolute value of 80 dBA (Leq, 8-hour), which applies at sensitive uses between the hours of 7:00 AM and 7:00 PM, Monday through Friday and 8:00 AM to 6:00 PM on Saturdays.

The noise metric is Equivalent Sound Pressure Level (denoted Leq) which is an energy-average of noise over a defined period of time. For evaluation of Construction Noise impacts, the City has selected an averaging period of 8 hours.

In its identification of sensitive uses, the City now makes a distinction between "regularly inhabited areas of residential uses" which includes residential units within a building and "temporarily inhabited residential areas" such as private outdoor space, backyards and balconies. We understand this new distinction to mean that the 80 dBA (Leq, 8-hour) absolute noise limit applies at the facades of neighboring residential buildings, rather than at the property line.

- **NIGHTTIME CONSTRUCTION NOISE**

Between the hours of 7:00 PM and 7:00 AM Monday through Friday, and between 6:00 PM and 8:00 AM on Saturdays, anytime on Sundays or national holidays, the City's new threshold is that construction noise levels at sensitive uses should not exceed 5 dBA above the ambient noise level at the receptor. (Mat pour activities, and other types of concrete pour that require an extended continuous pour for fewer than five days are exempt from the nighttime threshold.)

According to page 18 of the Yorke report:

*"Construction shall be restricted to the hours of 7:00 am to 9:00 pm Monday through Friday, and 8:00 am to 6:00 pm on Saturdays or national holidays. No construction work shall be performed at any time on Sundays."*

This statement was made prior to the adoption of the new LA CEQA thresholds for construction noise, so it may be subject to revision. However, as the description of construction hours in the noise analysis stands today, there is a possibility of construction activity on the project sites between the hours of 7:00 and 9:00 PM on weekdays, which would be subject to the nighttime noise threshold.



### 3. PROJECT NOISE IMPACTS THAT ARE UNDERSTATED, OVERLOOKED IN THE YORKE REPORT

We have identified several areas where the analysis in the Yorke report downplays the significance of noise impact during the construction phase of the projects. In some cases, this is because the analysis itself is incorrect or inadequate; in other instances, significance thresholds have either been misapplied or overlooked altogether.

The net result is that the less-than-significant finding in the Yorke report for noise generated by the projects during the construction phase is not justified, for the reasons detailed in the following paragraphs:

#### a) Yorke's Construction Noise Impact Analysis is Based on Incorrect Source-Receptor Distance

Table 11 on page 17 of the Yorke report provides 1-hour average (Leq) noise levels for the various phases of construction, based on FHWA reference noise levels and usage factors for the equipment expected to be in use during each phase.

The noise levels reported in Yorke's Table 11 are calculated for a receptor located 82-feet from the "center of the construction zone" (which we assume to mean the center of each project site). This source-receiver distance is incorrect, because each of the project sites is only 50-feet wide, which means that the distance from the center of the site to the northern property line is 25-feet. And with a side yard setback of 5-feet on the residential properties to the north, the distance from the center of the site to the nearest residential units is 30-feet.

By assuming a source-receptor distance of 82-feet, the Yorke noise model artificially reduces the received noise level. When adjusted for the correct source-receptor distance of 30-feet, the noise predictions in Yorke's Table 11 increase substantially, as shown in Table 1.

Table 1: Construction Noise Levels for Receiver at 82-feet versus 30-feet		
Construction Phase	Received Noise Level, dBA (Leq)	
	at 82-feet <sup>(1)</sup>	at 30-feet <sup>(2)</sup>
Demolition	72.5	80.4
Site Preparation	69.6	76.9
Grading	71.4	78.9
Building Construction	70.3	79.2
Paving	73.0	81.2
Architectural Coating	66.6	71.5
(1) "Modeled" noise level in Table 11 of Yorke's October 26, 2022 Report, for a receiver located 82-feet from the center of the project site and including a 10 dBA insertion loss for noise barriers erected at the property line.		
(2) Yorke's analysis adjusted to reflect actual distance of 30-feet between the center of the project site and the closest residential buildings.		

#### b) Claimed Noise Reduction for Construction Noise Barriers is Not Adequately Supported

According to the discussion of page 18 of their report, Yorke's calculations assume that barriers around the property line between the project sites and the sensitive receptors would reduce received noise levels by 10 dBA. The report does not provide a detailed description of barriers the Applicant proposes for the projects, nor does it include calculations to support the 10 dBA noise reduction figure Yorke has assumed.





Instead, page 18 of the report offers a generic BMP (best management practices) statement about noise barriers, which reads as follows:

*"For outside work BMPs, the Projects shall implement noise barriers comprising plywood construction fencing and/or flexible sound-absorbing curtains as practicable. The noise barriers shall be erected around the perimeter of the construction site to minimize the transmission of construction noise toward nearby noise-sensitive land uses. The noise barriers shall be at least 8 feet in height and constructed of materials achieving an Insertion Loss (IL) coefficient of at least 5 dBA for flexible curtains, 8 dBA for rigid plywood fencing, or 10 dBA in combination (FHWA 2006)."*

This language seems to give the Applicant the option of providing flexible curtain (5 dBA) or plywood (8 dBA) noise barriers instead of a combination plywood/flexible sound curtain barrier, which would be required to deliver 10 dBA insertion loss. If the Applicant chooses to use flexible curtains or plywood alone for the noise barriers, it follows that the reduction could be less than 10 dBA as Yorke's calculations assume.

More importantly, the height of the barrier is not clearly defined in Yorke's BMP statement except to say that it could be a little as 8-feet. Barrier height is critical in this case, because the residential buildings to the north are 3-story town homes that overlook the project sites – as shown in Figure 1.





For a noise barrier at the property line to be effective in reducing noise incident on these buildings, it would need to be approximately 24-feet in height. An 8-foot high barrier would offer zero reduction in construction noise at third floor level, because it would not interrupt the line-of-sight between source and receptor.

Building a substantial, 24-foot tall noise barrier would be a significant undertaking, one that would surely have warranted mention in Yorke's report if this was the Applicant's intent. Indeed, construction of a 24-foot high noise barrier at the northern property line, only 5-feet away from the closest residential buildings, could be considered a construction project in its own right – with its own set of noise impacts – that is not discussed in Yorke's report.

It is therefore quite possible that the Applicant proposes noise barriers that meet the minimum requirement of Yorke's BMP statement – i.e. 8-foot high – in which case the 10 dBA reduction assumed in Yorke's noise model is unrealistic; the actual reduction for upper-story receptors on the adjacent property would be 0 dBA, resulting in the received construction noise levels shown in Table 2.

Table 2: Construction Noise Levels with 8-foot high Noise Barriers	
Construction Phase	Received Noise Level at Upper Stories, dBA (Leq)
Demolition	90.3
Site Preparation	86.7
Grading	88.7
Building Construction	89.0
Paving	91.1
Architectural Coating	80.6
(1) Yorke's analysis adjusted to reflect actual distance of 30-feet between the center of the project site and the closest residential buildings and with the 10 dBA noise barrier insertion loss removed	

c) Incorrect Noise Metric and Distance Used for Comparison with LAMC Noise Limits

The noise limit of 75 dBA at 50-feet for construction equipment in Section 112.05 of the LAMC is a maximum noise level – often denoted as “L<sub>max</sub>”. The reference noise levels from the FHWA Roadway Construction Noise Model are L<sub>max</sub> values at 50-feet, so it follows that these should be compared (either directly, or after application of a realistic noise barrier reduction) to the 75 dBA LAMC noise limit.

However, Table 11 of Yorke's report compares the Equivalent noise level (Leq) of each construction phase to LAMC noise limit. Equivalent (average) noise level is calculated for construction projects by applying a “usage factor” to the FHWA L<sub>max</sub> reference value. Furthermore, Table 11 assumes a source-receptor distance of 82-feet not 50-feet, which is the distance at which the LAMC noise limit applies.

d) Construction Equipment Exceeds LAMC Noise Limits

As discussed elsewhere in this report, Yorke's Table 11 assumes a 10 dBA noise level reduction for noise barriers at the site perimeter, which may be unrealistic given that sensitive receptors immediately north of the project sites are three-story townhomes – which makes line-of-site noise shielding very difficult.



As The FHWA Lmax reference data for every piece of equipment proposed for construction of the projects exceeds the LAMC noise limit of 75 dBA at a distance of 50-feet. It follows that, without the benefit of an effective noise barrier (and the 10 dBA reduction that Yorke's analysis assumes) we find that there are a total of seven construction noise sources in the projects that do not meet the LAMC 75 dBA noise limit at 50-feet, as shown in Table 2.

Table 2: Equipment Noise Levels with 8-foot Noise Barrier at Perimeter of Site				
Equipment Description	FHWA Reference Noise Level at 50-feet (dBA)	Barrier Insertion Loss <sup>(1)</sup> (dBA)	Net Noise Level <sup>(2)</sup> Received at 50-feet (dBA)	Meets LAMC 75 dBA noise Limit?
Concrete/Industrial Saw	90	0	90	NO
Rubber Tired Dozer	84	0	84	NO
Tractor/Loader Backhoe	80	0	80	NO
Grader	85	0	85	NO
Crane	85	0	85	NO
Forklift	80	0	80	NO
Cement & Mortar Mixer	79	0	79	NO
(1) Assumes an 8-foot high perimeter noise barrier that does not interrupt line-of-site to elevated receptors in the 3-story residential buildings to the north of the project site.				
(2) Received level at 2 <sup>nd</sup> or 3 <sup>rd</sup> story level on the adjacent property at a distance of 50-feet from the equipment.				

If the Applicant does commit to noise barriers of sufficient substance (plywood plus flexible noise curtain) and height (24-feet, approx.) to provide 10 dBA insertion loss to receptors on the third floor of the adjacent townhomes, then most of the equipment proposed for construction of the projects would comply with the 75 dBA LAMC noise limit – albeit just barely in the case of graders and cranes. However, even in this scenario, the concrete/industrial saw would exceed the 75 dBA noise limit at 50-feet, as shown in Table 3.

Table 3: Equipment Noise Levels with 20-foot <sup>(1)</sup> Noise Barrier at Perimeter of Site				
Equipment Description	FHWA Reference Noise Level at 50-feet (dBA)	Barrier Insertion Loss <sup>(1)</sup> (dBA)	Net Noise Level <sup>(2)</sup> Received at 50-feet (dBA)	Meets LAMC 75 dBA noise Limit?
Concrete/Industrial Saw	90	10	80	NO
Rubber Tired Dozer	84	10	74	YES
Tractor/Loader Backhoe	80	10	70	YES
Grader	85	10	75	YES
Crane	85	10	75	YES
Forklift	80	10	70	YES
Cement & Mortar Mixer	79	10	69	YES
(1) Assumes a perimeter noise barrier 20-feet in height – or taller, as required to provide line-of-sight shielding and deliver a 10 dBA insertion loss for third-floor receptors.				
(2) Received level at 3 <sup>rd</sup> story level on the adjacent property at a distance of 50-feet from the equipment.				



e) Project Construction Noise Would Exceed Current City CEQA Daytime Noise Thresholds

The City's new CEQA Thresholds state that the construction noise received at sensitive uses shall not exceed 80 dBA (Leq, 8-hour) between the hours of 7:00 AM and 7:00 PM, Monday through Friday and 8:00 AM to 6:00PM on Saturdays.

When adjusted for the correct distance to the townhomes to the north of the project sites, Yorke's predictions for construction noise during the demolition and paving phases would exceed the absolute limit of 80 dBA (Leq, 8-hour) as shown in Table 1 of this report, even assuming that Yorke's presumed reduction of 10 dBA for noise barriers is realistic.

In the event that the Applicant elects to erect a perimeter noise barrier that meets the only minimum standard of the BMP description provided in the Yorke report (i.e. an 8-foot barrier), the received construction noise level at the upper stories of the nearest residential buildings would increase further, to the point where it would exceed the absolute limit of 80 dBA (Leq, 8-hour) during all six construction phases, as shown in Table 2 of this report. In this scenario, the received noise levels during the demolition and paving phases would be in excess of 90 dBA, a full 10 dBA above the allowed noise level for daytime construction activity.

f) Project Construction Noise Would Exceed Current City CEQA Nighttime Noise Thresholds

According to the Yorke report, the Applicant's proposed construction hours on the project sites would extend to 9:00 PM on weekdays – introducing the possibility of construction activity after 7:00 PM, which would be subject to the City's nighttime noise threshold of ambient noise level plus 5 dBA.

Yorke predicts daytime ambient noise level prediction of 65 dBA. If we assume (conservatively) that this daytime ambient noise level is also accurate for the 7:00 – 9:00 PM period, then the City's nighttime construction noise threshold for the projects would be 70 dBA.

As Tables 1 and 2 of this report show, construction noise levels received at the townhomes to the north of the project sites would exceed 70 dBA – by a significant margin – with or without effective 10 dBA noise barriers. (This comment does not apply to mat pour, or other concrete applications requiring an extended continuous pour period, which are exempt from the nighttime noise threshold, provided that the pour continues for fewer than five days.)

#### 4. CONCLUSIONS

We find that the analysis presented in Yorke's October 26, 2024 report for the 1114 N. Heliotrope Drive and 1115 N. Berendo Street projects does not adequately support the preparer's finding that construction noise impacts will be less than significant. Our own evaluation leads us to the opposite conclusion – that construction of the projects would result in significant noise impacts at the closest sensitive uses, because:

- All of the proposed construction equipment would fail to meet the noise limit of 75 dBA at 50-feet prescribed by the LAMC without tall (24-feet, approx.) noise barriers at the perimeter of the site to block the line-of-sight to the upper floors of the three-story townhomes adjacent to the site. The Yorke report does not mention such tall barriers as a mitigation measure, referring instead to barriers that are "...at least 8 feet in height".
- Even with noise barriers of sufficient height to provide 10 dBA insertion loss, the noise of the proposed concrete/industrial saws would still exceed the 75-dBA limit during the demolition phase.



- Noise levels generated during all phases of construction of the projects would greatly exceed the City's current daytime CEQA Threshold of 80 dBA (Leq, 8-hour) without tall (24-feet, approx.) noise barriers at the perimeter of the site to block the line-of-sight to the upper floors of the three-story townhomes adjacent to the site. The Yorke report does not mention such tall barriers as a mitigation measure, referring instead to barriers that are "...at least 8 feet in height".
- Even with noise barriers of sufficient height to provide 10 dBA insertion loss, construction noise levels received at the neighboring residential buildings during the demolition and paving phases would still exceed the 80 dBA (Leq, 8-hour) CEQA threshold.
- The Applicant's proposed construction hours extend as late as 9:00 PM on weekdays. Any construction activity (with the exception of long-pour concrete) between the hours of 7:00 and 9:00 PM would exceed the City's nighttime CEQA threshold by causing noise levels incident on the closest residential buildings to exceed the existing ambient noise level by significantly more than 5 dBA; this is true with or without tall noise barriers.

Yours sincerely,

**Steve Rogers Acoustics, LLC**

Steve Rogers  
Principal

## Steve Rogers, Principal

### Curriculum Vitae

#### Experience

Steve Rogers Acoustics, LLC  
Los Angeles, California 2005 – Present

##### *Principal*

SRA was formed to offer architects, attorneys, developers, environmental consultants and planners a source of high-quality acoustical consulting, with a strong emphasis on attentive and responsive service. Current and recent projects include: Environmental Impact Reports for the Hermosa Beach Oil Project, Baldwin Hills Oilfield and Port of Long Beach Middle Harbor Redevelopment, Indiana Street Freeway Noise Impact Study, Santa Monica College Performing Arts Center and the new Resurrection Greek Orthodox Church in Pleasanton, CA.

Veneklasen Associates, Inc.  
Santa Monica, California 1995 – 2005

##### *Associate Principal*

Over the course of a decade with the acoustics group at VA, Steve served as project manager and main point of client contact for the firm's largest and highest-profile projects, including the Getty Center in Los Angeles, the Aquarium of the Pacific in Long Beach, Lloyd D. George Federal Courthouse in Las Vegas and numerous landmark office headquarters buildings.

Hann Tucker Associates  
Woking, Surrey, UK 1988 – 1995

##### *Senior Consultant*

During his seven years with HTA (at the time, Europe's largest independent acoustical consulting firm) Steve gained broad experience in all aspects of acoustical consulting and exposure to a wide range of project types, including office buildings, hotels, recording studios, performing arts venues, courthouses and schools.

#### Education

University of Surrey, Guildford, Surrey, United Kingdom  
BSc (with Honors) Physics and Modern Acoustics, 1986

#### Professional Affiliations

- National Council of Acoustical Consultants
- Institute of Noise Control Engineering



**Channel Law Group, LLP**

October 29, 2024

**Supplemental Appeal Justification Letter**

**1115 North Berendo Street**

**Case Nos. DIR-2021-1538-TOC-SPP-HCA-1A; ENV-2021-1539-CE**

**Council File no. 24-1084**

**ATTACHMENT B**



## TECHNICAL MEMORANDUM

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**To:** Jamie T. Hall  
Channel Law Group, LLP

**Date:** October 29, 2024

**From:** Ray Kapahi *RK*  
Tel: 916-806-8333  
E-Mail: [ray.kapahi@gmail.com](mailto:ray.kapahi@gmail.com)

**Subject:** Review of Impacts to Air Quality and Public Health  
Transit Oriented Projects (TOC), Hollywood, CA

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### INTRODUCTION AND SUMMARY

Environmental Permitting Specialists (EPS) has reviewed the two Notices of Exemption and four Air Quality, Greenhouse Gas (GH) and Noise Studies prepared by Yorke Engineering, LLC (Yorke) for the proposed development projects located at 1114 North heliotrope Drive and 1115 North Berendo Street (the "Project"). The Air Quality Studies are for 1114 North heliotrope Drive and 1115 North Berendo Street in the Hollywood area of Los Angeles. The Project is located between North Heliotrope Drive and North Berendo Street North of Santa Monica Boulevard (Figure 1).

The focus of the EPS review was impacts from the release of various air pollutants and toxic air contaminants (TACs) during the construction phase. EPS was asked to opine on whether the Project will have any significant effects related to air quality under the California Environmental Quality Act ("CEQA").

EPS found that project's impact would be significant for two reasons:

1. Based on a daily emission rate of 22.4 pounds per day or 1.96 pounds an hour (lb/hr) for an 8-hour work day, the maximum 1-hour NO<sub>x</sub> concentration would exceed the state and federal 1-hour standards<sup>1</sup> by a wide margin
2. Based on an annual emission rate of diesel particulate matter (DPM) of 0.025 tons per year, the residential cancer risk would exceed the SCAQMD significant threshold<sup>2</sup> of 10 cancers per million at nearby homes.

This Memorandum details the EPS analyses in support of these conclusions.

## **IMPACTS FROM NO<sub>x</sub> EMISSIONS**

NO<sub>x</sub> emissions for the construction phase were modeled using Environmental Protection Agency (EPA) and South Coast Air Quality Management District (SCAQMD) recommended AERMOD dispersion model (Version 19191). The air dispersion model is used to translate an emission rate (e.g., lb/hr) into a concentration (e.g., parts per million or micrograms per cubic meter [ug/m<sup>3</sup>]). A description of the AERMOD dispersion model is attached. Other modeling inputs are described below.

### **Model Set-Up**

The following options were used:

- Use of Calm Wind Processing
- Use of Missing Data Processing
- Averaging Time: 1 hour
- Use of Flat Terrain Option
- Dispersion Coefficient: Urban

### **Modeling Grid and Coordinate System**

A rectangular (x-y) Cartesian coordinate system was used. A region 1,200 x 1,200 meters (0.75 miles x 0.75 miles) was used. The modeling region divided into 50 meter square cells for a total of 650 individual receptors in the vicinity of the project area. See Figure 2 for a layout of the modeling grid.

### **Meteorological Data**

Five years of hourly meteorological data (2012 to 2016) were used in the analysis. The surface data (wind speed, wind direction, temperature, etc.) were recorded at the Santa Monica

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<sup>1</sup> California Ambient Air Quality Standards (CAAQS) . National Ambient Air Quality Standards (NAAQS) available at: <https://ww2.arb.ca.gov/resources/california-ambient-air-quality-standards>

<sup>2</sup> SCAQMD (2023): "South Coast AQMD Air Quality Significance Thresholds. Rev March 2023. Available at: <https://www.aqmd.gov/docs/default-source/ceqa/handbook/south-coast-aqmd-air-quality-significance-thresholds.pdf?sfvrsn=25>

Airport monitoring station. SCAQMD provides model ready meteorological files at their web site<sup>3</sup>.

### Source Geometry and Construction Emissions

Emissions were modeled as a single rectangular area source 1,155 square meters (Figure 3). An emission release height of 5 feet was assumed.

Maximum daily mitigated emissions of NO<sub>x</sub> are reported in the Yorke air quality reports (Table 3 “Daily Construction and Significance Evaluation”). A daily emission rate of 22.3 pounds per day or 2.79 pounds and hour over an eight hour work day was used in this analysis.

## FINDINGS

The results of this analysis indicate that NO<sub>x</sub> emissions during the construction phase of the Project would violate the federal and California’s 1-hour ambient air quality standard for NO<sub>x</sub>.

<b>Table 2</b> <b>Summary of Project Level NO<sub>x</sub> Impacts</b>		
<b>Pollutant</b>	<b>Maximum Construction Related Impact (ug/m3)</b>	<b>State or Federal Ambient Air Quality Standard<sup>4</sup> (ug/m3)</b>
NO <sub>x</sub> (1-hour)	2,580	Federal: 188 State: 339
<i>Note: NO<sub>x</sub> is assumed to be the same as nitrogen dioxide or NO<sub>2</sub>. The federal and state standards are for NO<sub>2</sub>.</i>		

The spatial distribution of NO<sub>x</sub> is provided in Figures 3 and 4. The area within the contour marked “188” in Figure 3 would exceed the federal 1-hour NO<sub>x</sub> standard. These results indicate that the construction phase of this project would lead to significant NO<sub>x</sub> related air quality impacts, which have not been disclosed in the air quality reports prepared by Yorke.

These conclusions apply to the cumulative impacts from both the 1114 Heliotrope Drive and 1115 North Berendo Street developments. Given the magnitude of the exceedance, the project would still violate the ambient standards for each of the two projects individually.

This is a critical issue as the Los Angeles area suffers from the worst air quality in the Country. NO<sub>x</sub> is the main precursors that causes ozone (smog). High concentrations of ozone lead to increased levels of asthma and other respiratory diseases. The very young and the elderly are most at risk from ozone.

<sup>3</sup> Available at: <http://www.aqmd.gov/home/air-quality/meteorological-data/data-for-aermod>

<sup>4</sup> Copy of ambient air quality standards available at: <https://ww2.arb.ca.gov/sites/default/files/2020-07/aaqs2.pdf>, incorporated herein by this reference. The City should print out and include with this letter this referenced material.

## IMPACTS TO PUBLIC HEALTH

One of the major toxic air pollutants released during the construction phase is diesel particulate matter (DPM). DPM is regulated as a carcinogen<sup>5</sup> that affects individuals living or working near the emitting source. Health impacts from exposure to DPM are evaluated in terms of cancer risk. A cancer risk above 10 in a million is considered significant<sup>6</sup>.

Using the procedure in the Health Risk Guidelines prepared by Office of Health Hazard Assessment (OEHHA)<sup>7</sup>, EPS calculated the off-site cancer risk from exposure to DPM over a one year construction period.

EPS employed the HARP<sup>8</sup> model and the mitigated annual DPM emission rate reported in the Yorke (CalEEMod) annual emissions report<sup>9</sup> as the basis for calculating cancer risk. An annual emission rate of 0.0225 tons per year or 45 pounds per year was used assuming construction would be completed in one year.

Other modeling options used are as follows:

Receptor Type:	Individual Cancer Risk
Exposure Duration:	1 Year
Intake Rate Percentile:	OEHHA Derived Method
Exposure Pathway:	Mandatory Minimum

## FINDINGS

The maximum individual cancer risk is estimated to range between 50 to 100 cancers per million. The maximum cancer risk occurs at residences North of the project site between North Heliotrope Drive and North Berendo Street. Figure 6 depicts the spatial distribution of the cancer risk in the vicinity of the project. The cancer risk is below 10 in a million at locations beyond 275 feet from the project site.

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<sup>5</sup> SCAQMD (2014): "Classification of Diesel PM as a Carcinogen". Available at: <https://www.aqmd.gov/home/rules-compliance/compliance/toxic-hot-spots-ab-2588/iws-facilities/dice/dice-b2>

<sup>6</sup> SCAQMD (2023): "Toxic Air Contaminants Thresholds". Available at: <https://www.aqmd.gov/docs/default-source/ceqa/handbook/south-coast-aqmd-air-quality-significance-thresholds.pdf?sfvrsn=25>

<sup>7</sup> SCAQMD (2015): "SCAQMD Implementing OEHHA's Revised Risk Assessment Guidelines". Available at: <https://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/212-1401-1401.1-and-1402/fact-sheet.pdf?sfvrsn=2>

<sup>8</sup> CARB (2023): "HARP Air Dispersion Modeling and Risk Tool". Available at: <https://ww2.arb.ca.gov/resources/documents/harp-air-dispersion-modeling-and-risk-tool>

<sup>9</sup> Yorke (2022): Update Air Quality, Greenhouse Gas, and Noise Study for 1114 North Heliotrope Drive and 1115 North Berendo Street". Annual CalEEMod Emissions report 11/20/201.

As with NOx impacts, these findings apply to cumulative (both locations). Cancer risk, however, would remain above 10 in a million for individual projects. The impacted area would, however, be reduced.

## CONCLUSIONS

Emissions of NOx and DPM would result in significant impacts to air quality and public health.

For the NOx emissions, the Yorke Air Quality reports concluded that impacts were less than significant because:

1. Daily emissions were below thresholds of significance
2. Localized Significance Threshold Analysis (LST)

However, the Yorke Analysis was faulty. the fact that daily emissions of a pollutant are below its thresholds of significance does not guarantee that ambient air quality standards would not be violated. The LST analysis relies on lookup tables for generic 1, 2 and 5 acre sites (which is generic as opposed to project specific). A site specific analysis needed to be completed to confirm that NAAQS and CAAQS would not be violated. EPS conducted this project specific analysis and concluded that the emissions of NOx and DPM would be significant.

The Yorke reports acknowledge that local concentrations of various criteria air pollutants would increase locally and that SCAQMD CEQA Thresholds address local and regional air quality and impacts to public health. However, an analysis of health risks from exposure to TACs was not included in the Yorke evaluation.

Because the Project will violate the federal or state ambient air quality standards and will result in significant health risks (cancer) due to exposure from diesel particulate matter, it is my opinion that the approval of the Project will result in significant air quality and public health risk impacts effects. As such, the Project is not eligible for a Class 32 categorical exemption under CEQA. Even if the two development projects were analyzed separately, it is my professional opinion that they each result in significant impacts to air quality and public health. Further, it is my opinion that the unusual circumstances exception provided for in CEQA Guidelines Section 15300.2(c) is applicable due to the Project's significant effects on the environment. Finally, it is my opinion that the cumulative impact exception provided for in CEQA Guidelines Section CEQA Section 15300.2(b) is applicable because the project and successive projects of the same type in the same place will result in cumulative impacts.



## Figures and Attachments

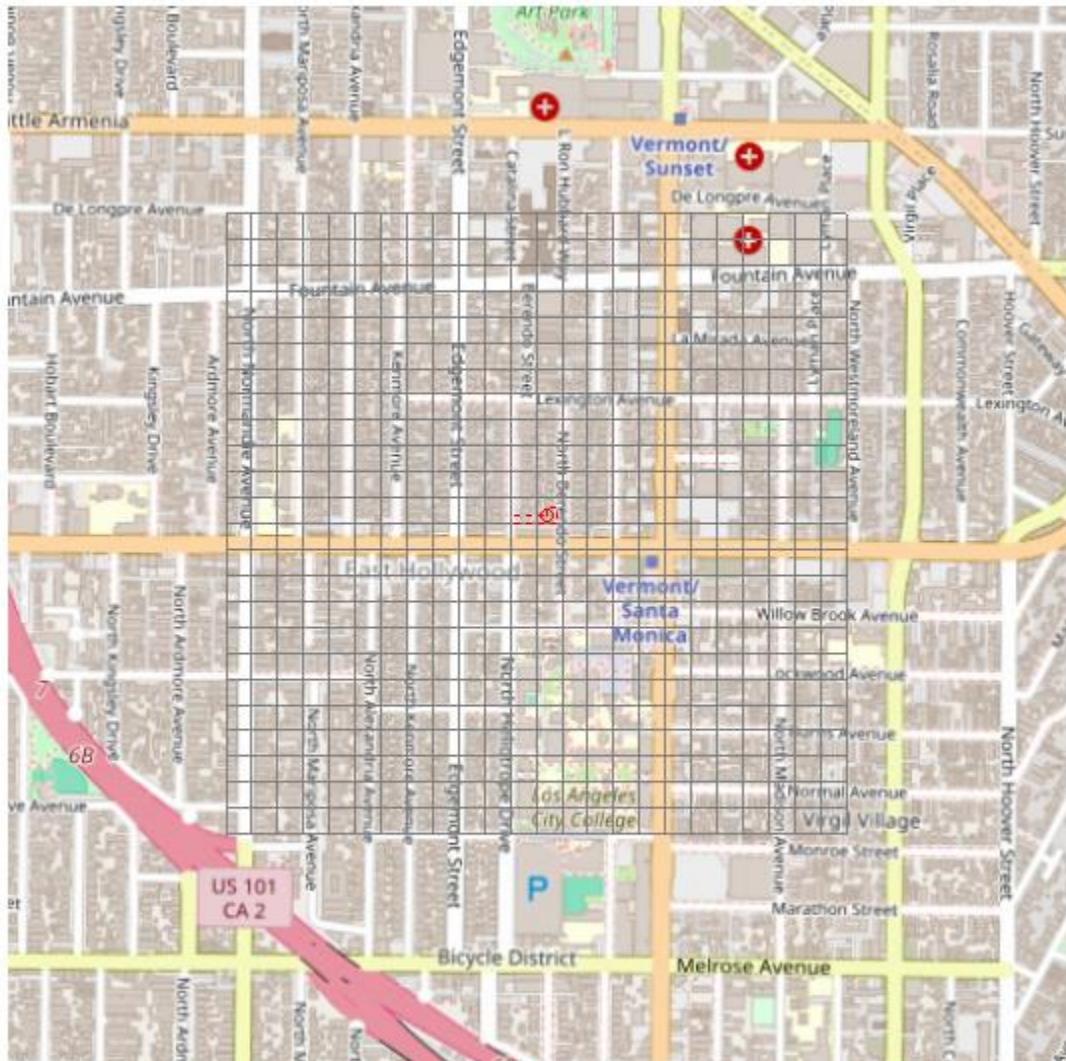
Figure 1  
Project Location



Note: The broken red line represents the approximate location of the project

Figure 2

## Layout of Modeling Grid



Note: Each square is 50 meters x 50 meters

Figure 3  
Source Location

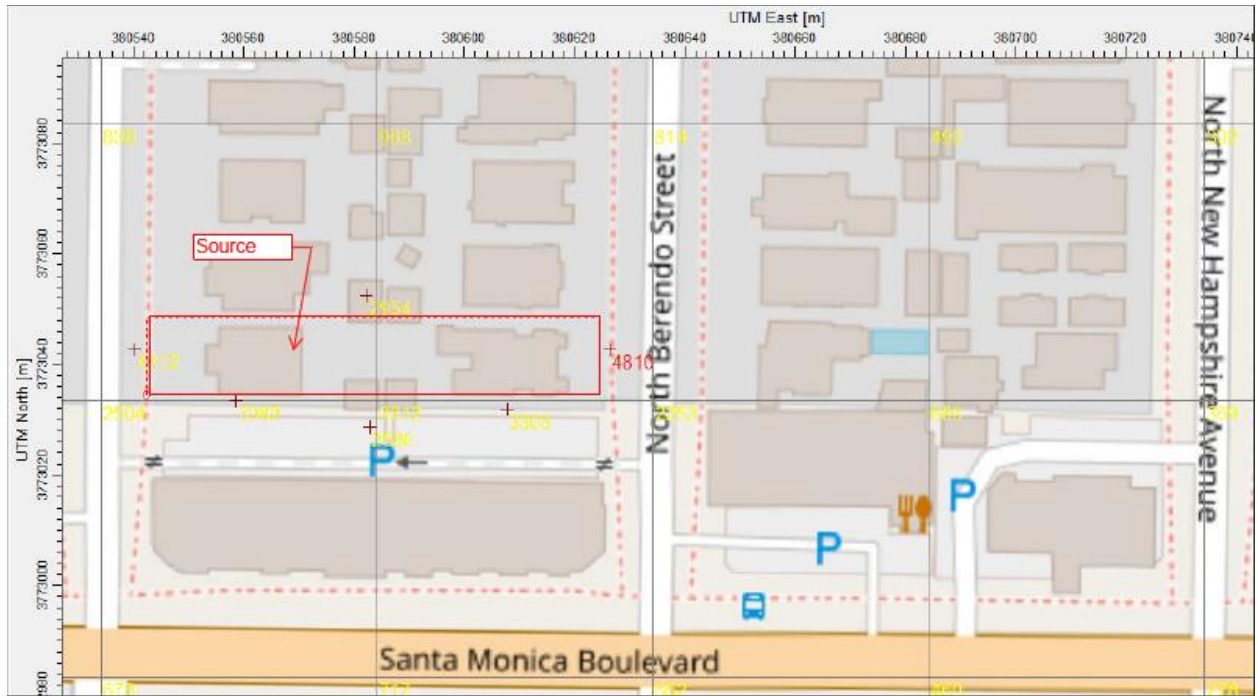
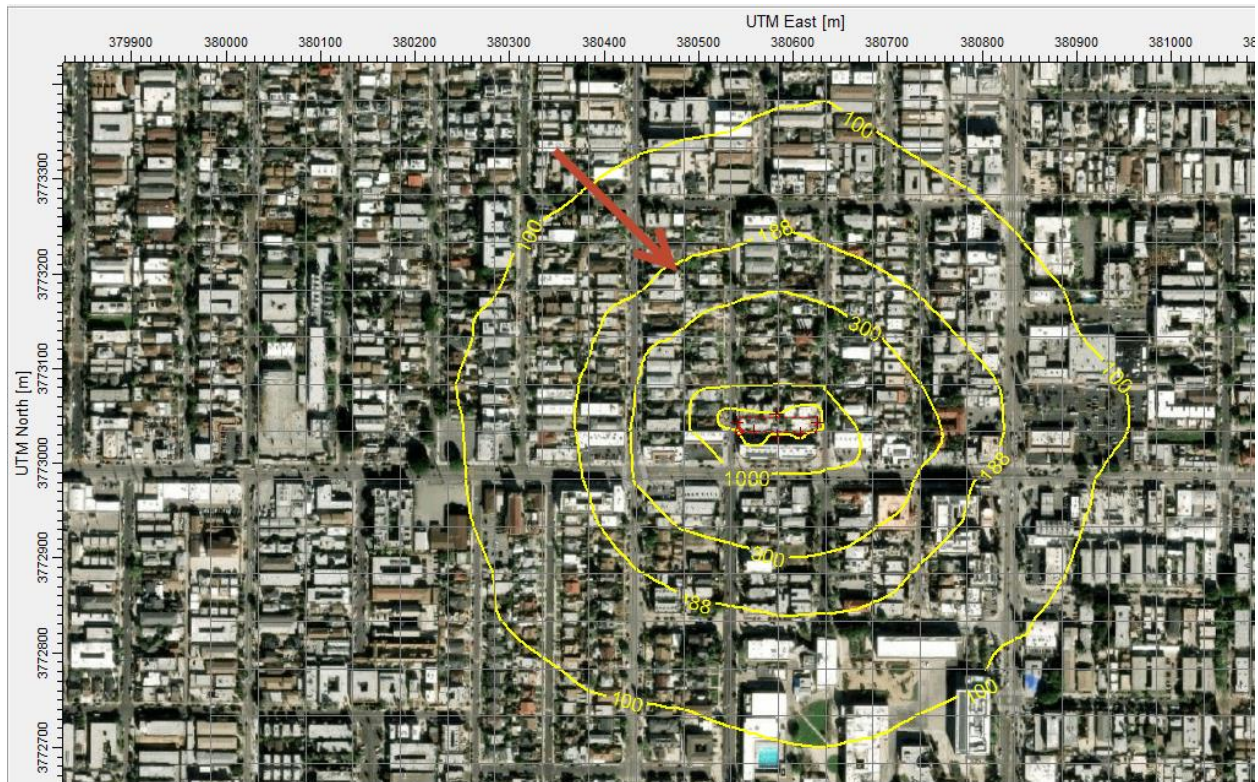




Figure 4

## Spatial Distribution of 1-Hour NO<sub>x</sub> Concentration

*(micrograms per cubic meter)*



*Note: Area inside the contour labeled "188" exceeds the federal 1-hour NO<sub>x</sub> standard*

Figure 5

1 Hour NO<sub>x</sub> Concentration Close-Up of Numerical Values

*(in micrograms per cubic meter)*





Figure 6

Spatial Distribution of 1-Year Cancer Risk

(per million)



## Description of AERMOD Dispersion Model

# AERMOD VIEW

## GAUSSIAN PLUME AIR DISPERSION MODELS

### Model Descriptions

#### AERMOD

The AMS/EPA Regulatory Model (AERMOD) is the next generation air dispersion model based on planetary boundary layer theory. AERMOD contains essentially the same options as ST3 with few exceptions.

AERMOD fully incorporates the PRIME building downwash algorithms, advanced depositional parameters, local terrain effects, and advanced meteorological turbulence calculations.

#### ST3

ST3 (Industrial Source Complex Model) is a steady-state Gaussian plume model used to assess pollutant concentrations from a wide variety of sources associated with an industrial complex.

The ST3 model accounts for:

- Settling and dry deposition of particles
- Building downwash
- Point, area, line, open pit, flare, and volume sources
- Flat and complex terrain

#### PRIME

ST3 with the Plume Rise Enhancements (PRIME) model incorporates two important features:

- Enhanced plume dispersion coefficients due to the building turbulent wake.
- Reduced plume rise caused by a combination of descending streamlines in the lee of the building and the increased entrainment in its wake.

### Leading Air Dispersion Models Under One Interface

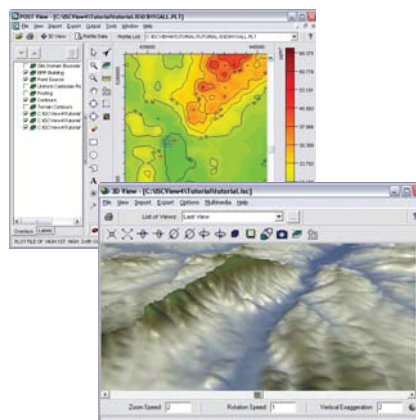
AERMOD View is a complete and powerful air dispersion modeling package which seamlessly incorporates the popular U.S. EPA models into one interface: AERMOD, ST3, and PRIME. These models are used extensively to assess pollution concentration and deposition from a wide variety of sources.



### AERMOD View Tools

AERMOD View provides all the tools you need to get your air quality analysis done on time, including:- Easy and intuitive graphical interface

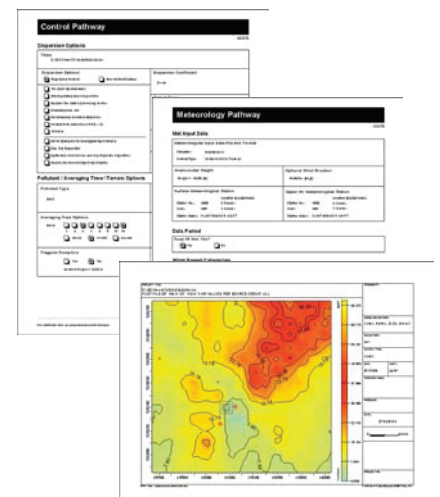
- Data entry in Metric and English units
- Imports a variety of base map formats
- Supports the major digital terrain formats
- Powerful 3D visualization
- Building downwash analysis
- Meteorological pre-processing
- Automatic contouring of results
- Rapid model comparisons
- Report-ready output



### Impressive Report-Ready Output

AERMOD View lets you impress with integrated report generation.

- Summarize your modeling input in professionally designed reports
- Custom 3D views of your project site and/or modeling results can also be generated in professional report format
- Customize information to be included
- Print from AERMOD View or save your report to file





## Digital Terrain Data

AERMOD View supports a wide variety of digital elevation terrain data formats. Quick import of terrain elevations will save you time and avoid costly hand-made errors.

- USGS DEM
- GTOPO30 DEM
- U.K. DTM
- U.K. NTF
- XYZ Files
- CDED 1-degree
- AutoCAD DXF

Import multiple DEMs and AERMOD View will automatically combine each area and zone for your project.

Complete support for AERMAP is also included, making terrain processing for your AERMOD project a snap!

Terrain grid files for deposition analysis can be automatically created from digital terrain files.

## Building Downwash

Buildings can radically influence the dispersion of pollutants. AERMOD View provides all the necessary tools to effectively and quickly complete your building downwash analysis.

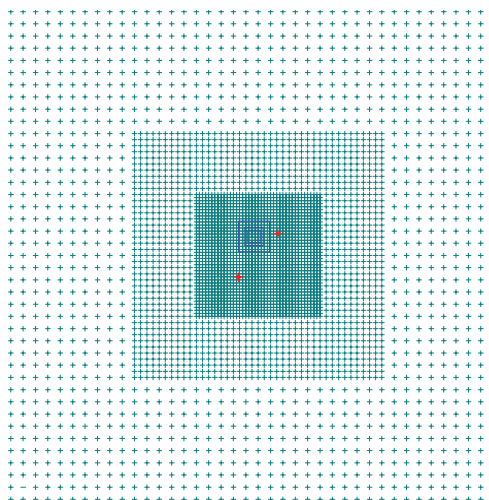
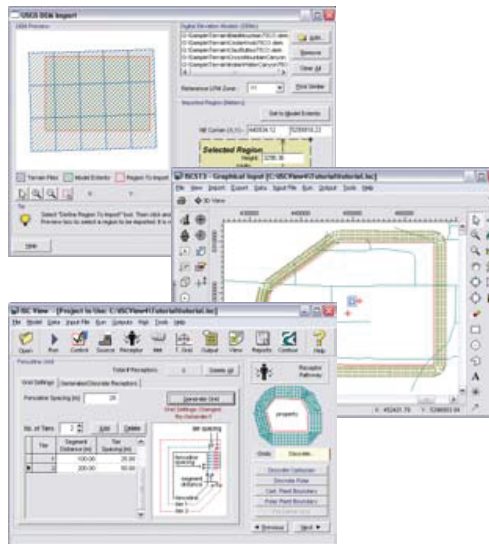
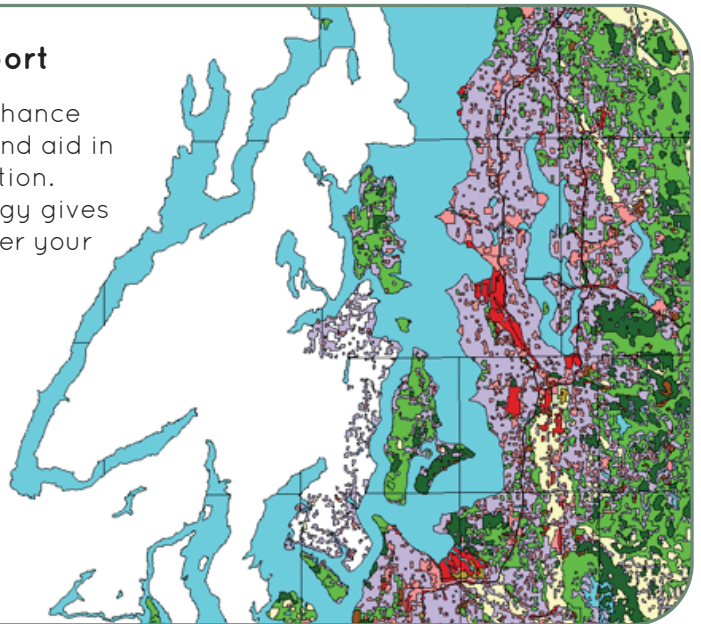
With easy import of building coordinates from AutoCAD base maps and options to digitize buildings, your downwash analysis can be performed quickly.



## Extensive Map Support

Import base maps to enhance your modeling project and aid in model results interpretation. Integrated GIS technology gives you complete control over your modeling site.

- Bitmap
- USGS DLG
- USGS LULC
- AutoCAD DXF
- ESRI Shapefile
- JPEG
- TIFF/GeoTIFF
- MrSID



## Graphical Input

Avoid the hassle and errors of entering locations by hand from paper maps. Specify sources and receptors graphically. After defining an object graphically you automatically have access to the related text mode window in which you can further modify parameters.

Automatically eliminate receptors inside the facility property line.

### Receptors (unlimited)

- Cartesian Grids
- Polar Grids
- Drect Cartesian Receptors
- Drect Polar Receptors
- Cartesian Plant Boundary
- Polar Plant Boundary
- Fenceline Grid
- Multi-Tier Grid (Risk Grid)
- Flagpole Receptors

### Sources (unlimited)

- Point
- Area (square, rectangular, circular, polygon)
- Volume
- Open Pit
- Flare
- Line

# AERMOD VIEW

PROFESSIONAL VISUALIZATION & ADVANCED TOOLS TO BOOST YOUR PRODUCTIVITY

## High-Impact 3D Visualization

AERMOD View features powerful 3D visualization tools unlike other software that requires you to purchase yet another software package just to view plain, static 3D plots. Nothing communicates your modeling better than images, and AERMOD View provides powerful, dynamic 3D tools built right into its interface.

Understand the effects of topography by displaying your model results with 3D terrain. Make your final report clear and concise by visualizing all your data.

Complete visualization of your imported terrain is just a click away! Click the 3D Terrain icon and your project is transformed into a fully customizable 3D view using your terrain elevation data. Zoom, rotate, and save views in true 3D.

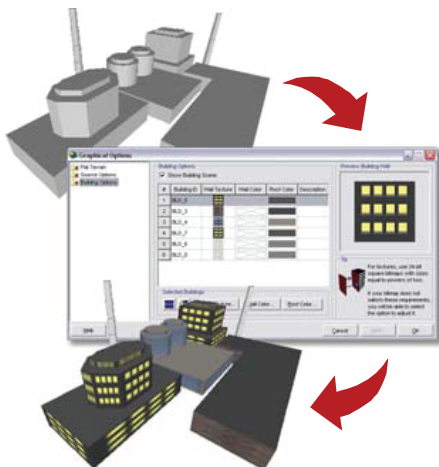
Apply terrain contours to your 2D site view for professional maps, or change to 3D views with a single click. View your site and surrounding terrain in true 3D. Sources and buildings appear in context with your site terrain.

## Custom Textures

Apply custom textures to buildings to further increase building realism - say goodbye to bland polygons!

Clear and realistic communication is essential and your model should make an impression.

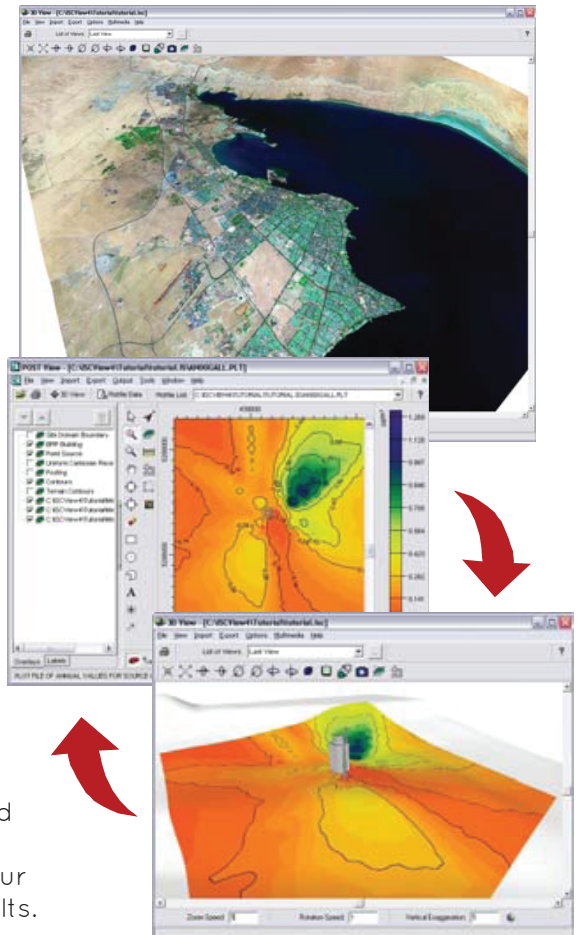
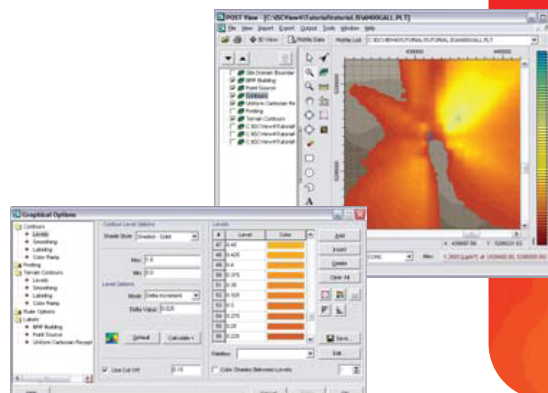
Real-time lighting effects, true-color shading and textures bring your site to life like no other package can!



## Integrated Contouring

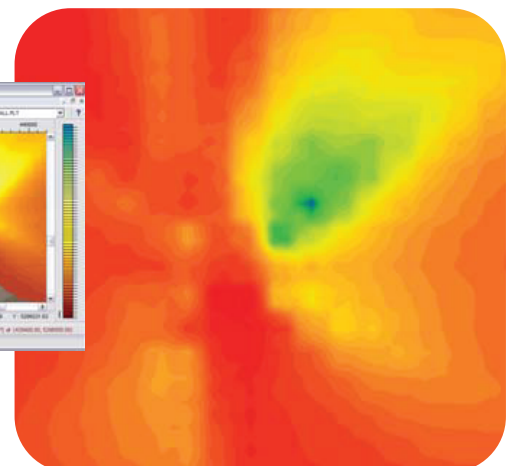
AERMOD View features integrated post-processing with automatic gridding, blanking, shaded contour plotting, and posting of your results.

- Customize contour levels, color shading, transparency, contour labels, fonts, and more.
- Multiple levels of transparency
- True color palette
- Save and edit any palette
- Extensive terrain contouring options
- Color ramp customization



## Export Options

- ESRI Shapefiles
- Bitmaps
- Enhanced Metafiles





## Multiple Chemicals

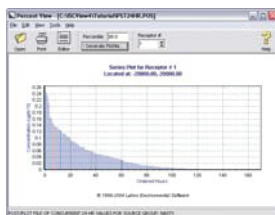
The Multi-Chemical Run utility will boost your productivity drastically when analyzing the contributions of each pollutant from sources emitting multiple chemicals.

Simply specify the pollutants emitted by each source, define emission rates, and click Run. The Multi-Chemical Run utility takes care of the rest, reducing your model run time to a fraction of the time it would take traditionally.

- Unlimited sources
- Unlimited receptors
- Unlimited pollutants (>1000)
- Block averages
- Rolling averages
- Chemical-specific plotfiles

## Percent View

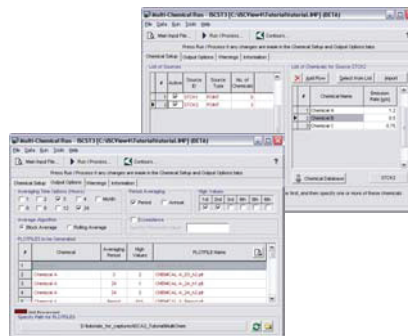
Percent View takes the hassle out of performing modeling runs that require percentiles or rolling averages. Run the model and have these calculations automatically computed.



## Risk Assessment Projects

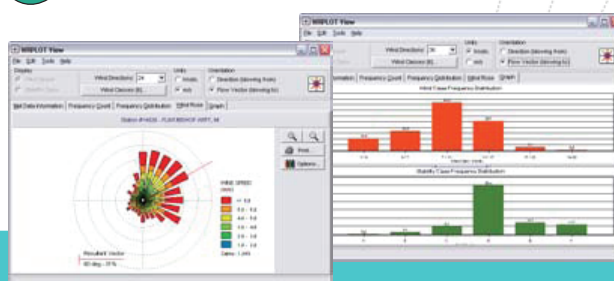
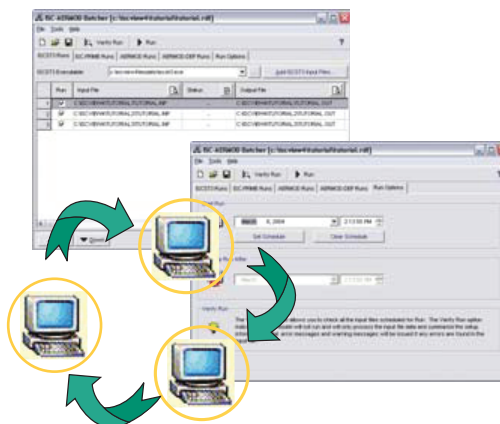
Customized air modeling support for leading risk assessment protocols, the U.S. EPA - OSW Human Health Risk Assessment Protocol, and the U.S. EPA - OSW Screening Level Ecological Risk Assessment Protocol. Simply select "Risk Mode" to model in accordance with these guidelines.

Quickly generate the files required for ACE2588 risk assessment model.



## AERMOD Batcher T

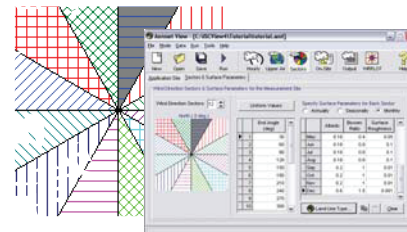
The AERMOD Batcher is designed to let you easily perform multiple modeling runs. Simply specify the input files for the projects you wish to run, click Run and AERMOD Batcher will run all your projects. This is ideal for large modeling runs, which is often required for risk assessment projects.



## Meteorological Tools

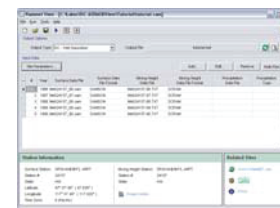
### Aermet View

Aermet View is the meteorological preprocessor that guides you through easy steps to prepare your on-site and off-site meteorological data for use with AERMOD.



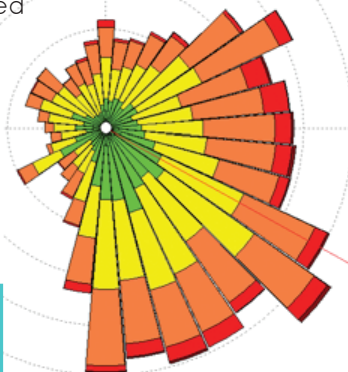
### Rammet View

Rammet View is the meteorological preprocessor that prepares data for use with the ST3 and PRIME models. Rammet View includes a set of tools which allow conversion of your own met data into the required format.



### WRPLOT View

Wind rose plots, frequency tables, and graphs can be generated automatically from surface data files in SCRAM, CD144, HUSWO, TD-3505, CARB, and SAMSON formats or from and AERMET preprocessed met data files. Import from Excel is also supported.



**T: +1.519.746.5995**

**F: +1.519.746.0793**

**info@weblakes.com**

**www.weblakes.com**

**Lakes<sup>TM</sup>**  
Environmental



# Ray Kapahi

## Senior Air Quality Consulting Engineer



Ray.Kapahi@gmail.com

Office: 916.687.8352

Mobile: 916.806.8333

### Practice Areas

- Air Quality Permitting
- Odor Modeling and Control
- Health Risk Assessments
- Computational Fluid Dynamics
- Greenhouse Gas Analysis
- Atmospheric Dispersion Modeling

### Industries

- Solid Waste
- Energy Production
- Construction and Mining
- Cannabis Cultivation
- Oil and Gas Production
- Food Industries

### Education and Training

- BSc. Physics (1972)
- MEng. Chemical Engineering (1975)
- CARB Accredited Green House Gas (GHG) Lead Verifier with Specialization in Process Emissions and Electricity Transactions (2009)

### News

- Presentation "Numerical Modeling of Landfill Gas and Odors" 33<sup>rd</sup> International Conference on Solid Waste Technology and Management. March 11 to 14, 2018, Annapolis, MD.
- Presentation "Integrated Approach to Effective Odor Control at Landfills and Composting Facilities" Wastecon 2016, Indianapolis, IN.

## EXPERIENCE

Over 30 years of experience in analyzing air quality and odor impacts, permitting of stationary sources, and preparation of health risk assessments. Mr. Kapahi assists a broad range of clients and assists them to identify and meet their regulatory obligations.

The scope of his experience includes siting of new landfills, waste to energy plants, obtaining conditional use permits from City and County Governments, preparation of health risk assessments for crematories, analysis and measurements of odors, dispersion modeling and appearing as an expert witness before City and County Planning Boards and Commissions.

Following approvals for new facilities or expansion of existing facilities, Mr. Kapahi continues to work with clients to ensure on-going compliance.

## REPRESENTATIVE PROJECTS

### *Air Quality Modeling and Permitting*

- **Permitting of a Powdered Milk Plant (Turlock, CA)**

Evaluate emissions of various air pollutants from the proposed 30 million gallons per year milk processing/drying facility. Demonstrate compliance with local and state air quality regulations, including regulation of toxic air pollutants.

- **Permit Revisions for an Existing Fruit Dehydration Facility (Yuba City, CA)**

Assisted a major food processor in revising their operating permits to allow for additional steam production. Worked cooperatively with the local air district to ensure timely issuance of the revised permits.

- **Permitting of a Waste to Energy Plant (Fort Irwin, CA)**

Quantify emissions from a proposed 34 tons per day solid waste to energy project. Analyze emissions associated with pyrolysis and subsequent utilization of synthetic gas to generate 1.5 MW of electric power. Prepare the necessary permit applications and supporting documentation.

- **Permitting of a CBD Oil Extraction Facility (Mendota, CA)**

Quantify emissions from a proposed solvent extraction process. Assist in design of an RTO VOC control system. The facility was permitting in 2019 and is currently operating.

## Publications and Presentations

Presentation “Use of Advanced Models to Control Fugitive Odors from Composting Sites”. US Compost Council Annual Meeting, January 2015, Austin, TX.

“Air Emissions from Landfills and Transfer Stations – Do they Increase Public Health Risks?” Presented at Quad State Environmental Conference, Pigeon Forge TN, Sept 2015.

“Risks of Carbon Credit Invalidation Under California’s Cap-and-Trade Program”, Presented at the 2014 Air and Waste Management Association Annual Conference. June 24-27, 2014. Long Beach, CA

“Estimate of VOC Emissions from Sludge Drying”, Presented at the 1995 SWANA Conference. November 1995, Baltimore, MD.

“Use of Biofilters to Control VOCs”, Biocycle, February 1995.

“Impacts of the 1990 Clean Air Act Amendments”, San Jose Business Journal, March 24, 1994.

“Modeling Fine Particulates” in Municipal Waste Incineration Risk Assessment, Edited by Curtis Travis, Plenum Press, 1990.

### Specialized Training

Calculating Tank Emissions. Trinity Consultants. Los Angeles, CA February 1-2, 2020.

Accidental Release Modeling Workshop. Trinity Consultants. Dallas, TX November 1-2, 2018.

HARP2 (Risk Assessment Model) Training at California Air Resources Board. Redding, CA

Hearing Board Variance Training – California Air Resources Board (1995)

Air Emissions and Odors from Wastewater – University of Texas, Austin (1994)

### Professional Affiliations

Air and Waste Management Association (Board Member)

American Institute of Chemical Engineers (Member)

Member Technical Advisory Committee (TAC) for the California Energy Commission

## *Odor Analysis and Mitigation*

- **Ventilation System for Odor Control (Anaheim, CA)**

Advanced computational fluid mechanics (CFD) models were used to predict the air flow and building pressure to identify the location, size and number of exhaust fans required to remove odors from the transfer station building.

- **Analysis of Potential Odors from Outdoor and Indoor Cannabis Cultivation (Georgetown and Somerset, Eldorado County, CA)**

EPS is working cooperatively with growers and El Dorado County Planning Department to evaluate odors associated with indoor and outdoor cannabis cultivation. Through use of on-site odor measurements and dispersion models, EPS has been able to project intensity of future odors from new cannabis operations and demonstrate compliance with the County’s Ordinance limiting odors at the property lines and at nearby homes.

- **Analysis and Control of Fugitive Dust and Odors from a Soil Blending Facility (Stockton, CA)**

Advanced computational fluid mechanics (CFD) models were used to predict the air flow and movement of fugitive dust at a soil blending facility. With this information, the client was able to install appropriate mitigation services to mitigate off-site migration of fugitive dust.

- **Review of Odor Control Systems for Cannabis Cultivation and Distribution Facilities (Palm Springs, CA)**

EPS evaluated the *odor* control system for over 15 different odor cultivation and distribution facilities in Palm Springs. The effectiveness of the proposed system was evaluated and recommendations were made to the City to Palm Springs.

## *Preparation of Health Risk Assessments*

- **Analysis of Public Health Risks from Human Crematories (Various Locations)**

Prepared health risks assessments for crematories located in Redding and Antelope, CA. Estimated emission rates of toxic air pollutants, conducted an exposure analysis and calculated cancer and non-cancer health risks for review by the local air pollution control district and the Office of Environmental Health Hazard Assessment (OEHHA).

- **Analysis of Public Health Risks from Proposed Asphalt Plant (Kern County, California)**

Analyze emissions of any toxic air pollutants from a proposed 250 tons per day asphalt plant. Emissions from aggregate drying, propane combustion and asphalt oil were quantified. Acute and chronic public health risks from exposure to various toxic pollutants were calculated.

**Channel Law Group, LLP**

October 29, 2024

**Supplemental Appeal Justification Letter**

**1115 North Berendo Street**

**Case Nos. DIR-2021-1538-TOC-SPP-HCA-1A; ENV-2021-1539-CE**

**Council File no. 24-1084**

**ATTACHMENT C**

# krupka.

---

October 29, 2024

By email only > Jamie Hall <jamie.hall@channellawgroup.com>

Mr. Jamie T. Hall  
Managing Partner  
Channel Law Group, LLP  
8383 Wilshire Boulevard, Suite 750  
Beverly Hills, CA 90211

RE: Review of City of Los Angeles CEQA Notice of Exemption  
1115 North Berendo Street SCH#2024041013  
Project DIR-2021-1538-TOC-SPP-HCA

Dear Mr. Hall:

I reviewed the attached CEQA Notice of Exemption for the subject project as part of my agreement with you to provide transportation advisory services. I am sharing my fundamental concern about the discussion of Cumulative Impacts (starting on page 2 of the PDF): no traffic assessment or analysis is cited.

Six nearby residential projects were listed for cumulative consideration, with unit counts ranging from 3 to 187 and totaling 396 units. The commentary cited SCAQMD criteria and support related to construction-related daily emissions, an air quality study, and a noise study, but no traffic evaluation to justify this conclusion.

*Thus, the construction of these known projects will be staggered and, therefore, do not have the potential to cumulatively contribute to air quality, construction traffic, and noise levels.*

The cumulative traffic generation of nearly 400 dwelling units in a relatively small area could be significant and should be evaluated. The absence of this factor could render the exemption justification incomplete and mislead the public and policymakers.

Sincerely,



Paul Krupka  
Owner

## Krupka Consulting Summary Qualifications

I am a registered Civil Engineer and Traffic Engineer in California and have over 40 years of diverse experience covering all phases of project delivery, including preliminary assessment, conceptual planning, feasibility, design, and construction. I have demonstrated expertise in transportation, traffic, and transit planning, engineering, and design related to transit-oriented development, transit facilities, parking facilities, roadway and highway improvements, large and small development projects, neighborhood, community, downtown, city, subarea, county, and sub-regional plans, and transit and highway corridors.

Enclosure

**KRUPKA CONSULTING**

431 Yale Drive | San Mateo, CA | 94402  
650.504.2299 | paul@pkrupkaconsulting.com | pkrupkaconsulting.com

**NOTICE OF EXEMPTION**

(PRC Section 21152; CEQA Guidelines Section 15062)

Pursuant to Public Resources Code § 21152(b) and CEQA Guidelines § 15062, the notice should be posted with the County Clerk by mailing the form and posting fee payment to the following address: Los Angeles County Clerk/Recorder, Environmental Notices, P.O. Box 1208, Norwalk, CA 90650. Pursuant to Public Resources Code § 21167 (d), the posting of this notice starts a 35-day statute of limitations on court challenges to reliance on an exemption for the project. Failure to file this notice as provided above, results in the statute of limitations being extended to 180 days.

PARENT CASE NUMBER(S) / REQUESTED ENTITLEMENTS

DIR-2021-1538-TOC-SPP-HCA

**SCH#2024041013**

LEAD CITY AGENCY

**City of Los Angeles (Department of City Planning)**

CASE NUMBER

ENV-2021-1539-CE

PROJECT TITLE

DIR-2021-1538-TOC-SPP-HCA

COUNCIL DISTRICT

13 – Soto-Martinez

PROJECT LOCATION (Street Address and Cross Streets and/or Attached Map)

**1115 North Berendo Street (1115 and 1117 North Berendo Street)**☐ Map attached.

PROJECT DESCRIPTION:

☐ Additional page(s) attached.

The demolition of a duplex and a detached garage, and the construction, use and maintenance of a five-story, 15,479 square-foot, 30-unit residential building. The project proposes to grade an export up to 500 cubic yards of earth.

NAME OF APPLICANT / OWNER:

**Yoav Atzmon, BRK Inc. (Applicant / Property Owner)**

CONTACT PERSON (If different from Applicant/Owner above)

**Ben Rocca (Representative)**

(AREA CODE) TELEPHONE NUMBER

(818) 288-8669

EXT.

EXEMPT STATUS: (Check all boxes, and include all exemptions, that apply and provide relevant citations.)

## STATE CEQA STATUTE &amp; GUIDELINES

☐ STATUTORY EXEMPTION(S)

Public Resources Code Section(s) \_\_\_\_\_

☒ CATEGORICAL EXEMPTION(S) (State CEQA Guidelines Sec. 15301-15333 / Class 1-Class 33)CEQA Guideline Section(s) / Class(es) **Section 15332 / Class 32**☐ OTHER BASIS FOR EXEMPTION (E.g., CEQA Guidelines Section 15061(b)(3) or (b)(4) or Section 15378(b) )

JUSTIFICATION FOR PROJECT EXEMPTION:

☒ Additional page(s) attached

In-fill development meeting the conditions described in CEQA Guidelines 15332: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations. (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses. (c) The project site has no value as habitat for endangered, rare or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately served by all required utilities and public services

☒ None of the exceptions in CEQA Guidelines Section 15300.2 to the categorical exemption(s) apply to the Project.☐ The project is identified in one or more of the list of activities in the City of Los Angeles CEQA Guidelines as cited in the justification.

IF FILED BY APPLICANT, ATTACH CERTIFIED DOCUMENT ISSUED BY THE CITY PLANNING DEPARTMENT STATING THAT THE DEPARTMENT HAS FOUND THE PROJECT TO BE EXEMPT.

If different from the applicant, the identity of the person undertaking the project.

**CITY STAFF USE ONLY:**

CITY STAFF NAME AND SIGNATURE

Danalynn Dominguez

STAFF TITLE

City Planner

ENTITLEMENTS APPROVED

TOC-SPP-HCA

DISTRIBUTION: County Clerk, Agency Record

Rev. 6-22-2021

**DEPARTMENT OF  
CITY PLANNING**

COMMISSION OFFICE  
(213) 978-1300

**CITY PLANNING COMMISSION**

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VICE-PRESIDENT

MARIA CABILDO  
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**CITY OF LOS ANGELES  
CALIFORNIA**



KAREN BASS  
MAYOR

**EXECUTIVE OFFICES**

200 N. SPRING STREET, ROOM 525  
LOS ANGELES, CA 90012-4801  
(213) 978-1271

VINCENT P. BERTONI, AICP  
DIRECTOR

SHANA M.M. BONSTIN  
DEPUTY DIRECTOR

HAYDEE URITA-LOPEZ  
DEPUTY DIRECTOR

ARTHI L. VARMA, AICP  
DEPUTY DIRECTOR

LISA M. WEBBER, AICP  
DEPUTY DIRECTOR

## JUSTIFICATION FOR CATEGORICAL EXEMPTION CASE NO. ENV-2021-1539-CE

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The Department of City Planning determined that the City of Los Angeles Guidelines for the implementation of the California Environmental Quality Act of 1970 and the State CEQA Guidelines designate the subject Project as Categorically Exempt under Section 15332 (Class 32), Case No. ENV-2021-1539-CE, and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies.

### **Project Description**

The proposed project is for the demolition of a single-family dwelling and a detached garage and the construction, use and maintenance of a five-story, 15,479 square-foot, 30-unit residential building, measuring 65 feet and 9 inches in height. The project is setting aside 11 percent of the total 30 units and a minimum of 11 percent of the base 17 units, respectively, for Extremely Low-Income Households. The building will contain 15,479 square feet of floor area with a 2.30:1 FAR. The unit mix will be comprised of nine (9) studios, 18 one-bedroom units, and three (3) two-bedroom units. There will be no automobile parking spaces, 18 bicycle parking spaces, and 3,195.6 square feet of usable open space. The number of units and size is not unusual for the vicinity of the subject site and is similar in scope to other existing multi-family dwellings in the area. Thus, there are no unusual circumstances which may lead to a significant effect on the environment.

### **CEQA Section 15300.2: Exceptions to the Use of Categorical Exemptions**

The City has considered whether the Proposed Project is subject any of the five (5) exceptions that would prohibit the use of a categorical exemption as set forth in State CEQA Guidelines Section 15300.2. There are five (5) Exceptions which must be considered in order to find a project exempt under CEQA: (a) Cumulative Impacts; (b) Significant Effect; (c) Scenic Highways; (d) Hazardous Waste Sites; and (e) Historical Resources.

**(a) Cumulative Impacts.** *All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.*

The project is located at 1115 North Berendo Street within the Hollywood Community Plan. There are currently six (6) projects dating back to March 4, 2019, which are either currently filed with the Department of City Planning or have received a Letter of Determination from the Department of City Planning but have yet to receive a Certificate of Occupancy from the Los



Angeles Department of Building and Safety (LADBS). As such, there are projects within 1,320 feet of the same type and in the same place as the subject project.

<b>PROJECTS WITHIN A QUARTER-MILE FROM THE SUBJECT SITE</b> (filed or filed and approved)			
Address	Case Number	Date Filed	Scope of Work
1114 N. Heliotrope Drive	DIR-2021-1238-TOC-SPP-HCA	2/11/2021	New 30-unit residential building
1148 N. Berendo Street	DIR-2021-10890-SPP-HCA	12/30/2021	New duplex and single family dwelling
1200 N. Vermont Avenue	DIR-2019-1254-TOC-SPP	03/04/2019	New 29-unit mixed-use building
4750 W. Santa Monica Boulevard	DIR-2020-4249-TOC-SPP-VHCA	7/17/2020	New 85-unit mixed-use building
1040 N. Kenmore Avenue	DIR-2020-667-TOC-SPP-SIP	1/30/2020	New 62-unit residential building
1015 N. Vermont Avenue	DIR-2019-5645-TOC-SPR-SPP	9/23/2019	New 187-unit mixed-use building

According to SCAQMD, individual construction projects that do not exceed the SCAQMD's recommended daily thresholds for project-specific impacts would not cause a cumulatively considerable increase in emissions for those pollutants for which the Air Basin is in non-attainment. Interim thresholds were developed by DCP staff based on CalEEMod model runs relying on reasonable assumptions, consulting with AQMD staff, and surveying published air quality studies for which criteria air pollutants did not exceed the established SCAQMD construction and operational thresholds. Construction-related daily emissions at the project site would not exceed SCAQMD's regional or localized significance thresholds. Furthermore, an Air Quality Study prepared by Yorke Engineering, LLC on October 5, 2022, concluded that any cumulative impacts would be less than significant. Therefore, the project's contribution to cumulative construction-related regional emissions would not be cumulatively considerable and therefore would be less than significant. Construction of the project also would have a less-than-significant impact with regard to localized emissions.

As noise is a localized phenomenon and decreases in magnitude as distance from the source increases, only projects and ambient growth in the nearby area could combine with the proposed project to result in cumulatively considerable noise impacts. These above noted projects will begin construction and end construction at different timelines, with minor overlap between projects. Furthermore, a Noise Study prepared by Yorke Engineering, LLC on October 5, 2022, concluded that any cumulative impacts would be less than significant. Thus,

the construction of these known projects will be staggered and therefore do not have the potential to cumulatively contribute to air quality, construction traffic, and noise levels.

- (b) Significant Effect.** *A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.*

As mentioned, the project proposes a 30-unit residential building in an area zoned and designated for such development, through the use of an 80% density increase through the TOC Affordable Housing Incentive Program in exchange for affordable housing. All surrounding lots are developed with multi-family buildings. The project proposes a FAR of 2.30:1 which is within the maximum 2.75:1 FAR otherwise permitted by Subarea C of the SNAP in conjunction with an increase permitted per the TOC Affordable Housing Incentive Program in exchange for affordable housing. The proposed building will be five-stories in an area that is currently developed with buildings that range in height from one- to six-stories. In conjunction with the TOC Affordable Housing Incentive Program, the proposed building will not be unusual for the vicinity of the subject site and will be similar in scope to future residential buildings in the area that use the TOC Affordable Housing Incentive Program in exchange for affordable housing. Thus, there are no unusual circumstances which may lead to a significant effect on the environment.

- (c) Scenic Highways.** *A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway.*

As it relates to development along a Scenic Highway, the only State Scenic Highway within the City of Los Angeles is the Topanga Canyon State Scenic Highway, State Route 27, which travels through a portion of Topanga State Park. State Route 27 is located approximately 17 miles to the west of the subject property. Therefore, the subject site will not create any impacts within a designated state scenic highway.

- (d) Hazardous Waste.** *A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.*

In regards to Hazardous Waste sites, according to Envirostor, the State of California's database of Hazardous Waste Sites, neither the subject site, nor any site in the vicinity, is identified as a hazardous waste site. As such, the project would not be developed on a site identified as a hazardous site pursuant to Section 65962.5 of the Government Code.

- (e) Historic Resources.** *A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.*

The project site has not been identified as a historic resource by local or state agencies, and the project site has not been determined to be eligible for listing in the National Register of Historic Places, California Register of Historical Resources, the Los Angeles Historic-Cultural Monuments Register, and/or any local register; and was not found to be a potential historic resource based on the City's HistoricPlacesLA website or SurveyLA, the citywide survey of Los Angeles. The Department of City Planning, Office of Historic Resources confirmed that the existing single-family dwelling is not considered historic for the purposes of CEQA per an email dated April 9, 2024. Based on this, the project will not result in a substantial adverse change to the significance of a historic resource and this exception does not apply.

## **CEQA Determination – Class 32 Categorical Exemption Applies**

A project qualifies for a Class 32 Categorical Exemption if it is developed on an infill site and meets the conditions as follows: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations; (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; (c) The project site has no value as habitat for endangered, rare or threatened species; (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and (e) The site can be adequately served by all required utilities and public services

**(a) The project is consistent with applicable general plan designation, applicable policies, and applicable zoning designations.**

The subject site is located within the Hollywood Community Plan area. Lot 88 are zoned R4-1D and have a General Plan Land Use Designation of Highway Oriented Commercial. As shown in the case file, the project is consistent with the applicable Hollywood Community Plan designation and policies and all applicable zoning designations and regulations in conjunction with the TOC Affordable Housing Incentive Program.

**(b) The proposed development occurs within city limits on a project site no more than five acres substantially surrounded by urban uses.**

The subject site is wholly within the City of Los Angeles, on a site that is approximately 0.155 acres. The surrounding area is characterized by level topography, improved streets and residential and commercial development. The property to the north is located within Subarea A (Neighborhood Conservation) of the SNAP and is developed with an apartment building. The property to the west is located within Subarea C (Community Center) of the SNAP and is developed with a single family dwelling and a detached garage. The property to the east, across Berendo Street, is located within Subarea C (Community Center) of the SNAP and is developed with a duplex. The property to the south is located within Subarea C (Community Center) of the SNAP and is developed with a commercial building and surface parking lot.

**(c) The project has no value as a habitat for endangered species, rare, or threatened species.**

The site previously disturbed and surrounded by development and therefore is not, and has no value as, a habitat for endangered, rare or threatened species. Moreover, a Tree Disclosure Statement prepared by Lisa Smith, Certified Arborist #WE-3782B, concluded that there are no protected trees or protected shrubs on-site.

**(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.**

The project will be subject to Regulatory Compliance Measures (RCMs), which require compliance with the City of Los Angeles Noise Ordinance, pollutant discharge, dewatering, stormwater mitigations, and Best Management Practices for stormwater runoff. These RCMs will ensure the project will not have significant impacts on noise and water. A Noise Study that was prepared by York Engineering, LLC on October 5, 2022, concluded that any impacts would be less than significant. Furthermore, the City of Los Angeles Vehicle Miles Traveled (VMT) Calculator resulted in the proposed project having a net increase of 109 daily vehicle trips and a net increase of 678 daily VMT. Based on the VMT Calculator, the project is not required to perform VMT analysis under the VMT standards. Interim thresholds were developed by DCP staff based on CalEEMod model runs relying on reasonable assumptions,

consulting with AQMD staff, and surveying published air quality studies for which criteria air pollutants did not exceed the established SCAQMD construction and operational thresholds. Therefore, the project would not result in any significant effects related to traffic, noise, air quality, or water quality.

**(e) The proposed project has been reviewed by City staff and can be adequately served by all required utilities and public services.**

The project site will be adequately served by all public utilities and services given that the construction of a residential building will be on a site which has been previously developed and is consistent with the General Plan. Therefore, the project meets all of the Criteria for the Class 32. As the project has been found to be categorically exempt from CEQA, the project is not anticipated to have a negative effect on the environment and no mitigation measures are required.

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# PAUL J. KRUPKA

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## OBJECTIVE

Seeking opportunities to solve transportation problems and complete projects and tasks for public and private clients.

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## SKILLS

Expert project and task manager. Seasoned planner and designer of roadways, parking facilities, site access and circulation, Transportation Demand Management plans, and transit stations. Critical reviewer of transportation elements of environmental documents.

## REGISTRATIONS

Professional Traffic Engineer and Civil Engineer in California.

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## EXPERIENCE

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### OWNER | KRUPKA CONSULTING

2010 to Present

Project Manager of the \$308M I01/84 Interchange for the City of Redwood City, involving administering environmental, design, and right-of-way acquisition teams and procuring capital funding, all in coordination with Caltrans and the San Mateo County Transportation Authority (SMCTA). Contract Traffic Engineer for the Town of Portola Valley, focused on pedestrian safety planning and design, traffic engineering studies, and construction engineering. Traffic Engineer for the San Jose Sharks, emphasizing maintenance of fundamental traffic and parking systems serving fans and the community considering major development and transportation facility changes underway.

### ASSOCIATE | KIMLEY-HORN AND ASSOCIATES

2002 to 2010

Transportation Practice Builder in Oakland and Pleasanton offices, supported by a team of planners and engineers. Provided management, design and construction advisory services for the Richmond Transit Village transit-oriented development, transit station and parking garage at the Richmond BART Station. Managed the design review process for a 1,500-space expansion of the parking garage at the Pleasant Hill BART Station. Prepared critical freeway corridor evaluations for I-880, I-580, and I-238 facilities in Alameda County, and the US-101/SR-84 corridor in San Mateo and Santa Clara Counties.

### ASSOCIATE PRINCIPAL | MEYER, MOHADDES ASSOCIATES/ITERIS

1996 to 2002

Managed a team of transportation engineers for a new office of the company in San Mateo. Produced a Transportation Impacts Analysis for the Moffett Park Office development in Sunnyvale, which was directly adjacent to the SR 237/Mathilda Avenue interchange known as the "Monster" due to its complexity and resulting peak period traffic congestion. Developed traffic operations analyses for two Caltrans facilities, the SR 92 freeway between I-280 and US-101 in San Mateo, and the US 101/Willow Road interchange in Menlo Park.

### ENGINEERING MANAGER | NOLTE AND ASSOCIATES

1991 to 1996

Managed the Civil Engineering practice for the San Jose office, involving engineering and design of highway, transit, traffic, site development and water resources and a complement of 20 professionals. Project Manager and Traffic Engineer for the Millbrae Avenue Railroad Overpass project in Millbrae, involving complex detour traffic



## AFFILIATIONS

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Institute of Transportation Engineers  
WTS International  
Bay Planning Coalition  
Chamber San Mateo County  
San Mateo Area Chamber of Commerce  
Housing Leadership Council of San Mateo  
County

operations and right of way acquisition to improve safety and function of a highly congested at-grade railroad crossing serving Caltrain rail transit and freight operations. Project manager and technical adviser for the Contra Costa Transportation Authority (CCTA) Program Management team, involving interchange improvement engineering at I-680/Sycamore Valley in Danville and SR-24/Camino Pablo-Moraga Way in Orinda. Also managed a consultant study of a unique school bus system in the Lamorinda (**Lafayette**, **Moraga**, and **Orinda**) area of Contra Costa County.

## ASSOCIATE | WILBUR SMITH ASSOCIATES

1980 to 1991

Manager of a transportation team of three professionals in the San Francisco office, and founding manager of the San Jose office, with a team of six professional and support staff. Project Manager of the Vasona Corridor Alternatives Analysis in Santa Clara County, addressing potential rail transit and highway options to improve transit and highway operations in the corridor between Downtown San Jose and Los Gatos. Managed two conceptual feasibility studies of possible LRT extensions in two corridors in east San Jose. Developed and evaluated freeway interchange concepts for the SR 85/Saratoga-Sunnyvale Road interchange a component of the new SR-85 freeway extension in Santa Clara County.

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## EDUCATION

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### BACHELOR OF ENGINEERING | TRANSPORTATION

Thayer School of Engineering, Dartmouth College | 1980

### BACHELOR OF ARTS | ENGINEERING SCIENCES

Dartmouth College | 1979

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## VOLUNTEER WORK

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Former Member of the Board of Directors of the Housing Leadership Council of San Mateo County. This nine-year role was spawned by service on the Transportation and Housing Committee of the Chamber San Mateo County, where the linkage between transportation and housing, and the jobs housing imbalance, provided ample incentive to get directly involved.

**Channel Law Group, LLP**

October 29, 2024

**Supplemental Appeal Justification Letter**

**1115 North Berendo Street**

**Case Nos. DIR-2021-1538-TOC-SPP-HCA-1A; ENV-2021-1539-CE**

**Council File no. 24-1084**

**ATTACHMENT D**

## LOS ANGELES PREMIER COMMERCIAL REAL ESTATE BROKERAGE



Price: \$4,500,000.00

FOR SALE

# 1114 N. Heliotrope Drive/1115 N. Berendo Avenue, Los Angeles, CA 90029

📍 1114 N. Heliotrope Drive/1115 N. Berendo Avenue, Los Angeles, CA 90029

## Description

The subject properties are being entitled to build 52 units in East Hollywood, a qualified Opportunity Zone. The adjacent parcels are currently being entitled for two 26 unit projects, each with 13 Studios and 13 One bedrooms. Each project would have 4 affordable units. A Buyer can continue with the current



plans, or create new plans to potentially construct a 62 unit project by utilizing TOC Tier 4 incentives. There are agreements in place to vacate the existing structures without any fees to be paid by buyer.

The immediate neighborhood is undergoing a rapid transition with a number of multifamily and commercial developments recently completed or in progress. A 29 Unit Mixed Use Building is planned on the corner of Lexington and Vermont. A 68 Unit Project is planned on Melrose and Ardmore. On the 600-700 Block of Virgil Ave, three new projects are planned totaling 91 units.

The location is within easy walking distance of the Santa Monica Blvd/Vermont Metro allowing for a vehicle free lifestyle. Blocks away is Virgil Village, an area that has begun to



attract young families, millennials and East Coast transplants due to an influx of accomplished chefs and proximity to Los Feliz and Silverlake. The rest LA of the can be reached by Metro or the 101 Freeway. Nearby food and culture amenities include immensely popular Sqirl, The Virgil Bar, Vinovore, and ROAM LA yoga.

### Property Highlights

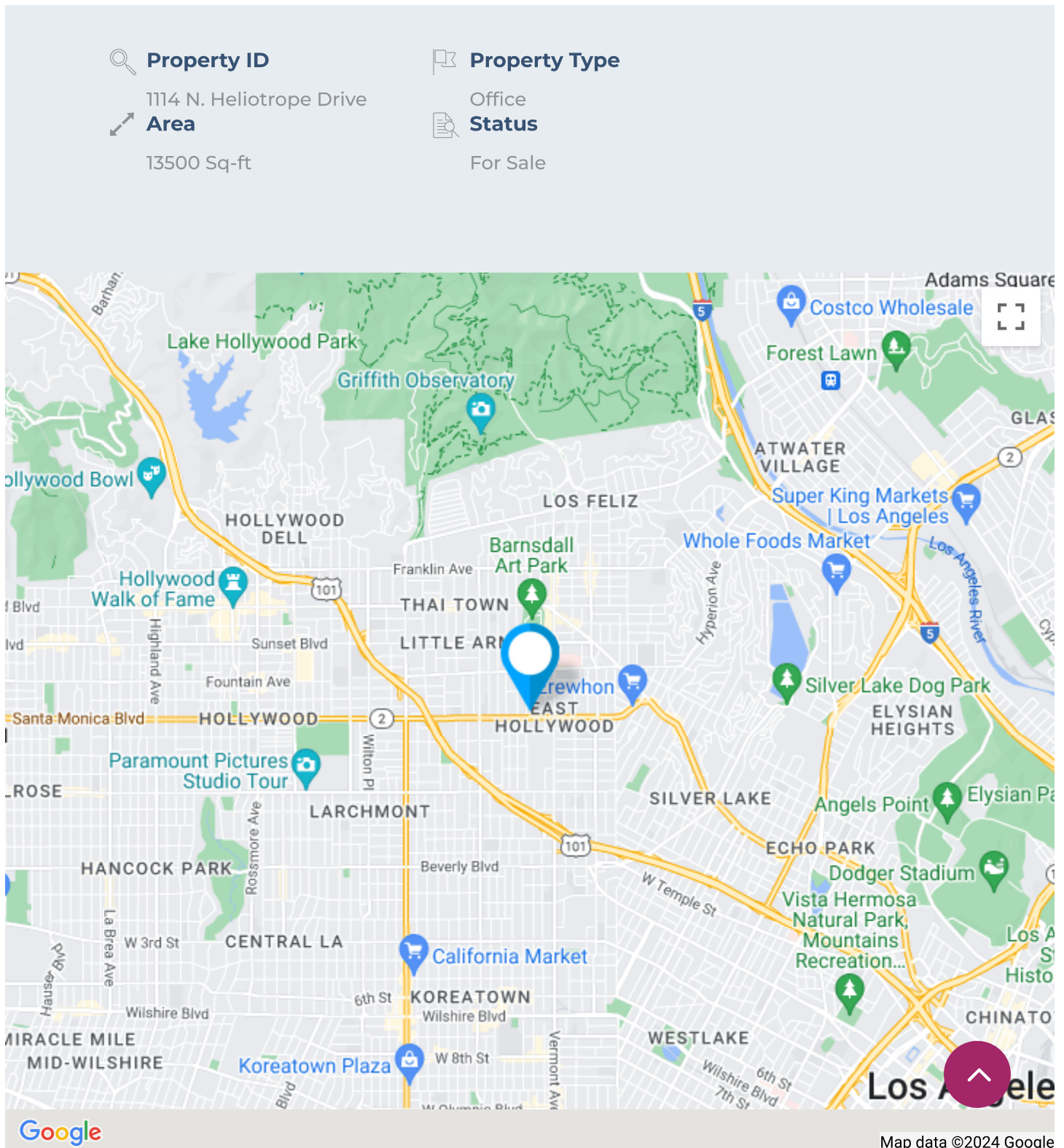
- Two adjacent 26 unit projects
- Up to 62 units allowed under TOC 4 guidelines
- Parcels are located in a Qualified Opportunity Zone
- R4 Zoning allows for tidy unit sizes, maximizing project rent/SF
- Trendy restaurants & night life are within walking distance
- Existing units can be delivered vacant
- Walking distance to Vermont/

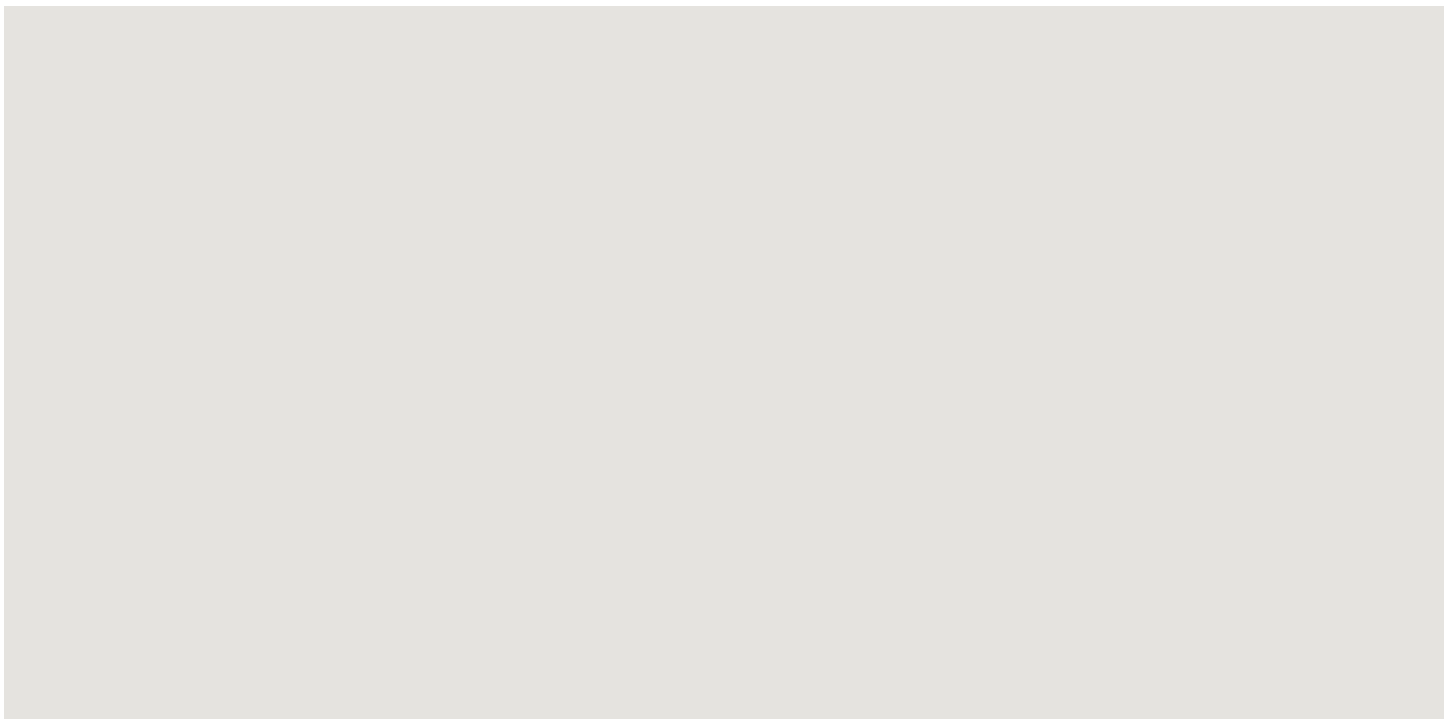




SM Metro

- Rapidly gentrifying area





## Agents



### Oron Maher

*Director Broker*

 (310) 464-1453

 Oron@MaherCR.com

 MaherCR.com



### Jeremy Shore

*Senior Investment Associate*

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