

## **Communication from Public**

**Name:**

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**Council File No:** 20-1624

**Comments for Public Posting:** Please see the enclosed letter from Robert Glushon.

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April 6, 2021

## VIA EMAIL

City of Los Angeles City Council  
200 N. Spring St.  
Los Angeles, CA 90012

Re: **ENV 2019-5735-SCEA - 10822 Wilshire Boulevard**  
**ZA-2018-3422-ELD-CU-DRB-SPP-WDI-SPR; VTT-82107**

Honorable Councilmembers:

Our firm represents Westwood Neighbors for Sensible Growth ("WNSG"), a large group of residential property owners and tenants along the Wilshire Boulevard corridor and in the single-family residential neighborhood to the south regarding the proposed zoning entitlements for the above referenced Elder Care Use Facility Project ("the Project").

WNSG submits this comment letter to set forth the shortcomings of the proposed Sustainable Communities Environmental Assessment ("SCEA") under the California Environmental Quality Act ("CEQA").

### **I. THE PROJECT DOES NOT QUALIFY AS A TRANSIT PRIORITY PROJECT ("TPP"), AND THEREFORE MAY NOT UTILIZE A SCEA**

The SCEA itself (p. 3.0-1) provides: SB 375 allows the City of Los Angeles, acting as lead agency, to prepare a SCEA as the environmental CEQA clearance for TPPs that are consistent with SCAG's RTP/SCS.

But the problem is - the Project does not qualify as a TPP, and, therefore, the City cannot utilize a SCEA for CEQA compliance purposes.

Resources Code § 21155(b) defines a TPP as a development project that contains at least 50 percent residential use, provides a minimum density of at least 20 units per acre, and is located within one-half mile of a major transit stop or transit corridor.

A qualifying residential project for purposes of TPP status is defined in Public Resources Code § 21159.25:

“Residential or mixed-use housing project” means a project consisting of multifamily residential uses only or a mix of multifamily residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use.

Undoubtedly, here, the Project is not comprised of “multifamily residential uses” only. Furthermore, evidence has been submitted that the Project does not qualify because its non-residential uses (not fully repeated herein but incorporated by reference) exceed the thresholds provided in Public Resources Code § § 21159.25 and 21155(b).

Instead of discussing such evidence, or any evidence for that matter, regarding the proposed residential and non-residential uses at the Project, the Initial Study makes the unsupported assumption that the zoning of the Project site necessarily renders this a residential Project. That assumption is not only unsupported, it is incorrect. Indeed, an Eldercare Facility, as proposed, is not even a “by right” use on this residentially zoned site.<sup>1</sup> Therefore, the concept that this Project is necessarily a residential use is incorrect and unsupported. The Councilmembers will note that this issue has already been litigated and Courts have rejected efforts to use the zoning to characterize the nature of a proposed land use differently from its actual functionality. *Concerned Dublin Citizens v. City of Dublin* (2013) 214 Cal.App.4th 1310.

In response to this criticism, the City asserts that the term “eldercare facility” is defined in the LAMC as a residential use. But the problem is that there is no substantial evidence to support the finding here that the uses proposed will actually be residential. Again, the City cannot rely on the underlying zoning or the Zoning Code itself to characterize the nature of a proposed land use differently from its actual functionality. *Concerned Dublin Citizens, supra*.

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<sup>1</sup> LAMC Section 12.13 characterizes Eldercare use a commercial use. The SCEA fails to discuss or explain this discrepancy but at all.

The proposed operations of the Project before the City render it more akin to a commercial, rather than a residential use: the 24-hour care and outside assistance, provided scale of the proposed food service (resembles more closely a hotel or a hospital than a multi-family residential use), guest services, numbers of employees plus the nature of the work they will provide, proposed childcare facility, worship facilities and related functionalities, etc. By proposing the SCEA, the City is failing to adequately recognize the functionality of the proposed Project.

Furthermore, a TPP is, on its face, meant to be for purposes of building residential uses near transit for the purpose of encouraging public transit use. But, based on the transportation profile of the consumers of the Project – pre-school children, Alzheimer patients and the elderly, the Project is unlikely to generate any or any appreciable amount of transit use. Accordingly, it fails as a TPP based upon the legislative history of the SB 375, as well as the law’s plain language.

II. THE PROJECT IS NOT CONSISTENT WITH THE GENERAL LAND USE DESIGNATION, DENSITY, BUILDING INTENSITY AND APPLICABLE POLICIES SPECIFIED IN THE RTP/SCS PREPARED BY SCAG

The Project specifically seeks a laundry list of discretionary entitlements and deviations from the Los Angeles Municipal Code, including the Zoning Code. Accordingly, it is not consistent with the general use designation, density, building intensity, and applicable policies specified for the Project area in the RTP/SCS prepared by SCAG.

The Councilmembers will note that the SCEA’s Initial Study fails to actually examine land use conflicts posed by the Project and its deviations. In the context of “land use and planning,” in order to be legally adequate, a CEQA document must identify and discuss, as part of its substantive disclosure requirements, inconsistencies between the Project and applicable general plans and regional plans. The SCEA fails to adequately do so. Instead, the SCEA Initial Study states that the Project does not seek any adjustments or an exception but rather seeks approval from the Zoning Administrator under the Eldercare Facility zoning law of a 12-story and 153-foot building. The SCEA Initial Study then concludes that with these approvals, there will be no “conflict.” Such unsupported conclusion not only plays fast and loose with not only the scope of the requested entitlements, but also fails to provide clear information as required under CEQA.

### III. THE PROJECT DESCRIPTION IS INADEQUATE

The Project Description contained within the SCEA provide a superficial description of the Project which omits material facts that relate to whether the Project has the potential for significant environmental impacts.

The stated number of dwelling units is misleading, the total resident capacity not provided, and the description of services provided at the Center vaguely set forth. Statistics regarding ambulatory needs and capacity are missing. The SCEA also lacks a complete project setting.

### IV. THE DISCUSSION OF TRANSPORTATION IMPACTS IS UNSUPPORTED BY SUBSTANTIAL EVIDENCE

Rather than evidence, the SCEA provides assumptions and speculation regarding transportation impacts from the Project, and in particular with regard to the elderly served by the Project as well “pass-by trips.” The SCEA repeatedly claims a “reduction” in trips but fails to substantiate this claim with evidence. Indeed, the evidence is to the contrary.

Moreover, the SCEA fails to identify the methodology used to determine transportation impacts. Although it states that a “custom” methodology was used, no such customization is scrutinized and it in other parts of the SCEA directly contradicted by traditional transportation methodology.

WNSG therefore requests that the City Council not adopt the SCEA at this time, but, rather, require full compliance with CEQA.

Very truly yours,

LUNA & GLUSHON  
A Professional Corporation

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

ROBERT L. GLUSHON

cc: Daniel Skolnick, Senior Planning Deputy for Councilman Paul Koretz