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*Via E-mail and  
Online Submission Portal*

Marqueece Harris-Dawson, Chair  
Monica Rodriguez, Councilmember  
Katy Yaroslavsky, Councilmember  
John S. Lee, Councilmember  
Heather Hunt, Councilmember  
PLUM Committee  
City of Los Angeles  
200 N. Spring Street  
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City of Los Angeles  
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**Re: Enclosed Supplemental Noise Expert Comment on the Sustainable Communities Environmental Assessment, Dinah's Sepulveda Project (ENV-2021-4938-SCEA) (April 18, 2023 PLUM Committee Agenda Item No. 15)**

Dear Honorable Chair Harris-Dawson, PLUM Committee Councilmembers Rodriguez, Yaroslavsky, Lee, and Hunt, and Mr. Song:

I am writing on behalf of Appellant Supporters Alliance for Environmental Responsibility ("SAFER") regarding the Sustainable Communities Environmental Assessment ("SCEA") prepared for the Dinah's Sepulveda Project (ENV-2021-4938-SCEA), including all actions related or referring to the proposed development of an eight-story, 362-unit multi-family residential building, with approximately 3,700 square feet of ground floor restaurant space, located at 6501-6521 South Sepulveda Boulevard and 6502-6520 South Arizona Avenue in the City of Los Angeles ("Project"), which is being heard on appeal by the Planning and Land Use Management ("PLUM") Committee as Agenda Item No. 15 on April 18, 2023.

As SAFER noted in the comments submitted to the PLUM Committee on September 20, 2022, after reviewing the SCEA with the assistance of Certified Industrial Hygienist, Francis "Bud" Offermann, PE, CIH, air quality experts Matt Hagemann, P.G., C.Hg., and Paul E. Rosenfeld, Ph.D., of the Soil/Water/Air Protection Enterprise ("SWAPE"), and noise expert Deborah Jue of Wilson Ihrig, we concluded that the SCEA fails as an informational document and fails to impose all feasible mitigation measures to reduce the Project's impacts. Therefore, we requested that the City of Los Angeles ("City") Department of City Planning prepare a revised SCEA or, in the alternative, prepare an Environmental Impact Report ("EIR") for the Project pursuant to the California Environmental Quality Act ("CEQA"), Public Resources Code

section 21000, et seq. Mr. Offermann's comment and curriculum vitae is attached as Exhibit A, SWAPE's comment and curriculum vitae are attached as Exhibit B, and Ms. Jue's comment and curriculum vitae is attached as Exhibit C to SAFER's September 20, 2022 comment letter.

In addition to the September 20, 2022 comments, SAFER respectfully submits the enclosed supplemental comment by noise expert Deborah Jue of Wilson Ihrig. As evidenced by Ms. Jue's supplemental expert noise comments, the Project's construction and operational noise impacts are potentially significant and therefore the City must prepare a revised SCEA to properly mitigate this impact or otherwise prepare an EIR. Ms. Jue's comment and curriculum vitae are attached to this letter as Exhibit 1 hereto and are incorporated herein by reference in their entirety.

### **LEGAL STANDARD**

Under CEQA, the SCEA is required to identify, analyze, and mitigate any potentially significant or significant effect:

(a) A transit priority project that has incorporated all feasible mitigation measures, performance standards, or criteria set forth in the prior applicable environmental impact reports and adopted in findings made pursuant to Section 21081, shall be eligible for either the provisions of subdivision (b) or (c).

(b) A transit priority project that satisfies the requirements of subdivision (a) may be reviewed through a sustainable communities environmental assessment as follows:

(1) An initial study shall be prepared to identify all significant or potentially significant impacts of the transit priority project, other than those which do not need to be reviewed pursuant to Section 21159.28 based on substantial evidence in light of the whole record. The initial study shall identify any cumulative effects that have been adequately addressed and mitigated pursuant to the requirements of this division in prior applicable certified environmental impact reports. Where the lead agency determines that a cumulative effect has been adequately addressed and mitigated, that cumulative effect shall not be treated as cumulatively considerable for the purposes of this subdivision.

(2) The sustainable communities environmental assessment shall contain measures that either avoid or mitigate to a level of insignificance all potentially significant or significant effects of the project required to be identified in the initial study.

(PRC § 21155.2.) Thus, a project that has significant, or potentially significant, effects must be mitigated below the threshold of significance.

As discussed below, Ms. Jue's supplemental expert noise comment, attached as Exhibit 1 hereto, is substantial evidence that the SCEA fails to adequately address and mitigate the

proposed Project's potentially significant noise impacts for several reasons. As such, an EIR or, at the very least, a revised SCEA with proper mitigation measures must be prepared for the Project.

## **DISCUSSION**

### **I. THE SCEA INADEQUATELY ANALYZED AND MITIGATED THE PROJECT'S POTENTIAL SIGNIFICANT NOISE IMPACTS REQUIRING A REVISED SCEA OR AN EIR.**

The comment of noise expert Deborah Jue is attached as Exhibit 1. Ms. Jue has identified several issues with the SCEA. After reviewing the proposed Project, SCEA, and related appendices, Ms. Jue concluded that the Project's construction and operational noise impacts are potentially significant and therefore a revised SCEA that mitigates these impacts or an EIR must be prepared. Ms. Jue's concerns are summarized below. (*See Exhibit 1.*)

#### **A. The SCEA fails to properly establish baseline noise levels for the proposed Project.**

Ms. Jue explains that the Project's noise baseline is based on four short-term measurements of a 15-minute duration that were only taken during the day. (Ex. 1, p. 2.) However, the SCEA does not include an adequate discussion of how these 15-minute measurements are applicable to the construction day or Project operations. As a result, Ms. Jue concludes that "[t]hese data are not adequate to determine the existing 24-hour noise level, nor to provide any evidence to understand the range of existing hourly values during the daytime construction activities or during operational hours of the Project." (*Id.*) Therefore, the SCEA's analysis of the Project's noise impacts cannot be relied upon to determine the significance of these impacts. As such, the City must prepare a revised SCEA that properly analyzes this impact or otherwise prepare an EIR.

#### **B. The SCEA's construction and operational noise analysis draws upon thresholds of significance that are not properly developed.**

The SCEA's construction and operational noise impact analysis is inadequate because it relies on several improper thresholds of significance, all of which are identified in Ms. Jue's expert comments.

First, as Ms. Jue notes, "[t]he SCEA significance thresholds for noise are based on increases over the ambient as defined on page 5-149 (on-site construction), page 5-153 (off-site construction), and page 5-156 (operational and off-site traffic noise)" of the SCEA. (Ex. 1, p. 2.) However, the SCEA appears to improperly "omit a citation of the source of these significance thresholds." (*Id.*)

Second, according to Ms. Jue's review of the SCEA's noise impact analysis, "[t]he construction noise increases are based on calculating the hourly Leq and assessing the increase over the existing ambient conditions." (*Id.*) However, Ms. Jue explains that "[t]he existing

conditions are only documented over a small percentage of the day, since one 15-minute period constitutes only 1.7% of the potential construction period from 7 AM to 9 PM on a weekday.” (*Id.*) As a result, “[t]he SCEA lacks evidence to show that construction would not be significant during other times of the construction period when the ambient noise could be less than the levels documented.” (*Id.*)

Third, because the SCEA’s “operational noise thresholds are based on a 24-hour noise metric (CNEL), and since the SCEA provides no evidence that documents the ambient CNEL,” Ms. Jue concludes that “there is no basis to draw any conclusions regarding the actual change in the CNEL.” (Ex. 1, p. 2.)

Fourth, Ms. Jue points out that the SCEA cites WHO guidance for interior noise: 45 dBA (events) and 30 dBA Leq. (*Id.*) While “[i]t is inferred that this is used to evaluate nighttime noise impacts,” Ms. Jue found “no evidence that any analysis was done for [the] SCEA to evaluate the potential significance of noise from the outdoor event areas and determine whether noise mitigation to control these events would be required.” (*Id.*)

Thus, the SCEA’s analysis of the Project’s construction and operational noise impacts cannot be relied upon to determine the significance of these impacts. As such, the City must prepare a revised SCEA that relies upon proper thresholds of significance or otherwise prepare an EIR.

### **C. The SCEA’s construction and operational noise impact analysis for the Project is incomplete.**

The SCEA’s construction and operational noise impact analysis is incomplete for several reasons, all of which are identified in Ms. Jue’s expert comments.

First, in reviewing the Project’s potential noise impacts, Ms. Jue’s review found that the “SCEA shows the potentially significant impacts from the demolition and grading phases of the Project,” but incorrectly “omits any discussion of the potential noise impacts from building construction and architectural coatings phases.” (Ex. 1, p. 3.) As such, Ms. Jue concludes that because “the SCEA identifies noise from demolition and grading phases as causing a significant impact, the noise from the other phases would also be potentially significant and require mitigation.” (*Id.*) Therefore, a revised SCEA must be prepared that adequately analyzes and mitigates the potential significant noise impacts from the Project’s demolition and grading phases or, alternatively, an EIR must be prepared.

Second, the SCEA states that regulatory compliance with the Los Angeles Municipal Code (LAMC Section 112.02) would “ultimately ensure” that noise from the outdoor mechanical systems such as HVAC would not increase the ambient noise level by more than 5 dBA. (SCEA, p. 5-154.) According to Ms. Jue, because “the significance threshold is 3 dBA on a CNEL basis, the SCEA lacks any evidence that the corresponding increase to the CNEL on a 24-hour basis would not be significant.” (Ex. 1, p. 3.) She further explains that “neither the original mitigation measures nor the SCEA appear to cite any requirement for the City to review or approve permit

drawings to ensure compliance with LAMC Section 112.02.” (*Id.*) Since compliance with this code section is a mitigation measure, it must be included in the SCEA to reduce the ambient noise from outdoor mechanical systems such as HVAC as a result of the Project. (*Id.*)

Third, the SCEA fails to provide evidence that music and amplified noise during daytime and nighttime periods would be less than significant. (Ex. 1, p. 3.) As Ms. Jue explains, the SCEA refers to “the City of Los Angeles Municipal Code limits on amplified noise (page 5-146), but does not contain any quantitative analysis of the potential impact of music from outdoor amplified sound systems in the courtyard (amenity space/open space) or from the outdoor dining area.” (*Id.*) Furthermore, the SCEA fails to provide any evidence to show that the combined effect of all operational conditions including sound systems will comply with the Municipal Code. (*Id.*) According to Ms. Jue, “[c]ompliance with the municipal codes notwithstanding the noise from music and elevated human voice from active life celebrations in the courtyard are potentially significant and exceed the WHO guidance already cited in the SCEA.” (*Id.*) As such, the SCEA’s analysis of this specific noise impact is incomplete. Thus, the City must prepare a revised SCEA that properly addresses and mitigates this impact or otherwise prepare an EIR.

**D. The SCEA’s mitigation measures to reduce noise impacts as a result of the Project are likely inadequate.**

Ms. Jue reviewed the mitigation measures included in the SCEA that are meant to reduce the Project’s noise impacts to less-than-significant and found that the SCEA lacks sufficient mitigation to address the construction and operational noise impacts. (*See* Ex. 1, pp. 3-4.)

First, Ms. Jue’s review found that “[t]he noise barriers proposed as part of Mitigation Measure NOISE-1 may not be adequate to address significant impacts generated during the building construction and architectural coatings phases of the project.” (*Id.*, p. 3.) As a result, she concludes that “[i]t may be necessary to include additional mitigation measures” to reduce this impact in a revised SCEA or, alternatively, an EIR. (*Id.*)

Second, Ms. Jue explains that “[t]he SCEA relies on the prior program EIR mitigation measure as amended to suit the Project, but provides no evidence that the construction noise barrier would provide the 10 dBA noise reduction for demolition and grading activities.” (*Id.*) For example, in Table 1 of Ms. Jue’s expert comments, she calculates noise reduction related to the implementation of a 20 ft tall noise barrier at the south property line. (*See* Ex. 1, p. 4 (Table 1).) According to Ms. Jue, the outcomes in Table 1 “indicate[] that the 20 ft tall barrier would be quite effective to reduce construction noise at the ground floor of the Extended Stay Hotel from sources right next to the property line, in the immediate shadow zone of the barrier, but that little or no benefit would be realized for activities towards the center or far side of the Property or for guest units at the 3rd floor of the hotel.” (*Id.*, p. 3.) Based on the calculations shown in Table 1, Ms. Jue concludes that “the significant noise impacts at the Extended Stay America would NOT be mitigated with the Mitigation Measure NOISE-1 at the second and third floors for activities occurring from the middle of the site to the north end of the site.” (Ex. 1, p. 3; *see also id.*, p. 4 (Table 1).) As such, she recommends that “additional mitigation may be required for building construction and architectural coating phases as the Project rises above the 20 ft high noise

barrier.” (*Id.*, p. 4.) A revised SCEA must be prepared that incorporates such mitigation. If a revised SCEA is not prepared to include such mitigation measures, an EIR must be prepared.

Lastly, Ms. Jue found that “the SCEA relies upon adherence to the LAMC, but provides no enforcement or reporting mechanism that ensures compliance.” (*Id.*) She therefore concludes that “an additional mitigation measure is required to identify when the Project would submit evidence that outdoor mechanical systems and other noise-generating sources would comply with the LAMC and the significance thresholds.” (*Id.*) Thus, a revised SCEA including this mitigation measure must be prepared by the City. Alternatively, the City must prepare an EIR.

Based on the above issues identified in the supplemental expert noise comments included as Exhibit 1 to SAFER's letter, Ms. Jue concludes:

There are several omissions in the SCEA noise analysis. Correcting these would potentially identify additional significant impacts which require mitigation or identify additional measures necessary to mitigate significant impacts already identified in the analysis. (Ex. 1, p. 4.)

In conclusion, because the SCEA inadequately analyzed the Project's potentially significant noise impacts, and as a result the mitigation measures included to reduce the Project's noise impacts to less-than-significant may be insufficient, the City must prepare a revised SCEA to properly mitigate this impact or otherwise prepare an EIR.

### **CONCLUSION**

For the foregoing reasons, the City must prepare either a revised SCEA or an EIR to adequately address and mitigate the Project's potentially significant noise impacts and recirculate the document for public comment prior to any project approvals. We reserve the right to supplement these comments, including but not limited to at public hearings concerning the Project. (*Galante Vineyards v. Monterey Peninsula Water Management Dist.*, 60 Cal.App.4th 1109, 1121 (1997).) Thank you for considering these comments.

Sincerely



Victoria Yundt  
LOZEAU | DRURY LLP

# EXHIBIT 1



October 24, 2022

Ms. Victoria Yundt  
Lozeau | Drury LLP  
1939 Harrison Street, Suite 150  
Oakland, California 94612

**SUBJECT:** Dinah's Sepulveda, Comments on the SCEA document

Dear Ms. Yundt,

Following are comments on the Sustainable Communities Environmental Assessment (SCEA) document for the subject matter project, Dinah's Sepulveda. The Proposed Project (Project) would result in the demolition and removal of existing buildings, with the exception of historic structure (Dinah's Family Restaurant) and development of an 8 story, 362-unit multi-family residential building for families with very low income. The project would include a courtyard with a pool and spa at the 4<sup>th</sup> floor level and retain the historic Dinah's Family Restaurant as a functioning ground floor restaurant. The construction activities for the mixed-use building at the construction site would occur over an approximate 33-month period, with each phase (demolition, grading, building construction, coatings) estimated to require at least 3 months per phase (Table 2-9). The noise and vibration analysis is summarized in Section 5.XIII of the SCEA and the backup noise calculations are provided in Appendix G.

Per the SCEA requirements<sup>1</sup>, the SCEA is required to identify, analyze and mitigate any potentially significant or significant effect:

(a) A transit priority project that has incorporated all feasible mitigation measures, performance standards, or criteria set forth in the prior applicable environmental impact reports and adopted in findings made pursuant to Section 21081, shall be eligible for either the provisions of subdivision (b) or (c).

(b) A transit priority project that satisfies the requirements of subdivision (a) may be reviewed through a sustainable communities environmental assessment as follows:

(1) An initial study shall be prepared to identify all significant or potentially significant impacts of the transit priority project, other than those which do not need to be reviewed pursuant to Section 21159.28 based on substantial evidence in light of the whole record. The initial study shall identify any cumulative effects that have been adequately addressed and mitigated pursuant to the requirements of this division in prior applicable certified

<sup>1</sup> <https://codes.findlaw.com/ca/public-resources-code/prc-sect-21155-2.html>



environmental impact reports. Where the lead agency determines that a cumulative effect has been adequately addressed and mitigated, that cumulative effect shall not be treated as cumulatively considerable for the purposes of this subdivision.

(2) The sustainable communities environmental assessment shall contain measures that either avoid or mitigate to a level of insignificance all potentially significant or significant effects of the project required to be identified in the initial study.

**Figure 1 California Code, Public Resources Code - PRC § 21155.2**

Thus, a project that has significant, or **potentially significant**, effects must be mitigated below the threshold of significance.

### Baseline Noise Level characterizations are Incomplete

The noise analysis relies on short-term measurements at four locations. The existing noise measurements are summarized in Table XIII-4, and information in Appendix G indicates that these data were collected in four 15-minute measurements between 11:48 AM and 1:20 PM. These data are not adequate to determine the existing 24-hour noise level, nor to provide any evidence to understand the range of existing hourly values during the daytime construction activities or during operational hours of the Project.

### Thresholds of Significance are Not Properly Developed

The SCEA significance thresholds for noise are based on increases over the ambient as defined on page 5-149 (on-site construction), page 5-153 (off-site construction), and page 5-156 (operational and off-site traffic noise). The SCEA appears to omit a citation of the source of these significance thresholds. These appear to originate from the L.A. CEQA Thresholds Guide (2006).

The construction noise increases are based on calculating the hourly Leq and assessing the increase over the existing ambient conditions. The existing conditions are only documented over a small percentage of the day, since one 15-minute period constitutes only 1.7% of the potential construction period from 7 AM to 9 PM on a weekday. The SCEA lacks evidence to show that construction would not be significant during other times of the construction period when the ambient noise could be less than the levels documented.

The operational noise thresholds are based on a 24-hour noise metric (CNEL), and since the SCEA provides no evidence that documents the ambient CNEL, there is no basis to draw any conclusions regarding the actual change in the CNEL.

The SCEA cites WHO guidance for interior noise related to potential nighttime noise impacts: 45 dBA (events) and 30 dBA Leq. It is inferred that this is used to evaluate nighttime noise impacts, but there is no evidence that any analysis was done for SCEA to evaluate the potential significance of noise from the outdoor event areas and determine whether noise mitigation to control these events would be required.

### Impact Analyses are Incomplete

The SCEA shows the potentially significant impacts from the demolition and grading phases of the Project, but omits any discussion of the potential noise impacts from building construction and architectural coatings phases. Since the SCEA identifies noise from demolition and grading phases as causing a significant impact, the noise from the other phases would also be potentially significant and require mitigation.

The SCEA states on page 5-154 that regulatory compliance with the Los Angeles Municipal Code (LAMC Section 112.02) would “ultimately ensure” that noise from the outdoor mechanical systems such as HVAC would not increase the ambient noise level by more than 5 dBA. However, since the significance threshold is 3 dBA on a CNEL basis, the SCEA lacks any evidence that the corresponding increase to the CNEL on a 24-hour basis would not be significant. Furthermore, neither the original mitigation measures nor the SCEA appear to cite any requirement for the City to review or approve permit drawings to ensure compliance with LAMC Section 112.02; compliance with this code section is a mitigation measure.

The SCEA mentions the City of Los Angeles Municipal Code limits on amplified noise (page 5-146), but does not contain any quantitative analysis of the potential impact of music from outdoor amplified sound systems in the courtyard (amenity space/open space) or from the outdoor dining area. The SCEA does provide any evidence to show that that the combined effect of all operational conditions including sound systems will comply with the Municipal Code. Compliance with the municipal codes notwithstanding the noise from music and elevated human voice from active life celebrations in the courtyard are potentially significant and exceed the WHO guidance already cited in the SCEA. The SCEA provides no evidence that music and amplified noise during daytime and nighttime period would be less than significant.

### Mitigation Measures are Lacking

The noise barriers proposed as part of Mitigation Measure NOISE-1 may not be adequate to address significant impacts generated during the building construction and architectural coatings phases of the project. It may be necessary to include additional mitigation measures.

The SCEA relies on the prior program EIR mitigation measure as amended to suit the Project, but provides no evidence that the construction noise barrier would provide the 10 dBA noise reduction for demolition and grading activities. For example, the following table indicates that the 20 ft tall barrier would be quite effective to reduce construction noise at the ground floor of the Extended Stay Hotel from sources right next to the property line, in the immediate shadow zone of the barrier, but that little or no benefit would be realized for activities towards the center or far side of the Property or for guest units at the 3<sup>rd</sup> floor of the hotel. Based on our calculations shown in Table 1, the significant noise impacts at the Extended Stay America would NOT be mitigated with the Mitigation Measure NOISE-1 at the second and third floors for activities occurring from the middle of the site to the north end of the site.

**Table 1 Calculated Noise Reduction – 20 ft Tall Noise Barrier at South Property Line**

<b>Receiver location</b>	<b>Close to barrier (5 ft)</b>	<b>Mid-Property (130 ft)</b>	<b>North property (300 ft)</b>
Extended Stay – ground floor	19 dBA	12 dBA	11 dBA
Extended Stay - second floor	17 dBA	2 dBA	0 dBA
Extended Stay – third floor	17 dBA	0 dBA	0 dBA

Furthermore, as note above, additional mitigation may be required for building construction and architectural coating phases as the Project rises above the 20 ft high noise barrier.

The SCEA relies upon adherence to the LAMC, but provides no enforcement or reporting mechanism that ensures compliance. Thus, an additional mitigation measure is required to identify when the Project would submit evidence that outdoor mechanical systems and other noise-generating sources would comply with the LAMC and the significance thresholds.

## **Conclusions**

There are several omissions in the SCEA noise analysis. Correcting these would potentially identify additional significant impacts which require mitigation or identify additional measures necessary to mitigate significant impacts already identified in the analysis.

Please feel free to contact me with any questions on this information.

Very truly yours,

WILSON IHRIG

Deborah A. Jue, INCE-USA  
Principal

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