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VIA EMAIL ONLY

Planning and Land Use Management Committee
Los Angeles City Council
City Hall, Room 395
Los Angeles, CA 90012

RE: ENV-2019-2790-CE (DIR 2019-2789-TOC-1A)

Honorable Councilmembers:

This firm represents 1300 Westwood Development, LLC, a California limited liability company (the “Applicant”), owners of that certain real property commonly referred to as 1300 Westwood Blvd. (the “Property”) in the City of Los Angeles (the “City”). The Owner intends to improve the Property with a seven-story building with 31 residential units, with a maximum building height of 75 feet (the “Project”). The Property is currently developed with a parking lot built in 1975.

I. Background

On September 10, 2020, the Director of Planning approved a Transit Oriented Communities Affordable Housing Incentive Program Compliance Review for the Project, reserving 4 units for Extremely Low household occupancy for a period of 55 years, with Tier 4 base incentives and three additional incentives (increased height, reduced yards and reduced open space). Additionally, the Director of Planning determined, based on substantial evidence, that the Project was exempt from review under the California Environmental Quality Act (“CEQA”) because it qualified for a Class 32 Urban Infill Categorical Exemption (the “Exemption”).¹ (Collectively, the “Director’s Decision”).

The Director’s Decision was appealed to the City Planning Commission (the “CPC”) by a neighboring property owner, who was represented by Fix the City (collectively, “Fix the City”). On January 14, 2021, the CPC held a hearing to consider the merits of the appeal. After due

¹ California Code of Regulations Title 14, Chapter 3 (“CEQA Guidelines”) Section 15332.

consideration, the CPC voted to deny the appeal. Subsequently, in its February 2, 2021 Letter of Determination, the CPC memorialized and fully substantiated its denial of Fix the City's appeal (the "CPC Decision"). The CPC Decision constitutes the final decision by the City in terms of the Project's TOC program approval. However, Fix the City has further appealed, to the City Council, the CPC's determination that the Project qualifies for the Exemption, as allowed by Public Resources Code §21151(c) (the "CEQA Appeal").

II. CEQA Class 32 Urban Infill Categorical Exemption

CEQA requires the Secretary of the Office of Planning and Research to prepare guidelines that shall include a list of classes of projects that have been determined not to have a significant effect on the environment and that, as a result, shall be classified as categorically exempt from CEQA.² One such class of exempt projects identified by the State is denoted as "Class 32," which consists of "in-fill projects" or projects that occur on within city limits on a project site of no more than five acres surrounded by urban uses.³ In listing a class of projects as exempt, the Secretary (of the Office of Planning and Research) has determined that the environmental changes typically associated with projects in that class are not significant effects within the meaning of CEQA, even though an argument might be made that they are potentially significant.⁴

In order to determine that a project falls within the Class 32 exemption, a lead agency must determine that the infill project meets the following conditions:

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

(CEQA Guidelines §15332).

In both the Director's Decision and the CPC Decision, the City issued findings that factually support, establish and reflect the City's determination that the Project meets all of the criteria set forth in Guidelines, §15332(a)-(e). Individually, and collectively, these factual findings, and the record that they reflect, constitute substantial evidence supporting the City's determination.

III. The CEQA Appeal

Fix the City's CEQA Appeal was initially supported by a two-page document dated February 8, 2021 entitled "**JUSTIFICATION FOR CEQA APPEAL TO LA CITY**"

² California Public Resources Code §§21080(b)(9), 21083 and 21084(a); CEQA Guidelines §15300.

³ CEQA Guidelines §15332.

⁴ *Berkeley Hillside Preservation v. City of Berkeley*, (2015) 60 Cal. 4th 1086, 1101-2.

COUNCIL (DIR 2019-2789-TOC, ENV 2790-CE) 1300 WESTWOOD BLVD.” Fix the City subsequently submitted another supporting document for its CEQA Appeal dated February 16, 2021. (Fix the City’s February 8 and February 16 appeal justification documents are collectively referred to herein as the “Appeal Justifications.”)

In the Appeal Justifications, Fix the City argues that the City improperly applied the Exemption to the Project because the project does not meet two Class 32 criteria: (a) and (e) and “is therefore not exempt from CEQA.”

Specifically, Fix the City claims that:

- (a) The Project is inconsistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designations and regulations, and supports this claim by reference to:
- (b) There is inadequate evidence that the Property can be adequately served by all required utilities and public services.

Notably, the CEQA Appeal does not claim that any of the recognized exceptions to a CEQA categorical exemption apply in this case, as set forth in Guidelines §15300.2.⁵

IV. The Class 32 Categorical Exemption Determination is Supported by Substantial Evidence

In applying the substantial evidence standard, which would apply in this case if the appellant seeks judicial review, a court will uphold an agency’s decision unless the challenging party meets its burden of proof that the CEQA exemption is inapplicable.⁶ Fix the City’s CEQA Appeal (including the Appeal Justifications) does not meet the required burden of proof.

- (i) The Project’s Consistency with the General Plan and Zoning Designations and Regulations.

CEQA Guidelines, §15332(a) requires that a project be “consistent with” the City’s general plan, applicable general plan policies and applicable zoning designations and regulations. A project is deemed to be “consistent with” the City’s General Plan “if it will further the objectives and policies of the plan general and not obstruct their attainment.... The requirement that a project be consistent with a general plan does not require the project to rigidly conform to the general plan.”⁷

⁵ Commonly, opponents of proposed infill development projects in the City that would otherwise be eligible for a Class 32 Categorical Exemption allege significant project environmental effects due to cumulative impacts (per Guidelines, §15300.2(b)), and/or a significant project environmental effect due to “unusual circumstances” (per Guidelines, §15300.2(c)).

⁶ See *Berkeley Hillside*, at 1105.

⁷ *Holden v. City of San Diego*, (2019) 43 Cal. App. 5th 404, 411-2; See also, *Wollmer v. City of Berkeley*, (2011) 193 Cal. App. 4th 1320, 1348-9 (density bonus project waivers of default zoning standards are not “applicable” and, thus, the requirements of Guidelines §15332 are met.)

The Director's Decision contains a finding establishing that the Project is "consistent with" the City's General Plan and applicable zoning designations. Specifically, the Director's Decision states that "as shown in the case file" the Project is "consistent with the Westwood Community Plan land use designation, policies and zoning designations." (Director Decision, p. 16). Additionally, the Director's Decision sets forth in detail the basis for the Project's status as an "Eligible Housing Development within Tier 4 of the TOC Guidelines." (Director Decision, pgs. 13-5,16). Accordingly, the TOC Program incentives/waivers afforded the Project in terms of allowing increased height, reduced yard/setback and reduced open space are fully explained and justified in the Director's Decision (and upheld by the CPC Decision) and are clearly "consistent" with applicable local authority. The Courts "give great deference to a public agency's finding of consistency with its own general plan."⁸

Additionally, Fix the City claims that the sidewalk along Westwood Boulevard will violate the City's Mobility Plan 2035, as it will be less than 15 feet wide. Mobility Plan 2035 was a 2015 revision of the adopted 1999 City of Los Angeles Transportation Element of the General Plan that was intended to guide mobility decisions in the City through year 2035. Thus, as explained above, the City has broad discretion to make a finding that an aspect of a project is consistent with its own general plan. Simply put, the City does not have to "rigidly conform" to its general plan, when, as is the case here, there is an overriding need for the construction of additional housing within the City (including, but not limited to, affordable housing).⁹

Also, Fix the City misses the mark in terms of its claim that the Project violates the Westwood Boulevard Pedestrian Oriented District ("POD"). First, as noted above, the Project's maximum allowable height is authorized as a result of it being an Eligible Housing Development within Tier 4 of the TOC Guidelines.

Second, Fix the City's claim that the POD requires the Project to have its ground floor pedestrian entrance on Westwood Boulevard is erroneous, as it appears to have misconstrued pertinent authority. Fix the City states in its justification document that the Project "violates LAMC Section 13.07(d)." As Section LAMC §13.07(d) does not address development regulations, we reasonably assume that Fix the City intended to cite to §13.07.E.1(d), which states that "All new developments fronting on Pedestrian Oriented Streets shall provide at least one entrance for pedestrians to each Ground Floor." While it appears that Fix the City interprets this requirement as requiring a pedestrian entrance on Westwood Boulevard, that interpretation is not reasonable in light of the express language of the Code. To the contrary, §13.07.E.1(d) merely requires at least one pedestrian entrance on the ground floor of the Project. The Project complies with this requirement by having a pedestrian entrance on the ground floor at Wellworth Avenue.

Further, Fix the City's claim that the Project's maximum allowable height is inconsistent with applicable zoning designations is a thinly veiled attack on the validity of the TOC Program itself, rather than a claim that the Project's incentives exceed what is allowable under the Program. Fix the City's argument that the TOC Program incentives were "not amended by

⁸ Holden, at 411-2.

⁹ Id.

Measure JJJ” and, thus, violate Measure JJJ, are not properly before the City Council as part of this proceeding.¹⁰

(ii) The Property can be Adequately Served by all Required Utilities and Public Services.

CEQA Guidelines, §15332(e) requires that a project “site” be “adequately served by all required utilities and public services.” To this end, the Director’s Decision found that the Property “will be adequately served by all public utilities and services” as it is a developed site that is surrounded by urban uses and already served by “existing infrastructure.” This finding reflects the reasonable position of the City, as supported by both the case file and the collective wisdom and experience of the Department of Planning and other City departments, that existing utilities and services already adequately serve the area in which the Property is situated, and that the additional residential units to be built by the Project will be adequately served by the existing public infrastructure and organizational capacities.

To bolster the record in support of the City’s finding on this issue, we attach as Exhibit “A” to this letter (and incorporate fully by reference herein) an expert letter brief prepared by Seth Wulkan, Project Manager at CAJA Environmental Services, LLC (the “CAJA Letter”). The CAJA Letter rebuts Fix the City’s position regarding the purported inadequacy of public services, and constitutes substantial evidence supporting the City’s factual finding that the Property and the Project will be adequately served by all public utilities and services.

Fix the City fails to meet its burden of proof that the City’s erred in its determination that the §15332(e) criteria is fulfilled in this case. Essentially, Fix the City’s argument is that the existing site (and area) is already inadequately served by public emergency services, particularly by the Los Angeles Fire Department (“LAFD”). To support this claim, the CEQA Appeal primarily relies upon general, City-wide sources that purportedly document or confirm that “emergency response services” provided by LAFD are inadequate within the City as a whole.¹¹ Under this untenable view, no development project within the City of Los Angeles could obtain the benefit of a §15332 Infill Categorical Exemption from CEQA, as the entire City is claimed to suffer from inadequate LAFD emergency response times.

Notwithstanding the extremely broad argument and general information sources that Fix the City attempts to rely on to prevent the City from applying §15332 to the Project (or to any project), it references only one potentially relevant fact that supports its claim that the Property, specifically, is inadequately served by the LAFD. Fix the City references a 2005 EIR for a project to be developed approximately 2 miles from the Property,¹² which Fix the City claims characterized Fire Station 37 as being “old, small and inadequate.”

¹⁰ Applicant understands that Fix the City has challenged the validity of the City’s TOC Program in one or more pending lawsuits against the City.

¹¹ As support, the CEQA Appeal references the LA City Auditor’s Report (2013), LA County Grand Jury on LAFD Response Lag Time (2013), the Third-Party Study on LAFD (2015), and the LAFD 2020 Strategic Plan without further explanation or detail.

¹² EIR for the Casden mixed development project at Pico and Sepulveda.

We note that Fix the City has not submitted the referenced document, nor has it submitted any other document supporting this claim. However, even assuming that the 2005 EIR characterized Station 37 in the manner described by Fix the City, the project being evaluated in that document was much larger and was located much farther away from Station 37 than is the Property. Thus, the discussion of emergency services relevant to a 2005 EIR has no apparent relevance to a completely separate, geographically non-proximate project being considered in 2021, beyond mere speculation.

Additionally, the CAJA Letter (Exhibit A) sets forth and discusses in detail relevant criteria that determine the adequacy of the LAFD's responsiveness. The CAJA Letter further substantiates the Project site will be adequately served by the LAFD. Accordingly, the evidence that Fix the City relies on is, at best, thin, cursory and non-specific, and therefore should be disregarded.

V. Conclusion

In summary, CEQA Appeal is thinly supported and essentially devoid of any substantial factual evidence directly relevant to the Project. As a result, it must be readily denied. In essence, the CEQA Appeal appears to be nothing more than a delaying tactic designed to force the Applicant to reconsider Project implementation. In the future, Applicant urges the City to take whatever valid measures are available to it to deter clearly frivolous appeals that only serve to delay construction of desperately needed housing, generally, and affordable housing, specifically.

For all of the reasons stated above, and in light of substantial evidence in the record supporting both the Director's Decision and CPC Decision, this Committee must reject the CEQA Appeal in its entirety and adopt the application of the Exemption to the Project.

Very truly yours,



Michael Gonzales
Gonzales Law Group APC

MG/me

Enclosure

Cc: Michelle Singh, Senior City Planner
Connie Chauv, City Planner
Jeanalee Obergfell, City Planning Associate

EXHIBIT A



15350 Sherman Way, Suite 315, Van Nuys, CA 91406
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June 7, 2021

Re: Response to Appeal

The City of Los Angeles (City), acting as Lead Agency, prepared a Categorical Exemption (CE) under the California Environmental Quality Act (CEQA) for the 1300 Westwood Project (Case No. DIR-2019-2789-TOC, ENV-2019-2790-CE) (the "Project").

The purpose of this letter is to demonstrate that no additional environmental review is required under CEQA and evidence why the appeal should be denied. Specifically, this letter is intended to support the City's finding that the Project and Project Site (located at 1300 Westwood Blvd., Los Angeles) will be adequately served by all public utilities and services, as required by CEQA Guidelines, §15332(e).

PROJECT BACKGROUND

The Project involved construction of a 7-story building with 31 residential units, which would replace a surface parking lot.

On January 14, 2021, the City Planning Commission approved the Project.

APPEAL ANALYSIS

An appeal was filed on February 8, 2021 and updated on February 16, 2021 by Fix the City (represented by Laura Lake). The appeal and this response are limited to fire service adequacy.

The following is a summary of the Fix the City appeal arguments and CAJA's response. The full appeal application and documents have been submitted to the City, and are summarized as follows:

Fix the City, Argument 1:

CEQA Guidelines, §15332, Criterion (e): Fix the City argues that since there is no substantial evidence in the record that the site can be adequately served by all required utilities and public services, granting the Class 32 CEQA exemption would be arbitrary and capricious and a prejudicial abuse of discretion.

CAJA's Response:

Threshold and Screening Criteria

The L.A. CEQA Thresholds Guide identifies the following significance threshold to evaluate fire protection:¹

¹ L.A. CEQA Thresholds Guide, 2006, page K.2-3.

- *A project would normally have a significant impact on fire protection if it requires the addition of a new fire station or the expansion, consolidation or relocation of an existing facility to maintain service.*

The L.A. CEQA Thresholds Guide further identifies the following screening criteria to evaluate fire protection:²

Screening 1: Would the project be located farther from an engine or truck company than the maximum response distances, based on the project's proposed land use(s), as indicated in the following chart [see Table 57.507.3.3 below]?

Screening 2: Is the project located in a brush fire hazard area, hillside, or area with inadequate fire hydrant service or street access?

Screening 3: Does the project involve the use, manufacture or storage of toxic, readily-combustible, or otherwise hazardous materials?

Screening 4: Would the project's location provide for adequate LAFD access (e.g., adequate street/fire lane width--minimum 20 feet clear and unobstructed with an approved turn around, grade not exceeding 15 percent, dead-ends not exceeding 700 feet)?

Screening 5: Are there any street intersections with a level of service (LOS) of E or F near the project site that would adversely impact response time?

These 5 screening criteria are discussed separately below. Then a conclusion is reached regarding the significance threshold.

Within the City of Los Angeles, fire prevention and suppression services and emergency medical services are provided by the Los Angeles Fire Department (LAFD). Project impacts regarding fire protection services are evaluated on a project-by-project basis. A project's land use, fire-related needs, and whether the project site meets the recommended response distance and fire safety requirements, as well as project design features that would reduce or increase the demand for fire protection and emergency medical services, are taken into consideration. Beyond the standards set forth in the Los Angeles Fire Code, consideration is given to the project size and components, required fire-flow, response distance for engine and truck companies, fire hydrant sizing and placement standards, access, and potential to use or store hazardous materials. The evaluation of the Project's impact on fire protection services considers whether the development of the project would create the need for a new fire station or expansion, relocation, or consolidation of an existing facility to accommodate increased demand, the construction of which would cause significant environmental impacts.

The Project would comply with all applicable regulatory standards. In particular, the Project would comply with LAMC fire safety requirements, including those established in the Building Code (Chapter 9), the Fire Code (Chapter 7) and Section 57.507.3.1 of the LAMC regarding fire flow requirements.

² L.A. CEQA Thresholds Guide, 2006, page K.2-2.

Analysis

Screening 1: Would the project be located farther from an engine or truck company than the maximum response distances, based on the project's proposed land use(s)?

LAMC Chapter V, Article 7, Section 57.512.1 provides that response distances, which are based on land use and fire flow requirements and range from 0.75 mile for an engine company to 2 miles for a truck company, shall comply with Section 57.507.3.3. Where a site's response distance is greater than permitted, all structures must have automatic fire sprinkler systems.

According to LAMC Section 57.512.1,³ response distances based on land use and fire-flow requirements shall comply with Table 57.507.3.3 (recreated below).⁴ This Project would be a high density development. For a high density residential land use, the maximum response distance is 1.5 mile for an engine company and 2 miles for a truck company. The maximum response distances for both fire suppression companies (engine and truck) must be satisfied. According to LAMC Section 57.512.2⁵, where a response distance is greater than that shown in Table 57.507.3.3 (table recreated above), all structures shall be constructed with automatic fire sprinkler systems. Additional fire protection shall be provided as required by the Fire Chief per LAMC Section 57.512.2.

**Table 57.507.3.3
Response Distances That If Exceeded Require The Installation Of An Automatic Fire Sprinklers System**

* Land Use	Required Fire-Flow	Maximum Response Distance	
		Engine Co.	Truck Co.
Low Density Residential	2,000 gpm from three adjacent hydrants flowing simultaneously	1-1/2 miles	2 miles
High Density Residential and Commercial Neighborhood	4,000 gpm from four adjacent hydrants flowing simultaneously	1-1/2 miles	2 miles
Industrial and Commercial	6,000 to 9,000 gpm from four hydrants flowing simultaneously	1 mile	1-1/2 miles
High Density Industrial and Commercial or Industrial (Principal Business Districts or Centers)	12,000 gpm available to any block (where local conditions indicate that consideration must be given to simultaneous fires, an additional 2,000 to 8,000 gpm will be required)	3/4 mile	1 mile
gpm – gallons per minute Land use designations are contained in the community plan elements of the General Plan for the City of Los Angeles. The maximum response distances for both L.A.F.D. fire suppression companies (engine and truck) must be satisfied. LAMC Table 57.507.3.3.			

³ LAMC Section 57,512.1, <http://library.amlegal.com/nxt/gateway.dll/California/lamc/municipalcode/chaptervpublicsafetyandprotection/article7fireprotectionandpreventio>
<http://library.amlegal.com/nxt/gateway.dll/California/lamc/municipalcode/chaptervpublicsafetyandprotection/article7fireprotectionandpreventio>
⁴ LAMC Table 57,507.3.3, <http://library.amlegal.com/nxt/gateway.dll/California/lamc/municipalcode/chaptervpublicsafetyandprotection/article7fireprotectionandpreventio>
⁵ LAMC Section 57,512.2, <http://library.amlegal.com/nxt/gateway.dll/California/lamc/municipalcode/chaptervpublicsafetyandprotection/article7fireprotectionandpreventio>

According to the City, the Project Site is first-served by Station No. 37⁶, located at 1090 Veteran Avenue, approximately 0.5 mile driving distance away. As shown in **Table 1**, Fire Station No. 37 has an assessment light force (composed of a truck company and engine company).⁷ Therefore, the Project Site is located within the maximum distance identified by LAMC Section 57.512.1⁸ (i.e. within 1.5 mile for an engine and 2 miles for a truck).

**Table 1
Fire Stations**

No.	Address	Distance from Site	Equipment
37	1090 Veteran Avenue	0.5 mile	Assessment Light Force Engine Paramedic Ambulance Rescue Ambulance Battalion Chief
Light Force: Truck company and single engine. Task Force: Truck company and two fire engines. LAFD August 2019 Fire Station Directory. Table: CAJA Environmental Services, April 2021.			

Screening 2: Is the project located in a brush fire hazard area, hillside, or area with inadequate fire hydrant service or street access?

The Project Site is in an urbanized area completely surrounded by development. The Project Site is not located in a Very High Fire Hazard Severity Zone⁹ or in the wildlands fire hazard Mountain Fire District.¹⁰

LAMC Section 57.507.3.1 establishes fire water flow standards, which vary from 2,000 gallons per minute (gpm) in low-density residential areas to 12,000 gpm in high-density commercial or industrial areas, with a minimum residual water pressure of 20 pounds per square inch (psi) remaining in the water system. Site-specific fire flow requirements are determined by the LAFD based on land use, life hazard, occupancy, and fire hazard level. Based on a required fire-flow of 4,000 gpm for a high density residential project, the first-due Engine Company should be within 1.5 mile, the first-due Truck Company within 2.0 miles. If this distance is exceeded, all structures shall be constructed with automatic fire sprinkler systems.

LAMC Section 57.507.3.2 addresses land use-based requirements for fire hydrant spacing and type. Regardless of land use, every first story of a residential, commercial, or industrial building must be within 300 feet of an approved hydrant. The site-specific number and location of hydrants would be determined as part of LAFD's fire/life safety plan review for each development. Final fireflow demands, fire hydrant placement, and other fire protection equipment would be determined for the Project by LAFD during the

⁶ LAFD, Find Your Station: <https://www.lafd.org/fire-stations/station-results>

⁷ LAFD: <http://www.lafd.org/about/about-lafd/apparatus>.

⁸ LAMC Section 57,512.1, [http://library.amlegal.com/nxt/gateway.dll/California/lamc/municipalcode/chapterpublicsafetyandprotection/article7fireprotectionandpreventionfirec?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:losangelescamc\\$anc=JD57.512](http://library.amlegal.com/nxt/gateway.dll/California/lamc/municipalcode/chapterpublicsafetyandprotection/article7fireprotectionandpreventionfirec?f=templates$fn=default.htm$3.0$vid=amlegal:losangelescamc$anc=JD57.512).

⁹ ZIMAS search: <http://zimas.lacity.org/>.

¹⁰ Los Angeles Safety Element, Exhibit D, Selected Wildfire Hazard Areas in the City of Los Angeles: https://planning.lacity.org/odocument/31b07c9a-7eea-4694-9899-f00265b2dc0d/Safety_Element.pdf, March 26, 2020.

plan check process. If the Project is determined to require one or more new hydrants during plan check in accordance with city standards, the Project would have to provide them.

The following fire hydrants are near the Project Site:¹¹

- Hydrant (ID 39989, size 2½ x 4D, 8-inch main), southeast corner of Wellsworth Avenue and Westwood Boulevard.
- Hydrant (ID 33625, size 2½ x 4D, 8-inch main), southwest corner of Wellsworth Avenue and Westwood Boulevard.
- Hydrant (ID 33634, size 2½ x 4D, 8-inch main), northwest corner of Glendon Avenue and Wellsworth Avenue.

If the Project is determined to require one or more new hydrants during plan check, the Project would have to provide them.

Screening 3: Does the project involve the use, manufacture or storage of toxic, readily-combustible, or otherwise hazardous materials?

The Project does not involve the use, manufacture or storage of toxic, readily-combustible, or otherwise hazardous materials. The Project entails the development of residential uses, which does not involve the routine use of hazardous materials. Instead, the operation of the Project has limited hazardous materials similar to any other residential-use urban development. For example, the proposed uses would involve the use and storage of small (de minimis) quantities of potentially hazardous materials such as cleaning solvents, paints, and pesticides for landscaping. In other words, the Project generally would not produce significant amounts of hazardous waste, use or transport hazardous waste beyond those materials typically used in an urban development. Thus, none of the Project's operational features, or the type of hazardous materials used on the Project Site, creates a significant hazard to the environment or public.

Screening 4: Would the project's location provide for adequate LAFD access (e.g., adequate street/fire lane width--minimum 20 feet clear and unobstructed with an approved turn around, grade not exceeding 15 percent, dead-ends not exceeding 700 feet)?

LAMC Section 57.503.1.4 requires an approved, posted fire lane whenever any portion of an exterior wall is more than 150 feet from the edge of a roadway.

The Site is approximately 50 feet x 136 feet.¹² No exterior wall on the Project Site is more than 150 feet from the edge of a roadway. The Site has adequate street access along Westwood Boulevard and Wellsworth Avenue. The Site is in an urbanized area of the City and the surrounding streets are not considered substandard (i.e. unpaved or with dangerous curbs and elevations).

Furthermore, pursuant to California Vehicle Code (CVC) Section 21806, the drivers of emergency vehicles are able to avoid traffic by using sirens to clear a path of travel or by driving in the lanes of opposing traffic.

¹¹ Navigate LA, DWP (Fire Hydrants) Layer: <http://navigate.la.city.org/navigate/>

¹² Assessor Parcel Number 4325009001.

All ingress/egress associated with the Project would be designed, verified in the building permit process by the Los Angeles Department of Building and Safety (LADBS) and LAFD, and constructed in conformance with all applicable LADBS and LAFD standards and requirements for design and construction.¹³

LAMC Section 57.118 establishes LAFD's fire/life safety plan review and LAFD's fire/life safety inspection for new construction projects.

Therefore, the Project would comply with emergency access requirements of the City.

Screening 5: Are there any street intersections with a level of service (LOS) of E or F near the project site that would adversely impact response time?

SB 743, made effective in January 2014, required the Governor's Office of Planning and Research to change the CEQA Guidelines regarding the analysis of transportation impacts. Under SB 743, the focus of transportation analysis shifts from driver delay (level of service [LOS]) to VMT, with the intent of reducing greenhouse gas emissions (GHG), creating multimodal networks, and promoting mixed-use developments. On July 30, 2019, the Los Angeles City Council approved revisions to the City's transportation analyses approach to incorporate new screening procedures and thresholds compliant with SB 743. LADOT's Transportation Assessment Guidelines (TAG) defines and provides the required methodology of analyzing a project's transportation impacts in accordance with SB 743.

The LADOT Referral Form dated August 26, 2020 indicates that the project would generate a net increase of 169 daily vehicle trips, which is less than the threshold of 250 daily trips that would otherwise require a VMT analysis. Under the change in law and in accordance with LADOT's TAG, a transportation assessment was not required. LADOT shifted LOS analysis to non-CEQA transportation analysis as part of a transportation assessment. LOS analysis is now only used to determine improvements to address identified deficiencies that lie in the City's police powers to regulate the use of land.¹⁴ Since the Project was not required to conduct a transportation assessment, there is no VMT or LOS requirement.

Fix the City makes a broad and unsubstantiated claim about inadequate response times based on the City's 2012 audit report. CAJA has reviewed the claims made by Fix the City and found them without substance as they are out-of-date and not project specific. The audit report makes it clear that, audit the audit period, LAFD response times were assigned differently than the National Fire Protection Associated (NFPA) standard and therefore "cannot be used for emergency response times."¹⁵

LAFD has not established response time standards for emergency response, nor adopted the National Fire Protection Associated (NFPA) standard of 5 minutes for emergency medical services response and 5 minutes 20 seconds for fire suppression response.¹⁶

¹³ LAMC, Article 7 of Chapter V.

¹⁴ Los Angeles Department of Transportation, Transportation Assessment Guidelines, July 27, 2020, page 3-1.

¹⁵ Los Angeles Office of the Controller, Analysis of the Los Angeles Fire Department's Response Times, May 18, 2012, page 3.

¹⁶ NFPA, NFPA 1710—Standard for the Organization and Deployment of Fire Suppression Operations, Emergency Medical Operations, and Special Operations to the Public by Career Fire Departments, 2020 Edition.

As noted in the 2018-2020 LAFD Strategic Plan, LAFD established a new operational response time which is the time interval that starts when first contact is made (either through 911 or the fire dispatch center) and ends when the first unit arrives on scene.¹⁷

Generally, multi-lane arterial roadways allow emergency vehicles to travel at higher rates of speed and permit other traffic to maneuver out of the path of an emergency vehicle. The area also has a redundant street network which provides multiple routes from the Station to the Site.

Additionally, the LAFD, in collaboration with Los Angeles Department of Transportation (LADOT), has developed a Fire Preemption System (FPS), which automatically turns traffic lights to green for emergency vehicles traveling along designated City streets to aid in emergency response.¹⁸ The City of Los Angeles has over 205 miles of major arterial routes that are equipped with FPS.¹⁹

According to the LAFD, although response time is considered in assessment of the adequacy of fire protection services, it is only one factor among several that LAFD utilizes in evaluating its ability to respond to fires and life and health safety emergencies, along with a variety of other criteria, including required fire flow, response distance from existing fire stations, and the LAFD's judgment for needs in an area. If the number of incidents in a given area increases, it is the LAFD's responsibility to assign new staff and equipment and potentially build new or expanded facilities, as necessary, to maintain adequate levels of service. In conformance with the California Constitution Article XIII, Section 35(a)(2) and the City of Hayward v. Board Trustee of California State University (2015) 242 Cal. App. 4th 833, 847 ruling, the City has and will continue to meet its legal constitutional obligations to provide adequate public safety services, including fire protection and emergency medical services.

Section 35 of Article XIII of the California Constitution at subdivision (a)(2) provides: "The protection of public safety is the first responsibility of local government and local officials have an obligation to give priority to the provision of adequate public safety services." Section 35 of Article XIII of the California Constitution was adopted by the voters in 1993 under Proposition 172. Proposition 172 directed the proceeds of a 0.50-percent sales tax to be expended exclusively on local public safety services. California Government Code Sections 30051-30056 provide rules to implement Proposition 172. Public safety services include fire protection. Section 30056 mandates that cities are not allowed to spend less of their own financial resources on their combined public safety services in any given year compared to the 1992–93 fiscal year. Therefore, an agency is required to use Proposition 172 to supplement its local funds used on fire protection services, as well as other public safety services.

In City of Hayward v. Board of Trustees of California State University, (2015) 242 Cal. App. 4th 833, the court found that Section 35 of Article XIII of the California Constitution requires local agencies to provide public safety services, including fire protection and emergency medical services, and that it is reasonable to conclude that the city will comply with that provision to ensure that public safety services are provided.⁴ The Hayward ruling also concluded that "assuming the city continues to perform its obligations, there is no basis to conclude that the project will cause a substantial adverse effect on human beings" and the "need for additional fire protection services is not an environmental impact that CEQA requires a project proponent to mitigate."²⁰

¹⁷ 2018-2020 LAFD Response Plan, page 39.

¹⁸ LADOT, Los Angeles Signal Synchronization Fact Sheet https://ladot.lacity.org/sites/default/files/documents/ladot-atsac-signals-_fact-sheet-2-14-2016.pdf

¹⁹ LAFD, Training Bulletin: Traffic Signal Preemption System for Emergency Vehicles, Bulletin No. 133, October 2008.

²⁰ City of Hayward v. Board Trustees of California State University (2015) 242 Cal. App. 4th 833, 847.

Conclusion

As shown above, the Project would not exceed any of the screening criteria questions. Therefore, there would be no significant impact on fire protection services.

Fix the City, Argument 2:

Fix the City claims that in a 2005 certified EIR for the Casden Expo project, LAFD stated that Station 37, the first-in for this project, was found to be old, small and inadequate. Further, Fix the City claims that Station 37 has not been subsequently improved, and, due to budget cuts, the station and other nearby stations are dark on a rotating basis, requiring response from stations further away, thus worsening response time.

CAJA's Response:

The need for or deficiency in adequate fire protection in and of itself is not a CEQA impact (e.g., a physical impact on the environment), but rather a social and/or economic impact. Where a project causes a need for additional fire protection services resulting in the need to construct new facilities or additions to existing facilities, and the construction results in a potential impact to the environment, then the impact would need to be assessed in an EIR and mitigated, if found to be significant. The ultimate determination of whether a project would result in a significant impact to the environment related to fire protection is determined by whether construction of new or expanded fire protection facilities is a reasonably foreseeable direct or indirect effect of the project. There are no current capital improvement plans for the construction or expansion of fire facilities in the impact area. Therefore, the City makes the following assumptions based on existing zoning standards and based on historical development of fire and emergency facilities, that in the event that the City determines that expanded or new emergency facilities are warranted, such facilities: (1) would occur where allowed under the designated land use; (2) would be located on parcels that are infill opportunities on lots that are between 0.5 acre and 1 acre in size; and (3) could qualify for a categorical exemption under CEQA Guidelines Sections 15301 or 15332 or a Mitigated Negative Declaration.

Fix the City's reliance on an unrelated 16-year-old EIR is incorrect for the following reasons:

- The EIR is for the Casden Expo Project at the intersection of Sepulveda Boulevard and Pico Boulevard that is 1.75 miles from Station No. 37, whereas this Project is more than 3 times closer (0.5 miles)
- As noted in that EIR, the Casden Expo Project is first served by Station No. 59, whereas this Project is first-served by Station No. 37.
- The Casden Expo Project is much larger than this Project.
- The LAFD does not provide data to support the statement that Station 37 is "too old and small" nor does it cite thresholds that would lead to that determination.

Thus, the discussion of emergency services relevant to a 2005 EIR has no apparent relevance to a completely separate, geographically non-proximate project being considered in 2021, beyond mere speculation. As shown above, no public information, including in LAFD's sources, supports the Fix the City's claim that Station No. 37 is inadequate to serve the Project.

Rather, the City uses CEQA's thresholds and guidelines to determine if a project would result in substantial adverse physical impacts associated with provision of new or physically altered government facilities. The Project complies with the zoning and General Plan designation for the Site, and thus is considered within the planning horizon of the City. The Project would also generate revenues to the City's General Fund (in the form of property taxes, sales revenue, etc.) that could be applied toward the provision of new fire station facilities and related staffing, as deemed appropriate.

LAFD's Strategic Plan 2018-2020 has a goal to provide exceptional public safety and emergency services, including a strategy to improve response times.

Measure J, which was approved by voters at the November 7, 2006 election, is a charter amendment and ordinance that involves technical changes to Proposition F. Under Proposition F, the construction of new regional fire stations to provide training and other facilities at or near standard fire stations was required to take place on single sites of at least two acres. Measure J allows new regional fire stations funded by Proposition F and located in densely developed areas to be designed and built on one or more properties equaling less than two acres.

The other evidence cited by the appeal are outdated, not project-specific analysis, and not specifically attached to support a claim of substantial evidence. The appeal claims the 2012 City Controller Response Times Audit, L.A. Grand Jury on LAFD response times, 2015 third-party study on LAFD, and 2020 LAFD Strategic Plan supports the claim of inadequate response times citywide. As discussed above, there is no standard and response times are not used by City Planning to determine adequacy. The 2018-2020 LAFD Strategic Plan has a stated strategy to improve emergency response times using technology such as computer-aided dispatch and travel efficiencies (traffic control) and innovative programs to provide increased coverage in high call load and long travel distance areas.²¹

CONCLUSION

For all the foregoing reasons, the Project would be adequately served by the LAFD. Therefore, Fix the City's appeal arguments that the Project and Project Site will be inadequately served by public utilities and services cannot be substantiated. As a result, Fix the City's CEQA appeal should be denied.

Please contact me with any questions or comments.

Sincerely,

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CAJA is an environmental consulting firm that specializes in environmental planning, research, and documentation for public and private sector clients. For over 34 years, CAJA and its predecessor company

²¹ [2018-2020 LAFD Response Plan](#), page 11.

Christopher A. Joseph & Associates have offered a broad range of environmental consulting services with a particular emphasis on CEQA and NEPA documentation.

Seth Wulkan has over 14 years of experience and is responsible for all aspects of preparation of environmental review documents. He began his career with CAJA in 2007. Mr. Wulkan is proficient in drafting all sections of environmental review documents; incorporating technical reports into documents; and personally corresponding with public and private sector clients. Mr. Wulkan regularly participates in team strategy meetings from the beginning of the environmental review process through the final project hearings. Mr. Wulkan graduated with college honors from UCLA and completed a Certificate Program in Sustainability at UCLA Extension.