

DEPARTMENT OF
CITY PLANNING
COMMISSION OFFICE
(213) 978-1300

CITY PLANNING COMMISSION

SAMANTHA MILLMAN
PRESIDENT

CAROLINE CHOE
VICE-PRESIDENT

HELEN CAMPBELL
JENNA HORNSTOCK
HELEN LEUNG
YVETTE LOPEZ-LEDESMA
KAREN MACK
DANA M. PERLMAN
RENEE DAKE WILSON

City of Los Angeles
CALIFORNIA



ERIC GARCETTI
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

ARTHI L. VARMA, AICP
DEPUTY DIRECTOR

LISA M. WEBBER, AICP
DEPUTY DIRECTOR

September 30, 2022

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Attention: PLUM Committee

Dear Honorable Members:

APPEAL RESPONSE FOR THE 656 SOUTH SAN VICENTE MEDICAL OFFICE BUILDING PROJECT; VTT-74865-2A; CF 22-0922-S2

In response to appeals and communications (as set forth below) submitted to the Council File for the 656 South San Vicente Medical Office Project (Project), the Department of City Planning has prepared the following responses for the PLUM Committee's consideration for the hearing scheduled on October 4th, 2022.

The Project would demolish a 5,738 square-foot, vacant educational building, and an 8,225 square-foot Big 5 Sporting Goods store and associated surface parking to develop a medical office and retail-commercial development on an approximately 0.74-net acre (33,066 gross square-foot, 32,290 net square-foot) site located at 650–676 South San Vicente Boulevard (Project Site). The Project would include up to 145,305 square feet of floor area, comprised of 140,305 square feet of medical office space and 5,000 square feet of ground floor retail-commercial space, of which up to 4,000 square feet may be a restaurant and 1,000 square feet may be other retail commercial uses, such as a pharmacy. The proposed building would be 12 stories and would measure approximately 218 feet in height (230 feet to the top of the mechanical penthouse). The Project would include seven floors of medical office uses over four floors of above-grade parking, and a ground floor containing a lobby for the medical office, and commercial uses fronting South San Vicente Boulevard.

PROJECT HISTORY

On May 3, 2022, the Advisory Agency certified the 656 South San Vicente Medical Office Project Environmental Impact Report (ENV-2017-468-EIR) and approved Vesting Tentative Tract (VTT) Map No. 74865 in connection with the proposed Project. Three separate appeals were filed in a timely manner on May 9, 2022, May 12, 2022, and May 13, 2022 - the appeals were filed by the Supporters Alliance for Environmental Responsibility (SAFER), Beverly Wilshire Homes' Association, and Michael Yadegari, respectively. The appeals focused on the Project's

consistency with the General Plan and Zoning Code, compliance with California Environmental Quality Act (CEQA), and environmental concerns regarding construction noise, fire services, transportation, and parking impacts.

On June 21, 2022, Appellant SAFER provided an additional letter for the CPC meeting and has resubmitted the letter as part of its second-level Tract Appeal (SAFER Appeal Points 1B – 8B).

The Department of City Planning responded to the appeals in a report dated June 23, 2022 (Appeal Report). The Appeal Report and all associated documents were presented to the City Planning Commission (CPC) at its meeting of June 23, 2022, who, following its consideration of the materials and oral testimony, denied the first-level appeals, sustained the actions of the Advisory Agency in certifying the EIR and in approving VTT Map No. 74865; and, for the related Case No. CPC-2017-467-GPA-VZC-HD-SPR, recommended that the City Council: 1) approve a General Plan Amendment to the Wilshire Community Plan to re-designate the Site from Limited Commercial to Regional Commercial land use; and 2) approve a Vesting Zone Change and Height District Change from C1-1VL-O to (T)(Q)C2-2D to allow for a FAR up to 4.5:1 and up to a 20 percent reduction in vehicle parking. In addition, the CPC approved a Site Plan Review for the Project.

On August 8, 2022, a second-level Tract Map Appeal was filed by two of the same Appellants, SAFER, represented by Richard Drury of Lozeau Drury LLP (Appellant 1); and the Beverly Wilshire Homes' Association, represented by Jamie T. Hall of Channel Law Group (Appellant 2). Both letters primarily restate and reference the appeal points and previous letters provided in the first-level Tract Map appeal. The City has already adequately provided detailed and full responses and/or previous discussions as incorporated herein pertaining to the appeal points discussed in the February 1, 2022, Final EIR comment letter (attached in the May 9, 2022, Appeal Justification) submitted by Appellant 1 (SAFER Appeal Points 1A - 4A), and in the May 13, 2022, Appeal Justification submitted by Appellant 2 (BWHHA Appeal Points 1-5). These were addressed in the first-level Tract Map Appeal Report and CPC Staff Recommendation Reports, both dated June 23, 2022.

For the record, provided below is a summary of the respective Appellants' appeal points and staff's responses to both letters.

APPEAL POINTS AND STAFF RESPONSES

Following issuance of the City Planning Commission Agency Letter of Determination mailed on August 2, 2022, two separate second-level appeals were filed, as follows:

Appeal No. 1 Supporters Alliance for Environmental Responsibility (SAFER)
Representative: Richard Drury, Lozeau Drury, LLP

Appeal No. 2 Beverly Wilshire Homes' Association
Representative: Jamie T. Hall, Channel Law Group, LLP

APPELLANT NO. 1A:

**Richard Drury, Lozeau Drury, LLP
Supporters Alliance for Environmental Responsibility (SAFER)
An Appeal of the Entire Decision of the Advisory Agency
Letter Dated: February 1, 2022**

SAFER Appeal Point 1A

The Appellant generally claims that the Environmental Impact Report fails to comply with the CEQA, the approval of the Vesting Tentative Tract Map (VTT-74865) was in error because the City did not fully comply with CEQA prior to any approvals, and that the findings are not supported by substantial evidence.

Staff Response to SAFER Appeal Point 1A

The Advisory Agency, as a decision-making body of the City, is authorized by the Los Angeles Municipal Code (LAMC) to approve subdivision maps (LAMC 17.03 A). As such, the Advisory Agency is required to certify the EIR before approving the Project's subdivision map, per CEQA Guidelines Section 15090. The EIR fully disclosed and analyzed the whole of the action, and identified the subdivision requests, as well as the General Plan Amendment, Vesting Zone and Height District Change, Site Plan Review, and other associated entitlement requests. In addition, the Appellant generally states that the EIR fails to comply with CEQA but does not provide any specific aspects of CEQA with which the EIR fails to comply. Therefore, the appeal point has no merit and should be denied.

SAFER Appeal Point 2A

The Appellant states that the EIR's conclusion that construction noise is significant and unavoidable after mitigation is not supported by substantial evidence. In addition, the Final EIR's response is inadequate and completely ignores the suggestion to require noise barriers to run along the entire extent of the neighboring residential boundaries, and to require that the barriers be 15 feet in height and doesn't provide any evidence that they would be infeasible.

Staff Response to SAFER Appeal Point 2A

The Final EIR comment submitted by CREED LA referenced in the appeal, as well as the Staff Response to the comment is provided as Final EIR Response to Comment Nos. ORG 2-15, which addresses the need for a 15-foot barrier around the entirety of the Project Site, but explicitly along the alleyway adjacent to the multi-family residential units, in addition to the feasibility of a taller sound barrier to address receptors at second or higher-level building locations.

The noise analysis for the Project determined that construction of the Project would result in significant noise impacts to off-site noise-sensitive receptor locations L1 through L7 and that mitigation measures would be required. Noise-sensitive receptor locations L1, L2, L3, and L4 are located to the northeast of the Project Site, noise-sensitive receptor location L5 is located to the northwest of the Project Site, and noise-sensitive receptor locations L6 and L7 are located to the southwest of the Project Site. With implementation of Mitigation Measures NOI-MM-1 through NOI-MM-4, as included in Chapter 4, Mitigation Monitoring Program, of the Final EIR, construction

noise impacts would be mitigated to less than significant at noise-sensitive receptor locations L5 and L6 but would remain significant and unavoidable at noise-sensitive receptor locations L1, L2, L3, L4, and L7 (refer to Figure IV.G-3 of the EIR for a map showing these receptor locations).

Mitigation Measure NOI-MM-1 specifies that the Project is required to utilize temporary ground-level construction noise barriers with a minimum height of eight feet, but further specifies temporary ground-level construction noise barriers with a minimum height of 15 feet along the alleyway along the northeast property line or the portion of the Project Site facing noise-sensitive receptor locations L1, L2, L3, and L4.



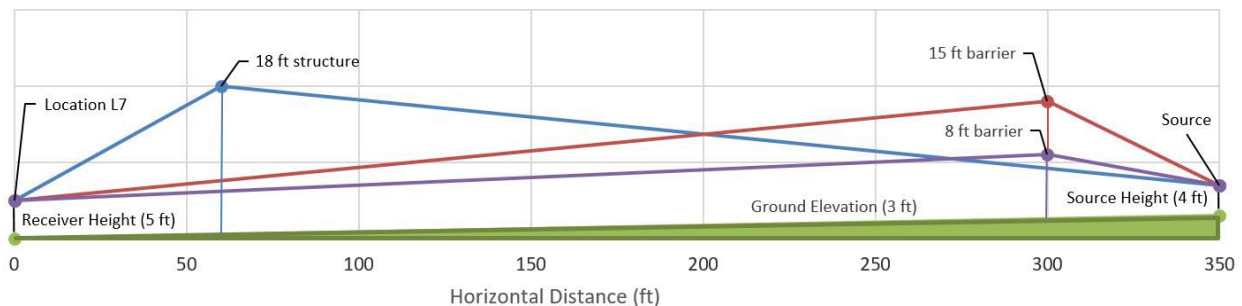
A comment was received by the City recommending that the temporary ground-level construction noise barriers should be a minimum of 15 feet in height in all locations, rather than eight feet and 15 feet along only the alleyway along the northeast property line.

The Final EIR Response states that the temporary noise barriers, shall be used to block the line-of-sight between the construction equipment and the noise sensitive receptors during the duration

of construction activities. As discussed on page five of Draft EIR section IV.G, Noise, noise barriers can provide noise level reductions ranging from approximately five dBA (where the barrier

just breaks the line-of-sight between the source and receiver) to an upper range of 20 dBA with a larger barrier. Additionally, structures with closed windows can further attenuate exterior noise by a minimum of 20 dBA to 30 dBA. NOI-MM-1 expressly states that the noise barriers provide reductions of at least 10 dBA between the Project Site and ground-level sensitive receptor locations. A taller noise barrier is required along the northeast property line along the alleyway due to the closer proximity of receptor locations L1, L2, L3, and L4 in order to achieve the appropriate level of noise reduction to block the line-of-sight, whereas a standard eight-foot barrier would be appropriate along the remaining property lines, primarily due to distance from sensitive receptors and other intervening buildings and features which block the line-of-sight.

In order to better illustrate the need for eight-foot barriers in lieu of a 15-foot barrier, Environmental Science Associates (ESA) conducted a more detailed analysis of the potential additional mitigating effect that could be achieved from increasing the minimum height of the temporary ground-level construction noise barriers to 15 feet in all locations (Exhibit F, ESA Noise Barrier Memo, dated June 10, 2022). This analysis focuses on the potential mitigating effects at noise-sensitive receptor location L7, which is located approximately 300 feet to the southwest of the Project Site and consists of one- and two-story residential buildings. Noise-sensitive receptor location L7 is situated along South Tower Drive and south of the commercial uses along Wilshire Boulevard. The line-of-sight from noise-sensitive receptor location L7 to the Project Site is blocked by the presence of existing buildings. Both buildings are 18 feet in height or higher and are of sufficient height to block the line-of-sight from the one- and two-story noise receivers at noise-sensitive receptor location L7. Increasing the height of the temporary ground-level construction noise barriers from a minimum of eight feet to 15 feet along the southwest portion of the Project Site would not result in a greater noise reduction at noise-sensitive receptor location L7 because the intervening buildings are taller than the temporary ground-level construction noise barriers, and, as such, act as an existing noise barrier. A line-of-sight diagram is provided below illustrating this effect.



Further, there are additional practical and safety considerations that would render the use of 15-foot-tall barriers along the southwest portion of the Project Site (i.e., the portion of the Project Site along South San Vicente Boulevard) as infeasible. San Vicente Boulevard is a major thoroughfare in the City of Los Angeles, with pedestrian traffic on the sidewalks. The temporary construction noise barrier along South San Vicente Boulevard would require access gates for construction personnel and material deliveries. A 15-foot-tall temporary construction noise barrier along South San Vicente Boulevard would subject the barrier to increased wind load compared to an eight-foot-tall barrier, which would create greater safety hazards to pedestrians and on-site construction personnel. When coupled with the need for access gates along this portion of the Project Site,

the safety hazards from a taller barrier are exacerbated due to the presence of moveable gates. It is noted that the 15-foot-tall recommendation for the barrier at the alleyway along the northeast

property line of the Project Site is at a location that would not have pedestrian traffic and would not require access gates; thus, the safety risk is lower at this location.

Therefore, with no additional measurable noise reduction benefit anticipated at noise-sensitive receptor location L7, and the resulting exacerbated safety hazards, the proposed increase in the minimum barrier height from eight feet to 15 feet for the construction noise barrier is not warranted, except for the 15-foot-tall requirement for the barrier at the alleyway along the northeast property line of the Project Site.

In addition to the mitigation measure 1) requiring temporary noise barriers from eight to 15 feet in height, as stated on page 49 of the Draft EIR section IV.G, Noise, the Project includes additional mitigation measures that: 2) require the noise and vibration generating construction equipment to be located away from the nearest off-site sensitive receptors when feasible, 3) flexible sound control curtains shall be placed around all drilling apparatuses, drill rigs, and jackhammers when in use that shall achieve a sound level reduction of at least 10 dBA between the Project Site and ground-level sensitive receptor locations, and 4) a construction liaison shall be provided to inform the nearby receptors when peak noise and vibration activities are scheduled to occur. Providing a noise barrier with a height to block the line-of-sight between the Project Site and receptors at second or higher-level building locations is not considered feasible, due to the potential need for the barrier height to reach 20 feet above ground or higher, which would likely require a barrier foundation that could interfere with internal construction activities, require partial or complete closure of the adjacent alleyway, and/or cause safety issues for workers and pedestrians. CEQA requires that feasible and reasonable mitigation measures be implemented to reduce potential noise impacts. The Project is providing the four above-mentioned mitigation measures to reduce the construction noise impacts between the Project Site and sensitive receptor locations that are feasible and reasonable, which include temporary ground-level construction noise barriers with a height between eight to 12 feet. This would include noise barriers with a minimum height of eight feet along Orange Street to the north, South San Vicente Boulevard to the west, South Sweetzer Avenue to the south, and a temporary ground-level construction noise barriers with a minimum height of 15 feet along the alleyway to the northeast/east. The Draft EIR section IV.G Noise, pages 49-51 also disclose that even with the implementation of feasible mitigation measures, including with the noise barriers as described with the heights above, that construction noise impacts would remain significant and unavoidable at sensitive receptors (L1, L2, L3, L4, and L7).

Nonetheless, the Noise Mitigation Measure 1 (NOI-MM-1) was revised during the first-level tract map appeal decision as follows to provide greater clarity regarding the height and location for noise barriers, as it was not fully clear that the eight-foot barriers applied to all other property lines and the 15-foot height applied only to the alleyway:

NOI-MM-1: The Project shall provide temporary ground-level construction noise barriers with a minimum height of eight feet and up to a height of 15 feet along the alleyway along the northeast property line, a minimum height of eight feet along Orange Street to the north, South San Vicente to the west, South Sweetzer Avenue to the south, and a minimum height of 15 feet along the alleyway to the northeast/east, equipped with noise blankets or equivalent noise reduction materials rated to achieve sound level reductions of at least 10 dBA between the Project Site and ground-level sensitive receptor locations.

These temporary noise barriers shall be used to block the line-of-sight between the construction equipment and the noise sensitive receptor(s) during the duration of construction activities. Prior to obtaining any permits, documentation prepared by a noise consultant verifying compliance with this measure shall be submitted to the Department of City Planning.

As the Project's EIR analysis meets CEQA requirements and addressed the issue of feasibility of taller sound barriers, and with the revisions providing greater clarity to the proposed Noise Mitigation Measure 1 (NOI-MM-1) during the first-level tract map appeal, the appeal point should be denied.

SAFER Appeal Point 3A

The Appellant states that the EIR relies on a historic baseline without justification by including the Montessori School formerly operating at the Project Site as part of the baseline, despite the school ceasing operations in 2018, before the NOP baseline date of January 2020, resulting in improper analysis of the Project's air quality, energy, and greenhouse gas impacts.

Staff Response to SAFER Appeal Point 3A

The Final EIR adequately responded to this comment (Please refer to Final EIR Response to Comment Nos. ORG 2-7 for discussion on the baseline used in Section IV.A, Air Quality, Section IV.C, Energy, Section IV.E, Greenhouse Gas Emissions (GHG), and Section IV.I Transportation of the Draft EIR). In addition, footnotes clarifying the methodology related to existing uses were made in Chapter 3, Revisions, Clarifications, and Corrections, of the Final EIR in response to this comment. As detailed in the Final EIR response, it should be noted that the existing site's emissions are very minor. Calculation of impacts that both include and exclude the Montessori Children's World School were provided to provide the most accurate picture practically possible of potential project impacts, including if the school were to be reoccupied. Where existing conditions change or fluctuate over time, and where necessary to provide the most accurate picture practically possible of the project's impacts, a lead agency may define existing conditions by referencing historic conditions, or conditions expected when the project becomes operational, or both, that are supported with substantial evidence. Subsequently, even when removing the Montessori Children's World School in the baseline, the impact determinations regarding Air Quality, Energy, GHG, and Transportation impacts would remain almost the same with or without the net reduction associated with the Montessori Children's World School, as demonstrated in the Final EIR response. Therefore, this appeal point should be denied.

SAFER Appeal Point 4A

The Appellant notes that the Project is requesting a height district change to allow an increase in height for the Project site from 45 feet to 230 feet, no justification for this substantial height change has been provided, and the project is incompatible with the immediate residential neighborhood to the northeast. Additionally, the Appellant states that the Final EIR is misleading in its description of the neighborhood by failing to note that the surrounding uses include a residential neighborhood directly to the north of the Project site.

Staff Response to SAFER Appeal Point 4A

The Appellant states that the response to comments section of the Final EIR fails to include information that was mentioned in the Draft EIR in regard to the surrounding uses. However, the Final EIR response to comment No. ORG 1-9 specifically refers to Section IV.F, Land Use, of the Draft EIR which describes in detail the surrounding uses of the Project site (Refer to page 2-14 of Final EIR). As previously mentioned, the Project Site is in a highly urbanized area, bordered by mid- and high-rise commercial, office, and medical-related uses along South San Vicente Boulevard and Wilshire Boulevard to the west and south.

Directly northwest of the Project Site, along South San Vicente Boulevard, is a five-story office building with existing rooftop billboards, and an associated four-story parking structure. Further north is a three-story rehabilitation center. Directly across from the Project Site in the City of Beverly Hills is a 10-story office building with ground floor commercial uses. North of the 10-story

office building is a three-story office/retail building and two apartment complexes that are two- and three-stories in height. To the south, across from the intersection of South San Vicente Boulevard and Wilshire Boulevard, is a low-rise commercial center and associated surface parking. To the southeast, fronting Wilshire Boulevard is a 22-story medical office building owned by Cedars-Sinai Medical Center, which includes a rooftop heliport. Directly east of the Project Site, across South Sweetzer Avenue, is a two-story brick building used as office space. East of the building is a 12-story office building used by the Jewish Federation Goldsmith Center and the five-story Los Angeles Obchestvo Remeslenogo Truda (ORT) College.

As mentioned in Section IV.F, Land Use, of the Draft EIR, the intensity and scale of the development would be offset by the pedestrian orientation of the ground floor, which creates a human scale at the ground level, and the visible upper story landscape decks and unique building design, which would serve to create visual interest. In addition, the building is designed with stepped terraces to break up the building's massing. In addition, as shown in Figures 1-4, the vicinity of the project site is surrounded by mid- and high-rise towers. Most of these buildings share the same setting as the proposed project and are adjacent to residential buildings. Therefore, the Project is consistent with the Wilshire Community Plan and its surrounding uses. Therefore, the appeal point should be denied.

Figure 1- View of the Project site on San Vicente Blvd looking North



Figure 2- View of the Project site on San Vicente Blvd looking South



Figure 3- View Wilshire Blvd South of the Project Site

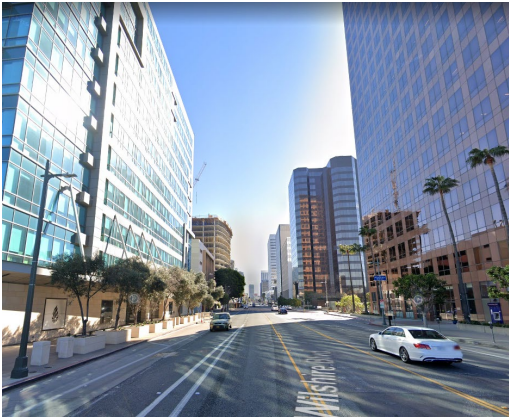


Figure 4- Aerial view of the vicinity of the Project Site



APPELLANT NO. 1B:

Richard Drury, Lozeau Drury, LLP
Supporters Alliance for Environmental Responsibility (SAFER)
An Appeal of the Entire Decision of the Advisory Agency
Letter Dated: June 21, 2022

SAFER Appeal Point 1B

The Appellant claims that the Environmental Impact Report fails to disclose baseline conditions or adequately analyze potential impacts on biological resources. Specifically, the Appellant asserts that the EIR improperly limits its assessment of impacts on biological resources to impacts resulting from loss of terrestrial habitat and does not consider aeroecology of the site.

Staff Response to SAFER Appeal Point 1B

As mentioned in Staff Response to SAFER Appeal Point 3A (above) and 6B (below), where existing conditions change or fluctuate over time, and where necessary to provide the most accurate picture practically possible of the project's impacts, a lead agency may define existing conditions by referencing historic conditions, or conditions expected when the project becomes operational, or both, that are supported with substantial evidence. Baseline conditions for the Project Site were similar or the same as those used to assess potential Project impacts. Given biological resources in highly urbanized, developed areas are less likely to fluctuate over short periods of time, baseline conditions related to biological resources do not require additional considerations related but not limited to, building vacancy, transportation patterns, and adjacent development. Therefore, the baseline established for impacts to biological resources is consistent with CEQA requirements as well as existing conditions (by referencing historic conditions, or conditions expected when the project becomes operational, or both) and is supported with substantial evidence in the Initial Study and Draft EIR, as further detailed below.

As such, Section IV., Biological Resources, of the Initial Study analyzed potential impacts to biological resources and was based, only in part, on the Tree Report, included as Appendix A of the Initial Study, prepared by MJS Landscape Architecture in January 2017. The report stated

that four trees, three palms and miscellaneous shrubs existed on the Project Site in 2017. The Initial Study and Draft EIR primarily noted that given the Project Site's highly urbanized environment, developed condition of the existing Project Site, and lack of habitat on-site, potential impacts to biological resources were found to be either Less Than Significant, or for there to be No Impact, with no mitigation required.

The commenter specifies that the aeroecology of the Project Site is not described in the environmental setting. Aeroecology is not typically considered under CEQA. However, aeroecology may be relevant for discussion for the development a greenfield site (e.g., undeveloped site) or for redevelopment of a site at the urban-wildland interface. The Project Description of the Initial Study establishes the environmental setting. This description was used to inform the biological resource analysis. The Project Description can be used to establish the baseline for habitat suitability. While not explicitly called out as aeroecology, the existing habitat for birds is addressed under Threshold (a). If we examine the aeroecology of the Project Site, the matrix of low-, mid-, and high-rise building provide low habitat suitability. The Project Site does not currently provide suitable natural habitat for birds. Suitable bird habitat includes foraging, nesting, and perching habitat. Native and non-native birds may be present in the areas surrounding the Project Site, but habitat suitability is low. While four trees are present on the Project Site compliance with MBTA regulations to avoid nesting birds will be applied. During migration, the Project Site would provide a similar collision hazard as those surrounding buildings. The collision hazard is part of the baseline environmental setting. This hazard is not unique to the Project Site. The Project Site and surrounding area is not considered an important bird area. For the purposes of CEQA, this description is sufficient as the Project Site is located in an urban area that is currently developed.

The Initial Study was prepared in accordance with CEQA (Public Resources Code Section 21000 et seq.), and the State CEQA Guidelines (Title 14, California Code of Regulations, Section 15000 et seq.), and the City of Los Angeles CEQA Guidelines (1981, amended 2006). The Department of City Planning uses Appendix G of the State CEQA Guidelines as the thresholds of significance unless another threshold of significance is expressly identified in the document. Thus, the Appellant claims that the assessment of potential impacts to biological resources was improperly limited to loss of terrestrial habitat is inaccurate and incorrect. Thresholds IV.a through IV.f are as follows:

- a. *Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?*
- b. *Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?*
- c. *Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*
- d. *Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

- e. *Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?*
- f. *Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?*

As demonstrated above, the assessment of potential impacts to biological resources includes substantial adverse effects on various types of habitats, types of species and their designations, and types of migratory patterns, in addition to potential conflicts with all applicable, federal, state, and local regulations. As the Initial Study and Draft EIR respond to these topics in Thresholds IV.a through IV.f; and was not only limited to analyzing terrestrial habitat impacts, therefore the appeal point should be denied.

SAFER Appeal Point 2B

The Appellant claims that the Environmental Impact Report fails to analyze the Project's potential impact on wildlife due to window collisions.

Staff Response to SAFER Appeal Point 2B

As discussed in Staff Response to SAFER Appeal Point 1B, the assessment of potential impacts to biological resources includes substantial adverse effects on various types of habitats, types of species and their designations, and types of migratory patterns, in addition to potential conflicts with all applicable, federal, state, and local regulations. Contrary to the assertion made by the Appellant, the thresholds to analyze potential project impacts to biological resources do not explicitly include or reference potential impacts related to wildlife window collisions. However, the thresholds reference applicable federal, state, and local regulations, namely the Federal Migratory Bird Treaty Act, as well as federal, state, and local designations related to critical species and their habitats.

The commenter claims to provide evidence of the high collision risk and site use by migratory birds from studies across North America. The 2014 Loss et al study referenced by the commenter is a meta-analysis and draws on studies throughout the United States; however, the commenter acknowledges the study is biased toward studies in the Midwest and East coast. This area of Los Angeles already has numerous high-rise buildings and yet the commenter has failed to provide any documentation that these high-rise buildings experience an unusually high rate of bird collisions. Migratory bird use is area-specific, with higher use in locations that provide high-quality habitat for food resources, breeding, and protection from predators. The current environmental setting, as described above, does not provide these resources nor is it near them. The matrix of low-, mid-, and high-rise buildings currently provide a high risk for collision environment; however, bird use in general and for migration is low when compared to the important bird habitat along the Pacific Flyway. Given the context of the urban environment, the high collision risk of the Project compared to the existing environment was determined to be less than significant. Development of the Project would not materially increase the risk of bird strikes as compared to existing conditions, and impacts would be less than significant. While the commenter provides predictions of bird collisions based on general information regarding collisions in North America, he does not provide credible evidence that the Project will result in a material increase in such collisions.

In addition, during construction, any potential birds which may occupy the existing vegetation on the site (the four trees, three palms, and shrubs) would likely choose to relocate from the Project

Site. For those birds that may potentially remain on-site, in Section IV., Biological Resources, of the Initial Study, Threshold a., it is noted that migratory bird species are protected by the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R Section 10.13). Further, Sections 3503, 3503.5 and 3513 of the California Fish and Game Code prohibit the taking of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). The Department of City Planning enforces the MBTA through precautionary and preventative measures to avoid or reduce the potential for disturbances to wildlife during construction. As such, the Project would comply with the MBTA to avoid disturbances of nesting birds and to protect nesting birds if they are present on-site during construction. Therefore, with compliance of these regulatory measures, the Project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.

Additionally, as discussed in Section IV. Biological Resources, of the Initial Study, Threshold b., the Project Site is located in an urbanized setting and is entirely developed with educational and retail uses. The Project Site does not contain any drainage channels to the Los Angeles River (located approximately 5.3 miles to the north of the Project Site), riparian habitat, or other sensitive natural communities as indicated in the City or regional plans or in regulations by the California

Department of Fish and Wildlife or U.S. Fish and Wildlife Service. Furthermore, the Project Site is not located in or adjacent to a Significant Ecological Area as defined by the City and County of Los Angeles. Therefore, while bird habitats are not explicitly defined in the threshold, any identifiable sensitive natural community or Significant Ecological Area for birds as defined by the City and County of Los Angeles would be included. However, as the Project Site is not designated wholly or partially located within any identifiable sensitive natural community or Significant Ecological Area, the Project would not have an adverse effect on any riparian habitat or other sensitive natural community.

Likewise, as discussed in Section IV., Biological Resources, of the Initial Study, Threshold d., the Project Site is currently developed and located in a highly urbanized area in the City of Los Angeles. No wildlife corridors or native wildlife nursery sites are present on the Project Site or in the surrounding area. Further, due to the urbanized nature of the Project area, the potential for native resident or migratory wildlife species movement through the Project Site is negligible. Nonetheless, as stated in response to Checklist Question No. IV.a, the Project Site does include ornamental trees that could support raptor and/or songbird nests. Migratory nongame native bird species are protected by international treaty under the Federal MBTA of 1918 (50 C.F.R. Section 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Wildlife Code prohibit the taking of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). The potential exists for protected bird species to be nesting in the street trees during Project construction. In order to avoid disturbance of nesting birds, the Project would be consistent with the MBTA to avoid disturbance of nesting birds and to protect nesting birds if they are present on-site during construction.

As noted above, the Project Site, similar to the surrounding area, does not provide for high-quality habitat for food resources, breeding, or protection from predators and, therefore, provides for low bird use and migration when compared to important bird habitats along the Pacific Flyway and Ballona Wetlands. (Ballona Wetlands is considered an important bird area by the Audubon Society.) The impact conclusions for biological resources allowed the resource area to be screened out from further analysis in the EIR. This screening process allows for the CEQA

analysis in the EIR to focus on the environmental factors that would be potentially affected by the project.

Due to the lack of migratory bird corridors near the site, the minimal amount of potential bird habitat on-site, potential impacts to birds related to window collisions would not be significant and the appeal point should be denied.

SAFER Appeal Point 3B

The Appellant claims that the Environmental Impact Report fails to mitigate the Project's potential adverse impacts on bird species due to window collisions.

Staff Response to SAFER Appeal Point 3B

Refer to Staff Response to SAFER Appeal Point 2B for a discussion of the Project's required scope of analysis related to biological resources. As demonstrated in Staff's Response to SAFER Appeal Point 2B, potential biological impacts to birds resulting from the Project are less than significant.

Migratory bird use is area-specific, with higher use in locations that provide high-quality habitat for food resources, breeding, and protection from predators. The environmental setting, as described above and in the Draft EIR, does not provide these resources, nor is the Project Site near areas that would provide these resources. The matrix of low-, mid-, and high-rise buildings currently surrounding the Project Site provide a high risk for collision environment; however, as the Project Site and its vicinity do not provide for high-quality habitat for food resources, breeding, and protection from predators, the Project Site is unlikely to be an area used by migratory birds. Bird use in general and for migration in Project vicinity is considered low when compared to the important bird habitat along the Pacific Flyway. Given the context of the urban environment, the collision risk of the Project compared to the existing environment was determined to be less than significant.

Therefore, as no impact would occur under CEQA, the Project is not required to provide mitigation measures related to potential Project impacts to bird species due to window collisions. However, the Project is required to comply with all applicable federal, state, and local regulations, namely the Federal Migratory Bird Treaty Act, related to biological resources.

SAFER Appeal Point 4B

The Appellant claims that the Environmental Impact Report fails to mitigate the Project's potential adverse impacts on wildlife due to traffic collisions.

Staff Response to SAFER Appeal Point 4B

Refer to Staff Response to SAFER Appeal Point 2B (above) for a discussion of the Project's required scope of analysis related to biological resources. As demonstrated in Staff's Response to SAFER Appeal Point 2B, there is no explicit threshold language regarding wildlife traffic collisions and the lack of federal, state, or local regulations to address potential project impacts to biological resources related to wildlife traffic collisions. The Appellant claims that the vehicle miles travelled resulting from the Project would result in 488 wildlife fatalities annually for wildlife that must crossroads to forage, patrol home ranges, disperse and migrate, and provides evidence

of wildlife traffic collisions based on generalized national studies. However, these generalized studies for nationwide US and Canadian data, which include roadways that travel through natural areas, cannot be applied to the specific environmental conditions of the Project Site and area. As noted in the Initial Study and Draft EIR, the Project Site is located in a highly urbanized environment, the site is currently developed, with a lack of habitat on-site, and is not near or within an area with protected habitat or migratory corridors. The California Department of Fish and Wildlife and U.S Fish and Wildlife Service databases do not identify any candidate, sensitive, or special status species critical habitat on or around the Project Site. As such, impacts to biological resources were found to be less than significant or no impact. Additionally, as demonstrated in Section XVII. Transportation of the Initial Study and Section IV.I Transportation of the Draft EIR, there are no applicable transportation thresholds and federal, state, or local regulations of which potential Project impacts to wildlife due to traffic collisions are required to be analyzed.

Therefore, the Project is not required to provide mitigation measures related to potential Project impacts to bird species due to traffic collisions. However, the Project is required to comply with all applicable federal, state, and local regulations, namely the Federal Migratory Bird Treaty Act, related to biological resources. As such, the appeal point should be denied.

SAFER Appeal Point 5B

The Appellant claims that the Environmental Impact Report inadequately analyzed the Project's cumulative impacts on wildlife.

Staff Response to SAFER Appeal Point 5B

Refer to Staff Response to SAFER Appeal Point 1B for a list of all applicable impact thresholds related to biological resources, in accordance with CEQA (Public Resources Code Section 21000 et seq.), the State CEQA Guidelines (Title 14, California Code of Regulations, Section 15000 et seq.), and the City of Los Angeles CEQA Guidelines (1981, amended 2006) and defined in Appendix G of the State CEQA Guideline.

While the Project's potential cumulative impacts to wildlife are not required per Thresholds IV.a through IV.f, Section XXI Mandatory Findings of Significance of the Initial Study, Threshold a. and b., provide additional thresholds with which to analyze potential impacts to wildlife in a cumulative manner both implicitly and explicitly, as provided below:

- a. *Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?*
- b. *Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?*

The Initial Study found that there would not be Significant Impacts related to Threshold XXI.a. The analysis concluded that the Project would not substantially reduce the habitat of fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to

eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal. With regard to potential construction impacts on protected nesting birds, consistency with provisions in the MBTA would avoid disturbance of nesting birds and would protect nesting birds if they are present on-site during construction. In addition, the Project would adhere to existing regulatory requirements that would ensure impacts related to human remains are less than significant.

As such, the Initial Study concluded that no further analysis of biological resources in the EIR is required.

Regarding Threshold XX1.b, the Initial Study found that the Project Site is located in an urbanized area, and like the Project, other development occurring in the area would also constitute urban infill in already densely developed areas. Thus, the Project is unlikely to combine with related projects or other cumulative growth to result in significant cumulative impacts with respect to biological resources. In addition, the Project would be consistent with the MBTA, as stated in response to Threshold IV.d, which would ensure that potential impacts to nesting birds would be at a less than significant level. Also, impacts to sensitive plant and animal species would not be cumulatively considerable, as no such habitat occurs in the vicinity of the Project Site or related projects due to the existing urban development. Additionally, biological resources are generally site-specific and need to be evaluated within the context of each individual project, as was analyzed in Section IV. Biological Resources of the Initial Study.

Therefore, contrary to the Appellants assertion, the Initial Study prepared for the EIR adequately analyzed the Project's cumulative impacts on wildlife per the applicable thresholds related to biological resources under mandatory findings of significance, and as such, the appeal point should be denied.

SAFER Appeal Points 6B – 8B

The remainder of the Appellant's letter repeats Appeal Points 2A-4A, which are addressed above.

APPELLANT NO. 2:

Jamie T. Hall
Beverly Wilshire Homes' Association
An Appeal of the Entire Decision of the Advisory Agency
Letter Dated: August 11, 2022

To the extent, Appellant seeks to incorporate any arguments from its prior May 13, 2022 letter, the City addressed all those claims in its first-level Tract Map Appeal Report and CPC Staff Recommendation Reports (e.g., See pages A-8 through A-16 for Case No. VTT-74865-1A), both dated June 23, 2022 which are incorporated herein by reference.

Beverly Wilshire Homes' Association Appeal Point 1

The Appellant states that the Advisory Agency erred when it determined that consistency findings could be made for the Project since the Project's height and FAR are not permitted by the underlying zoning and land use designation, necessitating approval of a General Plan Amendment, a Vesting Zone Change and Height District Change.

The Appellant further contends that there is no authority in the Subdivision Map Act authorizing the City of Los Angeles to approve a tract map conditioned on the Applicant receiving requested modifications of general plans and zoning and allowing for the approval of the tract map prior to legislative approval of the General Plan Amendment thwarts genuine public participation and public outreach on the GPA action.

Staff Response to Beverly Wilshire Homes' Association Appeal Point 1

The Advisory Agency, as a decision-making body of the City, is authorized by the LAMC to approve subdivision maps (LAMC 17.03 A). As such, the Advisory Agency is required to certify the EIR before approving the Project's subdivision map, per CEQA Guidelines Section 15090. The EIR fully disclosed and analyzed the whole of the action, and identified the subdivision requests, as well as the General Plan Amendment, Vesting Zone and Height District change, and other associated entitlement requests.

Under State Planning and Zoning law (Government Code Section 65000, et seq.), strict conformity with all aspects of a plan is not required. Generally, plans reflect a range of competing interests and agencies are given great deference to determine consistency with their own plans. A proposed project should be considered consistent with a general plan or elements of a general plan if it furthers one or more policies and does not obstruct other policies. Generally, given that land use plans reflect a range of competing interests, a project should be compatible with a plan's overall goals and objectives, but need not be in perfect conformity with every plan policy.

Based on the analysis of Project consistency with applicable goals and policies (detailed in Section IV.F, Land Use, of the Draft EIR), including SCAG's 2020-2045 RTP/SCS; the City's General Plan, including the City of Los Angeles General Plan Framework Element, Conservation Element, Plan for Healthy Los Angeles, and Wilshire Community Plan; the LAMC; and Citywide Design Guidelines, the Project would not conflict with the relevant land use policies adopted for the purpose of avoiding or mitigating a significant environmental effect.

Section 66411 of the Subdivision Map Act (Map Act) establishes that local agencies regulate and control the design of subdivisions. Chapter 2, Article I, of the Map Act establishes the general provisions for tentative, final, and parcel maps. The subdivision, and merger, of land is regulated pursuant to Article 7 of the LAMC. The LAMC implements the goals, objectives, and policies of the General Plan through zoning regulations, including Specific Plans. The zoning regulations contained within the LAMC regulate, but are not limited to, the maximum permitted density, height, parking, and the subdivision of land.

Pursuant to LAMC Section 17.05 C, tract maps are to be designed in conformance with the tract map regulations to ensure compliance with the various elements of the General Plan, including the Zoning Code. Additionally, the maps are to be designed in conformance with the Street Standards established pursuant to LAMC Section 17.05 B. The General Plan Framework identifies the Project Site and other properties along Wilshire Boulevard as a Regional Center. The Project Site is also located within the Wilshire Community Plan, which designates the Project Site for Limited Commercial land uses, with a corresponding zone of C1. Therefore, the Project Applicant has requested a General Plan Amendment to the Wilshire Community Plan to change the land use designation from Limited Commercial to Regional Center Commercial, as well as a corresponding Zone and Height District Change from C1-1VL-O to (T)(Q)C2-2D-O.

Furthermore, the Vesting Tentative Tract Map approval included the following condition of approval as referenced by the Appellant:

Condition 61. *Prior to the issuance of the building permit or the recordation of the final map, a copy of CPC-2017-467-GPA-VZC-HD-SPR shall be submitted to the satisfaction of the Advisory Agency. In the event CPC-2017-467-GPA-VZC-HD-SPR is not approved, the subdivider shall submit a tract modification.*

As stated in the condition, the Tract Map approval is contingent upon the approval of the other project entitlements, including the General Plan Amendment and Vesting Zone Change and Height District Change. Both the Tract Map and other legislative entitlement requests were heard at two joint public hearings for the Project, in which the public was invited to provide comments and testimony. After consideration of public testimony, the Advisory Agency approved the Tract Map and adopted findings, citing that the proposed map and design and improvement of the subdivision are consistent with applicable general and specific plans (see pages F-41 through F-44 of the Tract Map Letter of Decision Approval) of the Project's requested entitlements, including the General Plan Amendment, Vesting Zone Change, Height District Change, Site Plan Review and related findings and conditions of approval to ensure compatibility with surrounding land uses would bring the Project into consistency with the Framework Element, Wilshire Community Plan, and LAMC. Approval of the Tract Map also does not thwart the public participation process for the other entitlements or limit the ability for other decision-makers to exert their independent judgement in consideration of the merits of the requested entitlements. Required public hearings for both subdivision and zoning entitlements were held, and the decision-makers and recommending bodies for the General Plan Amendment and Vesting Zone Change and Height District Change will continue to consider public input on the requested entitlements. As laid out in Condition 61 of the Tract Map Letter of Determination, if the General Plan Amendment and Zone/Height District Change are to be denied by the City Council, a Tract Map Modification for a revised project would need to be submitted, at which point, the Advisory Agency would need to make new requisite plan consistency findings. As the Advisory Agency did not err or abuse its discretion in approving the Tract Map, the appeal point should be denied.

Beverly Wilshire Homes' Association Appeal Point 2

The Appellant claims that the Project would result in inadequate fire and emergency medical service response by concentrating high-density development in an area with already inadequate fire coverage, and by degrading already strained response times by exacerbating local congestion, and the Project is inconsistent with fire standards and the fire service goals of the Framework Element.

Staff Response to Beverly Wilshire Homes' Association Appeal Point 2

The Appellant raises a concern for the Project's impacts on emergency response, specifically fire protection. As mentioned in the response to comments section of the Final EIR, the analysis of emergency fire response is provided in Section IV.H.1, Public Services – Fire Protection, of the Draft EIR (Refer to Response to Comment No. ORG 1-15).

The Los Angeles Fire Code 57.507.3.3 establishes maximum response distance from an engine or truck company. However, as not all development within the City of Los Angeles is located within the maximum response distances, then when developments have response distances that exceed these requirements, all structures must be equipped with automatic fire sprinkler systems

and any other fire protection devices deemed necessary by the Fire Chief (e.g., fire signaling systems, fire extinguishers, smoke removal systems, etc.). For the Project, both Fire Station 61 and Fire Station 58 do not meet either distance standards for an Engine Company or Truck Company, and as mentioned in the Draft EIR and Final EIR, the Project would comply with the applicable OSHA, Building Code, Fire Code, other LAMC, and LAFD requirements, including the installation of automatic fire sprinkler systems, as well as features such as fire resistant doors, materials, walkways, stairwells, and elevator systems (including emergency and fire control elevators); installation of smoke detectors, signage, fire alarms, building emergency communication systems, smoke control systems; implementation of an Emergency Safety Plan; compliance with LAFD fire apparatus and personnel access requirements; and water systems and roadway improvements improved to the satisfaction of the LAFD. As such, the project satisfies all regulations that apply and the LAFD has determined the project can be adequately served and will not result in significant impacts to fire services or emergency access.

In addition, the Project would comply with LAFD's preliminary recommendations contained in correspondence provided in Appendix I-1 of the Draft EIR. These recommendations address access for LAFD during demolition and within the proposed structure; installation of a Knox Box; required building identification; building setbacks; fire lane width; LAFD approval of plot plans showing fire hydrants and access; LAFD approval of any electric gates; emergency responder radio coverage; and LAFD review and approval of final plans and specifications. Compliance with applicable Los Angeles Building Code and Fire Code requirements and recommendations would be demonstrated as part of LAFD's fire/life safety plan review and LAFD's fire/life safety inspection for new construction projects, as set forth in LAMC Section 57.118, and which are required prior to the issuance of a building permit. Compliance with applicable regulatory requirements and recommendations, including LAFD's fire/life safety and LAFD's fire/life safety inspection for new construction projects, would ensure that adequate fire prevention features would be provided that would reduce the demand on LAFD facilities and equipment without creating the need for new or expanded fire facilities. The EIR described and demonstrated that the Project would not result in significant fire service-related impacts and LAFD determined that the Project would have adequate fire service protection. The Appellant also cites several General Plan Framework goals and policies related to the City's need to identify service needs and maintain adequate service and access, which are related to the City's role in maintaining fire protection services and not applicable to individual development projects. The City has reviewed fire protection service needed for the Project, have determined them adequate, and therefore the Appellant has failed to show how the project impedes the City's ability to provide adequate fire service or that it conflicts with General Plan Framework goals for fire safety. Therefore, the appeal point should be denied.

Beverly Wilshire Homes' Association Appeal Point 3

The Appellant states that the Project violates requirements in the City Charter limiting the circumstances under which the City may approve a general plan amendment. Los Angeles City Charter, Section 555 provides: "The General Plan may be amended in its entirety, by subject elements or parts of subject elements, or by geographic areas, provided that the part or area involved has significant social, economic or physical identity." Further, the proposed general plan amendment violates this requirement because it isolates a single block, indistinguishable from the 600 block of South San Vicente Boulevard north of the Project site.

Staff Response to Beverly Wilshire Homes' Association Appeal Point 3

The Appellant provides an argument against approval of the General Plan Amendment. However, the subject of the appeal is limited to the merits of the Deputy Advisory Agency's actions in certifying the EIR and approving the Vesting Tentative Tract Map. As such, the appeal point should be denied.

Nonetheless, Finding No. 2 of the CPC Letter of Determination (CPC-2017-467-GPA-VZC-HD-SPR) related to the General Plan Amendment provides justification regarding how the Project would contribute to and strengthen an area which has significant social, economic, or physical identity.

Beverly Wilshire Homes' Association Appeal Point 4

The Appellant claims that the Project would degrade quality of life in adjacent residential neighborhoods by introducing an incompatible high-rise with critically inadequate parking and significant traffic generation on residential streets. The Appellant further states that the Project and design and improvements of the tract map would be inconsistent with the Wilshire Community Plan, generally related to goals and policies for the protection of single-family neighborhoods, minimizing cut-through traffic and intrusion into residential areas, and providing sufficient off-street parking.

Staff Response to Beverly Wilshire Homes' Association Appeal Point 4

This comment expresses concern regarding the Project's impact on the quality of life for the adjacent residential neighborhoods in terms of compatibility and scale. Please see Staff Response to SAFER Appeal Point 4A (above) regarding this issue.

The Appellant also expresses concern regarding inadequate parking and significant traffic generation on residential streets. As detailed in Chapter II, Project Description, of the Draft EIR, the Project is located within a Transit Priority Area (TPA) and within a Southern California Association of Governments (SCAG)-designated High Quality Transit Area (HQTA). The Project is located within 0.25-mile walking distance from both the Los Angeles County Metropolitan Transportation Authority (Metro) Rapid 720 bus stop and within 0.5 miles of the future Metro D (Purple) Line Wilshire/La Cienega Station. By developing an employment center with retail and commercial uses near transit facilities, the Project encourages use of alternative transportation modes and active transportation through bicycle parking and active street frontages. The Project will implement a Transportation Demand Management (TDM) Program that would further encourage use of alternative transportation modes. Therefore, the Project meets the criteria of Senate Bill (SB) 743 and Zoning Information (ZI) File No. 2542, pursuant to Public Resources Code Section 21099 (d)(1), that states a project's "aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment." As such, parking impacts would not be considered significant under CEQA.

As further detailed in Chapter II, Project Description, of the Draft EIR, the Project is requesting a parking reduction not to exceed 20 percent pursuant to LAMC Section 12.32 P, as well as replace up to 30 percent of required automobile parking spaces with bicycle spaces (at a rate of four bicycle parking spaces per one automobile parking space) pursuant to LAMC Section 12.21 A.4(c). Thus, the Project would meet the LAMC required automobile and bicycle parking spaces.

The Project would provide parking in accordance with State and citywide standards and would promote multimodal transportation, consistent with off-street parking and transit goals of the Wilshire Community Plan.

The Appellant also raises concerns regarding the reduced Level of Service (LOS) on impacted streets below the standards in the Community Plan and concludes that the project is not

consistent with numerous goals, objectives, and policies of the Wilshire Community Plan. As mentioned in the Final EIR with the passage of SB 743, the focus of the transportation analysis shifted from LOS to VMT. Transportation impacts were analyzed in Section IV.I, Transportation, of the Draft EIR, with supporting information provided in the Transportation Assessment, included in Appendix J-1 of the Draft EIR. The analysis in Section IV.I, Transportation, of the Draft EIR concluded that impacts related to transportation would be less than significant, and consistent with State Law, did not use the LOS metric to determine CEQA impacts.

However, the Project's non-CEQA transportation analysis included a Residential Street Segment Analysis (Appendix J of the Draft EIR, page 80-81), in accordance with Department of Transportation's Transportation Assessment Guide (TAG), to determine cut-through traffic impacts and volumes on nearby residential streets. The Project-related increase along the segment of Orange Street between Sweetzer Avenue and La Jolla Avenue would result in the street being deemed excessively burdened based on the TAG standards. It is important to note that Orange Street provides direct access to the Project Site and the projected final volumes along Orange Street show that the street would still operate and function as a Local Street.

Pursuant to SB 743 and Public Resources Code Section 21099(b), automobile delay, as described solely by LOS or similar measures of vehicular capacity or traffic congestion, shall not be considered a significant impact on the environment. Traffic impacts related to street congestion and LOS, such as those identified in the Residential Street Segment Analysis, are non-CEQA impacts, therefore mitigation is not required. Similarly, a project does not need to demonstrate consistency with other General Plan policies related to street congestion in residential neighborhoods, such as those cited by the Appellant, as it is not considered a policy to protect the environment under the threshold question, based on Public Resources Code Section 21099(b).

Nonetheless, non-CEQA impacts identified in the traffic study are instead typically included as Conditions of Approval for projects. As such, under the Site Plan Review entitlement for associated case CPC-2017-467-GPA-VZC-HD-SPR, includes Condition 16 for the implementation of a Neighborhood Transportation Management Project (NTMP) which would serve to address potential issues of residential cut-through traffic and off-site parking.

The Appellant also raised concerns that the Project would introduce significantly more volumes of traffic on the San Vicente Boulevard frontage road, limiting access to major adjacent commercial streets while diverting traffic to residential neighborhoods. A non-CEQA operational analysis was conducted to determine potential impacts on queuing on the San Vicente Boulevard frontage road. It concluded that based on review of the vehicle queues at the Project driveways and immediate intersections adjacent to the Project Site, the Project would not cause vehicle queues to extend into the adjacent street system. (Appendix J of the Draft EIR, page 72).

The Project would also implement a Transportation Demand Management (TDM) to encourage the use of alternate transportation to help reduce traffic amounts in general. In addition, the Project

could contribute toward neighborhood improvements and traffic calming measures as part of the NTMP, and as a condition of approval under the Site Plan Review entitlement. The Transportation Analysis also demonstrated that the Project would be consistent with relevant transportation goals and policies. The Appellant failed to demonstrate deficiencies in the EIR's transportation analysis or in the tract map approval. Therefore, this appeal point should be denied.

Beverly Wilshire Homes' Association Appeal Point 5

The Appellant claims that the location of the site is not physically suitable for the increased density proposed because the findings fail to accurately describe the scope of the Project by excluding any consideration of conversion of the parking levels to occupiable floor area, in addition to its location on a frontage road restricts access to San Vicente Boulevard and Wilshire Boulevard, funneling the Project's substantial traffic onto narrow residential streets where neighborhood intrusion traffic would introduce severe land use incompatibilities.

Staff Response to Beverly Wilshire Homes' Association Appeal Point 5

The Appellant raises concern about the Project's suitability for increased density due to the findings prepared for the Project failing to incorporate consideration of conversion of parking levels to occupiable floor area into the scope of the Project. This claim is inaccurate as the proposed Project does not include any component, plans, or phasing scheme to convert the parking levels to occupiable floor area. As such, the Findings were not prepared to incorporate consideration of conversion of parking levels to occupiable floor area as it is not the scope of the Project. Any conversions of parking levels to occupiable floor area would require additional entitlement proceedings and environmental review, which could potentially include public hearings, discretionary approval, addenda, and so on. `

The Appellant also raises concern about the Project generating substantial traffic onto narrow residential streets. Please refer to Staff Response to Beverly Wilshire Homes' Association Appeal Point 4. Therefore, this appeal point should be denied.

Conclusion

Upon careful consideration of the appeals, Staff has determined the Appellants' objections lack merit and do not demonstrate that the City erred or abused its discretion in certifying the EIR and approving the Project. The Appellants have raised no new information to dispute the Findings of the EIR or the City Planning Commission's actions on this matter. The CPC correctly made the findings of approval consistent with the Subdivision Map Act, LAMC Section 17.15, and the provisions of CEQA. Therefore, in consideration of all the facts, Planning Staff respectfully recommends that the City Council deny the appeals and sustain the decision of the City Planning Commission to deny the first-level appeals, approve Case No. VTT-74865-2A, certifying the EIR, and adopt conditions of approval and findings. In addition, no new substantial evidence was presented that the City has erred in its actions relative to the EIR, including the Errata dated February 2022, and the associated entitlements; nor was any new information presented to dispute the Findings of the EIR or the CPC's actions on this matter.

Therefore, Staff recommends that the appeals be denied, and to sustain the City Planning Commission's certification of the EIR and approval of Case No. VTT-74865.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning

Paul Caporaso

Paul Caporaso
Planning Assistant

VPB:MZ:KH:PC

Enclosures
none

c: Dylan Sittig, Senior Planning Deputy, Council District 5