



9410 Topanga Canyon Boulevard, Suite 101
Chatsworth, CA 91311
Phone 310-469-6700

August 25, 2023

Los Angeles City Planning
Michelle Carter
City Planning Associate
200 N. Spring St., Room 763, Los Angeles, CA 90012
michelle.carter@lacity.org

Responses to Appeals #2 re: 1047 Crenshaw Project (Project)

We write in response to revisions to one of the California Environmental Quality Act (CEQA) appeal received on the 1047 Crenshaw Project (ENV-2022-9090-CE, DIR-2022-9089-TOC-VHCA), which included challenges to the Class 32 (Infill) Categorical Exemption (CE) adopted for the Project pursuant to CEQA. The CE for the Project was originally adopted by the Director of Planning on May 18, 2023.

The Project Site is located on the west side of Crenshaw Boulevard, between Country Club Drive to the south and Olympic Boulevard to the north, in the Wilshire Community Plan of the City of Los Angeles, County of Los Angeles. The Project Site is vacant. The Project will construct a new 7-story residential use building with 60 multi-family residential dwelling units, and 39 parking spaces split between one ground level and the second level, as required by the Los Angeles Municipal Code (LAMC) and applicable Transit Oriented Communities (TOC) incentives.

Two CEQA appeals to the City Council were submitted by Philip Hyung Roh, dated May 22, 2023, and a "revised appeal" by Virginia Jauregui (Appellant Jauregui), dated June 14, 2023. Previous responses to these appeals were submitted to the City on July 17, 2023 by CAJA Environmental Services, LLC (Response Letter).

On July 25, 2023, Appellant Jauregui submitted a second revised and amended appeal justification (Revised Justification), which alleges to fully replace the prior revised appeal justification submitted June 14, 2023. This additional technical response letter addresses the July 25, 2023 Revised Justification by Appellant Jauregui. Large portions of the Revised Justification are the same or similar to the points raised in Appellant Jauregui's June 14, 2023 appeal. As such, new appeal points are responded to below fully, and points previously raised are addressed with a reference to our original Response Letter dated July 17, 2023.

As with Appellant Jauregui's June 14, 2023 appeal, the Revised Justification challenge the adoption of a Class 32 CE for the Project under CEQA, but it only makes generic arguments that do not address the Project, the CE specifically or the substantial evidence in the record relied on by the Director in adopting the CE for the Project. As with the other appeals pending before the Council, the Revised Justification lacks any evidence whatsoever in support of its generalized claims of CEQA violations, providing no facts or evidence that meet the appellants' burden to demonstrate: (1) the Director's adoption of the CE was not supported by substantial evidence; or that (2) any of the regulatory exemptions to categorical exemptions apply to the Project.

In summary, based on our technical review, the Revised Justification does not raise any new CEQA issues and does not warrant reversal or additional CEQA analysis of the Project. As analyzed in the CE, substantial evidence in the record supports the Director's conclusion that the Project qualifies for a CE and that none of the regulatory exceptions to the CE apply. The appeals do not have merit and should be denied.

Seth Wulkan
Project Manager
CAJA Environmental Services, LLC
9410 Topanga Canyon Boulevard, Suite 101, Chatsworth, CA 91311
Seth@ceqa-nepa.com
310-469-6704 (direct)
310-469-6700 (office)

CAJA is an environmental consulting firm that specializes in environmental planning, research, and documentation for public and private sector clients. For over 37 years, CAJA and its predecessor company Christopher A. Joseph & Associates have offered a broad range of environmental consulting services with a particular emphasis on CEQA and NEPA documentation.

Seth Wulkan has over 16 years of experience and is responsible for all aspects of preparation of environmental review documents. He began his career with CAJA in 2007. Mr. Wulkan is proficient in drafting all sections of environmental review documents; incorporating technical reports into documents; and personally corresponding with public and private sector clients. Mr. Wulkan regularly participates in team strategy meetings from the beginning of the environmental review process through the final project hearings. Mr. Wulkan graduated with college honors from UCLA and completed a Certificate Program in Sustainability at UCLA Extension.

Virginia Jauregui, July 25, 2023

Amended Jauregui Comment 1

*My name is Virginia Jauregui, I am former public employee of both the City of Los Angeles and the County of Los Angeles, the later for whom I worked for close to 12 years. **THIS DOCUMENT REPLACES THE PREVIOUSLY SUBMITTED APPEALS WHOSE VERSIONS WERE SUBMITTED ON JUNE 14 AND JUNE 2, 2023 RELATED TO 23-0667.***

I represent my brother and myself, and other small property owners located on Victoria Ave., many of who are too scared to come forward to complain to you. I, along with various members of the community of Oxford Square and Country Club Park, object to the determination of a CEQA (California Environmental Quality Act) Class 32 environmental exemption for 1041-1047 S. Crenshaw Blvd. by director Vince Bertoni as described in his May 18, 2023 determination letter.

Mr. Bertoni's determination included recommendations for a TOC (Transit Oriented Communities) density increase to allow for a seven story 93' tall 60-unit, apartment complex abutted to a neighborhood of small single-family homes.

Response to Amended Jauregui Comment 1

This comment is nearly identical to the previous **June 14, 2023 Jauregui Comment 1**. The new addition notes this appeal replaces the previous appeal, but does not change the overall comment discussion.

The **July 17, 2023 Response to Jauregui Comment 1** remains valid and we also provide the following response:

This comment is a broad introductory statement and is not a specific comment on the CE adopted for the Project.

The comment does not state a specific concern or question regarding the adequacy of the CE in identifying and analyzing the environmental impacts of the Project, nor does the comment identify any physical environmental impacts caused by the Project or other relevant information regarding the applicability of the Class 32 CE to the Project. Therefore, this comment does not require any further response. (CEQA Guidelines, § 15088(c); *Citizens for East Shore Parks v. State Lands Comm'n* (2011) 202 Cal.App.4th 549.)

Amended Jauregui Comment 2

Public employees are supposed to be objective interpreters of the law. Over the last five years, I have found City Planning staff to show a pattern of perverting the environmental sensitivity of several developments in the AO Flood Zone in order to enable developers to evade CEQA. 1041-1047 S Crenshaw would be the fourth development placed within a distance of 150 ft. where City Planning pretends that the flood zone and regulations regarding its development don't exist in order to sell out the environmental protections and safety of the people.

Response to Amended Jauregui Comment 2

This comment discusses the flood zone designation at the Site.

This is fully responded to in the **July 17, 2023 Response Letter, Response to Jauregui Comment 4**, and **Response to Jauregui Comment 7**, below.

Amended Jauregui Comment 3

In the case of Fix the City, Inc. v. City of Los Angeles, the Los Angeles Superior Court ruled in 2022 that conflicts between qualifying Transit Oriented Communities (TOC) Guidelines and specific plan requirements should be resolved in favor of a specific plan.

*Mr. Bertoni made his May 18th determination for CEQA 32 exemptions and TOC increases when **there has been No Site Plan Review (SPR) conducted under LAMC 16.05 C, as required** for this project. The threshold for a Site Plan Review is a net increase of over 50 dwelling units, which this project exceeds.*

The threshold was changed for the TOC Guidelines, which were never adopted into law by the Los Angeles City Council. This development thus requires a site plan review and is yet to have one.

I REQUEST ON BEHALF OF THE PEOPLE OF OXFORD SQUARE, THAT THE CITY CONDUCT A SITE PLAN REVIEW FOR THE PROJECT LOCATED AT 1041-1047 S. CRENSHAW BLVD. AS REQUIRED BY LAW. I ALSO REQUEST A SITE REVIEW PLAN PUBLIC HEARING WHICH THE PROJECT IS ENTITLED TO.

Response to Amended Jauregui Comment 3

This comment is nearly identical to the previous **June 14, 2023 Jauregui Comment 2**. The words “as required” shifted to after the words “under LAMC 16.05 C”. This does not change the comment.

The **July 17, 2023 Response to Jauregui Comment 2** remains valid, as provided here:

This comment is about a City’s discretionary procedure.

The comment does not state a specific concern or question regarding the adequacy of the CE in identifying and analyzing the environmental impacts of the Project, nor does the comment identify any physical environmental impacts caused by the Project. (CEQA Guidelines, § 15088(c); *Citizens for East Shore Parks v. State Lands Comm’n* (2011) 202 Cal.App.4th 549.)

Further, LAMC 12.22-A,31(a) states that the provisions contained in the TOC Affordable Housing Incentive Program Guidelines (TOC Guidelines) shall apply to all Housing Developments that are located within a one-half mile radius of a Major Transit Stop. Section V-2.b of the TOC Guidelines states that the threshold for a project triggering the Site Plan Review requirements of LAMC 16.05 shall be based on the number of units that would be permitted prior to any permitted TOC density increase. In this case, the Project is a qualifying Housing Development within one-half mile of a Major Transit Stop and 37 units are permitted prior to the TOC density increase, which is below the 50-unit base density threshold for a project triggering Site Plan Review requirements.

In the *Fix the City, Inc. v. City of Los Angeles* (L.A. Sup. Ct. Case No. 20STCP03529) decision cited by the commenter, the Los Angeles County Superior Court ruled that the TOC Guidelines cannot provide a greater density than an applicable Specific Plan that: (1) regulates density with a lower density than the TOC Guidelines allow; and (2) states that it applies over conflicting

provisions of the Zoning Code. The Project is not located in a Specific Plan area, so the *Fix the City* decision is not relevant to the Project or the CE.

Amended Jauregui Comment 4

Mr. Bertoni's determination would permanently compromise the safety and quality of life of small homeowners whose Oxford Square neighborhood would be forced to double permanently as a 24-hour garden-side parking lot for three large apartment complexes by City Planning employees. Of the three apartment complexes, 1041-1047 S Crenshaw would be the only building constructed with parking, with six spaces assigned to low-income residents, and the other 24 available for an additional monthly rental.

Response to Amended Jauregui Comment 4

This comment is nearly identical to the previous **June 14, 2023 Jauregui Comment 3**. The comment adds additional speculation regarding the parking operations of two other area apartment developments. This revision does not change the comment.

The **July 17, 2023 Jauregui to Jauregui Comment 3** remains valid, and we also provide the following response:

The comment makes an unsupported claim that the Project's parking would be insufficient and thus cause spillover parking effects on a neighboring community in a manner that would negatively impact the quality of life and safety of neighbors. However, under CEQA "parking impacts of a residential . . . project on an infill site within a transit priority area shall not be considered significant impacts on the environment."¹ The Project is within a transit priority area, and therefore its parking impacts are less than significant under CEQA as a matter of law.

In addition, the commenter's argument is based on a chain of unsupported speculation that the Project's parking is insufficient, that such allegedly insufficient parking would result in a spillover effect of Project users parking in the Oxford Square neighborhood, and that such a spillover effect would have a negative impact on the "quality" of life and "safety" of Oxford Square residents, without specifying any alleged amount of spillover parking or what the exact impacts caused by the spillover parking are, i.e., in what manner and to what extent alleged spillover parking would impact safety and quality of life. The comment does so without providing any evidence, technical analysis, facts or information that would demonstrate that the Project would cause any such impacts or what the safety or quality of life impacts would be, much less any evidence can validly be considered substantial evidence of a significant impact under CEQA. To the contrary, because it relies on speculation and totally unsupported, conclusory, and insufficiently explained factual assertions, the comment is not substantial evidence of a significant impact under CEQA.²

The Project is located on Crenshaw Boulevard and only provides vehicle and pedestrian access on that street. There is no access to the Oxford Square community along Victoria Avenue. The Project is a TOC project which allows for reduced parking spaces in recognition of the fact that less

¹ Pub. Resources Code, § 21099(d)(1); *Covina Residents for Responsible Development v. City of Covina* (2018) 21 Cal.App.5th 712, 729.

² Publ. Res. Code, § 21082.2(c) ("Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment, is not substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.")

parking is needed on sites such as the Project Site with ample access to multiple public transit options, and the City recognizes, based on substantial supporting data, that reduced parking also reduces vehicle miles traveled and trips.

Additionally, the State of California adopted AB 2097 in 2022 which went into effect in January 2023, which prohibits local land use authorities from requiring projects located within a half-mile of major transit stops such as the Project from having any minimum parking requirement, reflecting the state's judgment that the reduction of parking spaces in high quality transit areas is a critical means of reducing environmental impacts associated with greenhouse gas emissions through the *reduction* of the use of private vehicles.³

To the extent the comment addresses potential economic and social impacts related to quality of life, CEQA only addresses physical changes to the environment; "[e]conomic and social changes resulting from a project shall not be treated as significant effects on the environment." (CEQA Guidelines Sections 15064(e) and 15382.)

In addition, the comment does not allege that the parking provided is inconsistent with zoning requirements, nor could it. The parking provided is consistent with zoning the City's TOC Guidelines standards for parking, as correctly determined by the Director.

Finally, to the extent the commenter states a cumulative environmental parking impact would under the applicable exception to categorical exemptions under CEQA Guidelines, § 15300.2(b) as a result of cumulative impacts from the Project and the Amani and Solaris permanent supportive housing (PSH) projects. The CE analyzed the Project's potential cumulative impacts on pages 2-105 through 2-117, including the development at 1047 Crenshaw Boulevard, identifying the projects qualify as related projects under the regulatory exception. As demonstrated in that analysis, the Project would not cause any significant cumulative impacts within the meaning of CEQA Guidelines, § 15300.2(b). Such substantial evidence supports the Director's conclusion that the cumulative exception to the CE applies. Because the appellant fails to address this substantial evidence, it fails to carry its burden to show the Director's determination that this exception does not apply is unsupported by substantial evidence.

In addition, the comment provides no information regarding whether these projects qualify as "successive projects of the same type in the same place," and no analysis or facts to demonstrate whether and how these other projects in conjunction with the Project would cause a cumulatively significant environmental impact on the quality of life or safety of residents in the neighboring community as a result of allegedly insufficient parking. Again, the commenter's argument is based entirely on speculation and unsupported factual assertions without any analysis of the Project's impacts, the Project's contribution to a cumulative impact, or the impacts of validly related projects. As a result, the comment is insufficient to establish that the cumulative impact exception under CEQA Guidelines, § 15300.2(b) applies to the Project.⁴

In addition, the parking impacts of these projects are also less than significant as a matter of law under CEQA, as they are also located in transit priority areas. Additionally, PSH projects are allowed no minimum parking by City policy and state law because PSH residents own and drive

³ See Gov't Code, § 65863.2.

⁴ *Sierra Club v. West Side Irrigation Dist.* (2005) 128 Cal.App.4th 690, 701-702 ["Merely listing . . . other projects occurring in the area that may cause significant cumulative impacts is not evidence that the [projects] will have impacts."])

cars at far lower rates than standard multifamily uses. To the extent quality of life issues are raised, such effects are not environmental impacts under CEQA, which does not address economic or social issues.

Amended Jauregui Comment 5

Cal. Code Regs. Tit. 14, § 15300.2b states that projects do not qualify for exemption if the cumulative effect of ok'ing "same type of [projects] in the same place overtime is significant". Placing three apartment buildings with little or no residential parking is environmentally significant to the quality of life and overall neighborhood safety for homeowners of Oxford Square when the neighborhood is forced to become a 24-hour unguarded parking lot for close to 150 units. The City has not studied the impacts of placing two PSH HHH apartment complexes, Amani and Solaris Apts. with zero residential parking spaces on the current neighborhood. At present, Solaris Apts. is yet to accept residents, and it is unclear whether the 50+ units of Amani is at full capacity.

Thus, City Planning cannot use a categorical exemption on this project, and must proceed with environmental review under CEQA.

Response to Amended Jauregui Comment 5

This comment is nearly identical to the previous **June 14, 2023 Jauregui Comment 11**.

This comment is also fully addressed by **Response to Amended Jauregui Comment No. 4**, above.

Amended Jauregui Comment 6

Further, Mr. Bertoni's TOC allowances and CEQA 32 exemptions are inconsistent and contrary to the objectives, principles, intent and goals of the Wilshire Community Plan, and the City is yet to produce a finding stating that action to construct 1041-1047 S. Crenshaw is consistent or in conformance with the General Plan.

According to Objective 1-3.4 it is the policy of the Wilshire Community Plan to: Monitor the impact of new development on residential streets; Locate access to major development projects so as not to encourage spillover traffic on local residential streets.

Response to Amended Jauregui Comment 6

This comment is nearly identical to the previous **June 14, 2023 Jauregui Comment 3**. The comment adds some additional speculation that the Project conflicts with the General Plan and Wilshire Community Plan but does not provide specific details on an inconsistency here. The commenter cites Objective 1-3.4 of the Wilshire Community Plan, which states an objective of the City to "[m]onitor the impact of new development on residential streets; Locate access to major development projects so as not to encourage spillover traffic on local residential streets."

First, as stated above in Response to Jauregui Comment 4, the commenter merely speculates without providing any analysis, facts or evidence to demonstrate the Project is under-parked and that it would cause spillover parking effects in any surrounding neighborhood. On that basis alone,

the commenter does not demonstrate any inconsistency between the Project and this Community Plan objective, just speculation.

Second, the Project is consistent with Objective 1-3.4 of the Wilshire Community Plan. The Project is located on Crenshaw Boulevard and only provides vehicle and pedestrian access on that street. There is no access to the Oxford Square community along Victoria Avenue, and thus the Project is designed in such a way so as not to encourage spillover traffic on local residential streets in accordance with the cited Community Plan objective. The Project is also TOC project which allows for reduced parking spaces due to being located in a transit priority area with numerous transit options, and the City recognizes based on ample evidence that parking reductions also reduce vehicle miles traveled and trips, thus reducing reliance on vehicle travel that could cause spillover parking effects.

The **July 17, 2023 Response to Jauregui Comment 7** responds to the claim the Project is inconsistent with the General Plan, as provided here:

As demonstrated in Table 2-1 of the CE, the Project is consistent with the General Plan.

In order to qualify for a Class 32 exemption, a project must be found to be consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. It is worth noting that plan inconsistencies in and of themselves are not a significant impact on the environment cognizable under CEQA, which recognizes only direct physical changes in the environment or reasonably foreseeable indirect physical changes in the environment.⁵ The legal standard that governs consistency determinations is that a project must only be in general “harmony” with the applicable land use plan to be consistent with that plan, it doesn’t require perfect conformity with each and every provision and requirement of a plan, a determination over which a lead agency land use authority such as the City has significant discretion.⁶

The City determined based on substantial evidence in the record that the Project is consistent with the General Plan as a whole; the commenter merely points out a single Community Plan objective, arguing based on speculation that the Project is not consistent with the objective, when the Project is consistent with that objective and the other relevant General Plan policies and objectives analyzed in the CE and the Director’s findings approving the Project.

Amended Jauregui Comment 7

Mr. Bertoni’s determination states that 1041-1047 S. Crenshaw is not in a flood zone. The Categorical Exemption prepared by CAJA Environmental Services, LLC for the Dept. of City Planning makes no mention according to ZIMAS and FEMA, 1047 S. Crenshaw lies partially in an

⁵ See Guidelines Section 15064(d)-(e),

⁶ See *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 717-18 [upholding a city’s determination that a subdivision project was consistent with the applicable general plan]. As the Court explained in *Sequoyah*, “state law does not require an exact match between a proposed subdivision and the applicable general plan.” To be “consistent” with the general plan, a project must be “compatible with the objectives, policies, general land uses, and programs specified in the applicable plan,” meaning, the project must be “in agreement or harmony with the applicable plan.” (see also *Greenebaum v. City of Los Angeles* (1984) 153 Cal.App.3d 391, 406; *San Franciscans Upholding the Downtown Plan v. City And County Of San Francisco*, 102 Cal.App.4th at p. 678.) Further, “[a]n action, program, or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment.” (*Friends of Lagoon Valley v. City of Vacaville* (2007) 154 Cal.App.4th 807, 817.) Courts also recognize that general plans “ordinarily do not state specific mandates or prohibitions,” but instead provide “policies and set forth goals.” (*Friends of Lagoon Valley*.)

AO flood zone. This is significant, because the DEPT. OF CITY PLANNING/BUILDING AND SAFETY HAS A HISTORY OF USING EMPLOYEES TO COMMIT ENVIRONMENTAL FRAUD BY CLAIMING THAT LOCATIONS NEAR OXFORD SQUARE IN THE AO FLOOD ZONE WERE NOT IN THE AO FLOOD ZONE.

THE DEPT. OF CITY PLANNING OVERRIDES ENVIRONMENTAL LAW BY ENABLING DEVELOPERS TO CIRCUMVENT CODE BY COMMITTING FRAUD ON THEIR BEHALF.

The AO Flood zone is considered a special hazard zone. Special hazard zones cannot be designated as an infill site according to CEQA. Since 1047 S. Crenshaw is partially located in an AO Flood Zone, its location is in a special hazard zone and projects constructed on it are subject to discretionary review. (PRC § 21159.24).

A RESIDENTIAL HOUSING PROJECT CAN ONLY QUALIFY FOR A CEQA EXEMPTION WHEN IT IS DEVELOPED ON AN INFILL SITE. A SPECIAL HAZARD ZONE/ AO FLOOD ZONE DOES NOT MEET THE REQUIREMENTS TO QUALIFY AS AN INFILL SITE, AND THUS QUALIFIES NEITHER FOR A TOC DENSITY ALLOWANCE OR CEQA 32 EXEMPTION. (PRC 21159.24)

Response to Amended Jauregui Comment 7

This comment is nearly identical to the previous **June 14, 2023 Jauregui Comment 4**. The comment adds some additional speculation that the City is committing environmental fraud. This does not change the comment.

The **July 17, 2023 Response to Jauregui Comment 4** remains valid, and we also provide the following response:

The Project Site's flood zone designation is not a factor for the CE analysis, which only looks at the factors set forth in CEQA Guidelines, Section 15332. The commenter cites PRC § 21159.24, but that provision: (1) is not relevant here because the Project is not seeking the statutory exemption from CEQA under that provision, and (2) notably, even if it did apply, which it does not, the provision cited does not prohibit the use of that separate exemption due to being located in a designated flood zone where "the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood," which is the case here, as explained below.

ZIMAS indicates the two parcels (APNs 5082-027-017 and 5082-027-027) are in the AO zone. Approximately 16% (~2,500 sf out of 14,992 square feet) of the Site is in the AO Zone, which is a shallow flooding special flood hazard areas with depths of 1 to 3 feet and average depths determined.

Reviewing the flood map shows numerous buildings and uses of all types and sizes within the AO zone, including homes along Victoria Avenue. This designation does not restrict building and development.

In addition, CEQA only requires analysis of a Project's impacts on the environment, not the environment's impact on a Project.⁷ To the extent the comment addresses the impacts of flooding on the Project, it does not address issues relevant to CEQA.

The special flood hazard zone affects flood insurance and adds additional required building characteristics, which are regulated by Code. Similar to being in a methane or methane buffer zone, the City's LADBS has regulatory requirements that cannot be avoided. Thus, any characteristics response is not considered mitigation. Since the City has an established process in place to respond to the classification.

The LADBS process for an AO Zone flood designation occurs during plan check. It requires flood-resistant material on the lowest finished floor and no basements. The building is built at grade and has no subterranean levels. Per LADBS:⁸

In short, the lowest finished floor (LFF) and utilities of all new buildings and significant improvement (including remodeling) located in SFHAs must be elevated one foot higher than the expected base flood elevation (BFE).

Obtain certified survey elevations of the natural grade adjacent to the existing and proposed addition (or new building). Provide at least each corner of the existing structure including any additions. Submit real elevations based on the City's benchmarks (relative elevations will not be accepted). Multiple structures will be required to have the information for each structure (in the case of new developments).

Thus, compliance with the City's regulatory requirements ensures that the Project's future residents would not be impacted by the potential flooding that would occur at the Project Site as a result of being subject to AO Zone regulations – the AO Zone was created for the very purpose of effectively addressing such potential flooding risk.

Amended Jauregui Comment 8

According to PRC 21159.21, a housing project does not qualify for a categorical exemption when it is inconsistent with the general plan. Granting a TOC density increase and CEQA exemption to a building that does not qualify as an infill site, and required to undergo a Site Plan Review when there hasn't been one, is in violation of the municipal code.

Response to Amended Jauregui Comment 8

This comment is nearly identical to the previous **June 14, 2023 Jauregui Comment 5**. The comment adds the words “does not qualify as an infill site, and”. This does not change the comment.

The **July 17, 2023 Response to Jauregui Comment 5** remains valid, and we also provide the following response:

⁷ *Calif. Bldg. Indus. Ass'n v. Bay Area Air Quality Mgmt. Dist.* (2015) 62 Cal.4th 369, 377-78.

⁸ LADBS, National Flood Insurance Program, FAQ: https://eng2.lacity.org/projects/fmp/pdf/NFIP_FAQ7-15.pdf

The appeal also mixes different CEQA guidelines regarding exemptions and infill development. As stated above in **Response to Jauregui Comment 7**, the Project is not seeking a statutory exemption through PRC § 21159.21, but rather the Class 32 CE for urban infill developments. CEQA defines an infill site as follows:

§ 21061.3. INFILL SITE

“Infill site” means a site in an urbanized area that meets either of the following criteria:

(a) The site has not been previously developed for urban uses and both of the following apply:

(1) The site is immediately adjacent to parcels that are developed with qualified urban uses, or at least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses and the remaining 25 percent of the site adjoins parcels that have previously been developed for qualified urban uses.

(2) No parcel within the site has been created within the past 10 years unless the parcel was created as a result of the plan of a redevelopment agency.

(b) The site has been previously developed for qualified urban uses.

The Project is consistent with CEQA’s definition of infill because it is in a highly urbanized area, is totally surrounded by other urban uses, and was previously developed with urban uses.

To the extent the comment states Site Plan Review is required for the Project, LAMC Section 16.05 requires Site Plan Review for any new development with 50 or more net new dwelling units. The TOC Guidelines explicitly state the following regarding the “Site Plan Review Threshold”: “The threshold for a project triggering the Site Plan Review requirements of LAMC 16.05 shall be based on the number of units that would be permitted prior to any density increase from Section VI 1(a) of these Guidelines.” (TOC Guidelines, at p. 9.) Here, as correctly determined by the Director, the base density of the Project site is 38 units, and therefore that is the number of units that was permitted prior to the density increase under the TOC Guidelines. Because this “base density” of the Project site is under 50 units and it is only increased to 60 units with a TOC Guidelines density bonus, Site Plan Review is not triggered for the Project by the terms of the TOC Guidelines.

Amended Jauregui Comment 9

I have found approximately four developments that have received a fake CEQA 32 exemption and/or TOC density and construction increases/allowances.

[...]

IT APPEARS THAT CITY PLANNING/BUILDING AND SAFETY ARE ATTEMPTING TO DISENFRANCHISE HOMEOWNERS OF BASIC PROTECTIONS – INCLUDING THE RIGHT TO A SAFE COMMUNITY- SO THAT CITY PLANNING CAN FORFEIT OPEN SPACE, GIVE IT TO DEVELOPERS FOR RESIDENTIAL PARKING, AND THEN CREATE WAYS TO ENABLE

DEVELOPERS TO AVOID ENVIRONMENTAL RESPONSIBILITY TO THE NEIGHBORING COMMUNITY FOR THEIR PROJECTS.

Response to Amended Jauregui Comment 9

This comment is similar to the previous **June 14, 2023 Jauregui Comment 6**. The comment adds some additional speculation that the City is committing environmental fraud. This does not change the comment.

The **July 17, 2023 Response to Jauregui Comment 6** remains valid, as provided here:

This comment speculates on other developments not related to the one under analysis.

The comment does not state a specific concern or question regarding the adequacy of the CE in identifying and analyzing the environmental impacts of the Project, nor does the comment identify any physical environmental impacts caused by the Project. Therefore, this comment does not require a detailed response. (CEQA Guidelines, § 15088(c); *Citizens for East Shore Parks v. State Lands Comm'n* (2011) 202 Cal.App.4th 549.)

Amended Jauregui Comment 10

1041-1047 S. CRENSHAW DOES NOT QUALIFY FOR AN ENVIRONMENTAL EXEMPTION BECAUSE THE AREA MAY BE TOO VALUABLE AS OPEN SPACE INCLUDING AS FARMLAND OR AS WILDLIFE HABITAT. *Currently the neighborhood of Oxford Square is home to various wildlife including hawks, parrots, hummingbirds, butterflies, and other critters. Placing a 60-unit apartment with seven stories and 93' tall would have significant ecological effects, impact noise and traffic in the area, and endanger the area's ecosystem and residents' quality of life and safety.*

The development requires a thorough review in order to prevent permanent environmental damage to the community, which Mr. Bertoni's decision would not do.

Response to Amended Jauregui Comment 10

This comment is identical to the previous **June 14, 2023 Jauregui Comment 8**.

The **July 17, 2023 Response to Jauregui Comment 8** remains valid, and we also provide the following response:

The Appeal provides no evidence or information suggesting that the Project site, which is a heavily impacted and previously developed urban infill site, can validly be considered sensitive habitat or farmland. Notably, there are no trees on the Site.

As reflected on Page 2-23 of the CE, the Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 CFR Section 10.13). Sections 3503, 3503.5 and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). The City's Bureau of Street Services, Urban Forestry Division complies with the MBTA for tree pruning and tree removal.

In addition, the MBTA and the City's standard condition applies to protect any potential bird species. The City's standard condition is that proposed project activities (including disturbances to native and non-native vegetation, structures and substrates) should take place outside of the breeding bird season which generally runs from March 1 - August 31 (as early as February 1 for raptors) to avoid take (including disturbances which would cause abandonment of active nests containing eggs and/or young). This substantial evidence supports the Director's determination, supported by the CE, that the Project would not significantly impact biological resources. The appellant's failure to address this substantial evidence results in the appellant failing to carry its burden.

The claims that the Project would result in significant impacts to biological resources relies on speculation and unsubstantiated, insufficient factual claims, it provides no evidence whatsoever in support of claims, and therefore does not provide any evidence that any exception to the CE applies to the Project.⁹ .

Amended Jauregui Comment 11

*Further under PRC 21159.21, CEQA exemptions don't apply when the location is in (5) *Landslide hazard, flood plain, flood way, or restriction zone, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood. Would this be why Mr. Bertoni claims the location of 1047 S. Crenshaw is not in a flood zone?**

Response to Amended Jauregui Comment 11

This comment is identical to the previous **June 14, 2023 Jauregui Comment 9**. See response to the **July 17, 2023 Response to Jauregui Comment 9** and **Response to Amended Jauregui Response 7**, above.

Amended Jauregui Comment 12

The community of Oxford Square as a neighborhood is both a historical resource and culturally significant to the region. It is classified as an HPOZ zone. Placing a 93' tall tower with a 70% density increase would cause a substantial adverse change to the stability of surrounding single family home communities, encourages encroachment which may compromise it as a historical resource. According to 14 CCR Section 15300.2(f) "A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource".

Response to Amended Jauregui Comment 12

This comment is identical to the previous **June 14, 2023 Jauregui Comment 10**.

The **July 17, 2023 Response to Jauregui Comment 10** remains valid, and we also provide the following response:

Historic resources including the Oxford Square Residential Historic District, are analyzed in the CE on pages 2-124 through 2-125 and supported by a Historical Resources Technical Report included

⁹ Publ. Res. Code, § 21082.2(c).

as Appendix G to the CE prepared by expert historic consultant Historic Resources Group. As stated therein:

“The Project does not propose to demolish, destroy, relocate, or alter any contributors to the Oxford Square Residential Historic District. There would be limited excavation undertaken by the Project and therefore there would be no direct impacts to adjacent resources resulting from construction activity. The Project would add a new, seven-story building of contemporary design to the Project Site, adding height and density on parcels that historically were developed with low density single-family residences. However, the Project Site is outside of the potential historic district boundary. Although the new construction would be visible from within the district, the Project would not alter, obscure, or otherwise materially impair any of the essential features that convey the district’s significance, and it would not change the interrelationship of contributing properties within the potential district boundary. The Project Site is spatially separated from contributing properties to the potential district; this decreases the Project’s likelihood to adversely impact contributors and, as a result, the potential district as a unified entity.”

As demonstrated with substantial evidence, the Project would not result in a substantial adverse change to historical resources on the Project Site or in the Project vicinity, and there is no substantial evidence provided by the comment that demonstrates such an impact may be caused by the Project on an identified historic resource. Therefore, the Project would not have a significant effect on a historical resource as defined by CEQA and the regulatory exception to the categorical exemption under CEQA Guidelines 15300.2(f) does not apply.

Amended Jauregui Comment 13

According to 15300.2 (c) A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. Placing a 93’ tall, CEQA exempt seven story apartment building abutted to a neighborhood of single-family homes, with two PSH housing developments that were built with zero parking spaces in close proximity to Oxford Square, one that used fraud to be constructed in the AO Flood Zone, constitutes a reasonable possibility that the exemption will have a significant effect on the environment, particularly to homeowners nearest 1041-1047 who would lose access to sunlight as a result of the 93’ tall complex, and the rest of the neighborhood which would be required to double as an all-night parking lot for three complexes and counting.

The CEQA exemption and TOC allowances for 1041-1047 S Crenshaw by Mr. Bertoni are inconsistent with the goals of the Wilshire Community Plan which seeks to preserve and protect the character of Wilshire area’s lower density stable single family residential neighborhoods. It is impossible to preserve the character of a neighborhood if it is forced to become an all-night parking lot for not one, but three developments when the cumulative impacts from Solaris and Amani are yet to be determined and have not been studied.

Like other projects in the vicinity, 1047 S. Crenshaw is located in an AO Flood Zone of the Olympic Park area. Mr. Bertoni claims the location is not in a flood zone, and seeks to deny environmental protection to homeowners by claiming that “no evidence [has been] provided that indicated that the proposed incentives will have a specific adverse impact on public health and safety or the physical environment therefore, there is no substantial evidence that the proposed project will have a

specific adverse impact on the physical environment, on public health and safety.” (Bertoni determination, Page 16).

THE REASON THERE IS NO SUBSTANTIAL EVIDENCE FOR THE PROJECT'S IMPACT IS BECAUSE THE DEPT. OF CITY PLANNING HAS FAILED TO COMPLETE A SITE PLAN REVIEW REQUIRED BY MUNICIPAL CODE 16.05C.

Response to Amended Jauregui Comment 13

This comment is similar to the previous **June 14, 2023 Jauregui Comment 12**. The comment reorders the paragraphs and adds additional references to the flood zone designation, conflicts with the Wilshire Community Plan, and request for site plan review. These topics have already been responded to above.

The **July 17, 2023 Response to Jauregui Comment 12** remains valid, and we also provide the following response:

The CE analyzed the unusual circumstances exception on pages 2-118 through 2-120. The "unusual circumstance" exception that applies to all categorical exemptions is a two-step inquiry and both steps must be met to trigger the exception.¹⁰ The first step is to determine whether there are unusual circumstances. The second step is to determine whether there are any significant impacts caused by those unusual circumstances. The CE concludes, based on substantial evidence, that there are no unusual circumstances presented by the Project. By failing to address this substantial evidence, the appellant fails to carry its burden.

The comment nonetheless claims that the Project's height, parking, location with an AO flood zone, and the purported effect of separate PSH developments' parking all constitute unusual circumstances that would cause a significant effect on the environment. As discussed above, none of these factors can validly considered unusual for an urban infill project on a major highway in a transit area, generally, or an infill project along the Figueroa corridor where the Project Site is located.

Aside from failing to identify any unusual circumstanced, there comment also fails to put forward or identify any substantial evidence demonstrating how the identified conditions of the Project alone or in conjunction with other projects would cause a significant impact on the environment. Instead, the comment merely speculates without supporting facts or evidence that such impacts would be significant, which is not substantial evidence under CEQA. Accordingly, the comment fails on both required prongs of the test for demonstrating whether the unusual circumstances exception applies.

Amended Jauregui Comment 14

Mr. Bertoni has failed to determine the long term and cumulative impacts 1041-1047 S Crenshaw would have to surrounding community, ignores the objectives of the Wilshire Community Plan to protect neighborhoods of single-family homes from encroachment, and claims “there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, section 15300.2 applies”. It is dangerous and incompetent of City Planning to issue a

¹⁰ Berkeley Hillside Preservation v. City of Berkeley, 60 Cal.4th 1086, 2015.

CEQA and TOC exemption for 1041-1047 S. Crenshaw, prior to determining the cumulative impacts of forcing single family neighborhoods such as Oxford Square to act as a parking lot.

Mr. Bertoni's determination, is contrary to the Wilshire Community Plan whose Objectives include:

- 1-1.1 Protect existing stable single family and low-density residential neighborhoods from encroachment by higher density residential uses and other uses that are incompatible as to scale and character and diminish quality of life.*
- 1.1-2 – Promote neighborhood preservation for all stable residential neighborhoods.*
- 1-3.1 Promote architectural compatibility and landscaping for new Multiple Family residential development to protect the character and scale of existing residential neighborhoods.*
- 1-3.4 Monitor the impact of new development on residential streets. Locate access to major development projects so as not to encourage spillover traffic on local residential streets.*

If Mr. Bertoni's staff is required to monitor the impact of new development on residential streets, why is he rushing to place another development in the area when the city is yet to monitor and determine, and the neighborhood yet to feel, the full impact of placing two PSH housing units with 0 parking for residents has when constructed next to a community of single-family homes in Oxford Square?

CEQA applies to projects that have the potential to cause a significant effect to the environment, granting a 93' tall, 7 story building with 60 units a TOC and CEQA exemption when it is abutted to a neighborhood of single-family homes, then claiming that the project showed no evidence that it would have a "significant, quantifiable, unavoidable impact" displays incompetence.

According to the Wilshire Community Plan, adopted on September 19, 2001 (CF 01-1366), residential issues had been identified and include the following:

- Need to maintain low density character of single-family neighborhoods, avoiding encroachment from other uses, commercial off-street parking, and "spillover" traffic from adjacent development.*
- Improved land use transitions in scale, density and character are needed between multiple family and adjacent single-family neighborhoods.*
- Improved land use transitions are needed between commercial uses and single family and multiple family areas.*

Placing a seven-story apartment complex smack next to a single-family neighborhood with no graduation in height and then increasing density for the development by 70% is not consistent with the development transition for the neighborhood and thus is contrary to the goals of the Wilshire Community Plan.

Response to Amended Jauregui Comment 14

This comment is similar to the previous **June 14, 2023 Jauregui Comment 13**. The comment reorders the paragraphs and adds additional references to conflicts with the Wilshire Community Plan and other developments in the area. These topics have been responded to above.

The **July 17, 2023 Response to Jauregui Comment 13** remains valid, and we also provide the following response:

The CE analyzed cumulative impacts on pages 2-105 through 2-117, including additional development along Crenshaw Boulevard. As demonstrated there, the Project would not cause significant cumulative impacts within the meaning of the regulatory exception to the categorical exemption.

As demonstrated in Table 2-2 of the CE, the Project is consistent with the Community Plan. This includes analysis of the Project's consistency with Community Plan Objective 1-1, Policy 1-1.1, Objective 1-3, and Policy 1-3.1, where the CE adopted by the Director finds the Project to be consistent with Community Plan, a determination over which the City has broad discretion. The Project also does not conflict with Community Plan Policy 1.1-2 "[p]romote neighborhood preservation for all stable residential neighborhoods," insofar as the Project is built in a commercial corridor in a commercial zone in a transit priority area on a lot that is vacant, underutilized and identified in the Housing Element as a potential housing site. The Project's consistency with Community Plan Policy 1-3.4 is addressed in Response to Amended Jauregui Comment 6, above, which explains why the Project is consistent with that Community Plan Policy.

The Project is also consistent with zoning requirements, as found by the Director. LAMC 12.21.1-A,10 imposes a transitional height limit for properties within proximity to the R1 zone, and the TOC Guidelines permit an alternative transitional height limit, requiring that the building height be stepped-back at a 45-degree angle, as measured from a horizontal plane originating 25 feet above grade at the property lien of the adjoining lot in the RW1 or more restrictive zone, for Tier 3 Projects.

The Project is requesting a TOC Additional Incentive Per Tier 3 (TOC Guidelines, Section VII.1.g.ii.2). The transitional height requirement for buildings adjacent to R residential zones is 25 foot vertical at rear property line and then stepped-back at a 45 degrees angle.

The building has a 19 foot setback from the property line and the requested transitional height. Thus the building appears as a 4-story building before the first stepback. The 7th story is 52 feet from the property line.

Jauregui Comment 15

I request the City Council repeal this CEQA determination and investigate allegations/proof of fraud and corruption by the Dept. of Building and Safety/Dept. of City Planning, the Planning Commission, and the OPNC related to development fraud in the AO Flood Zone.

So far, the City has failed to address corruption happening in its most powerful department, and violates the public trust by failing to hold corrupt employees accountable for their bad decisions and to the law they are in duty to serve.

HOW CAN THE DEPARTMENT BE TRUSTED TO OVERSEE CITY DEVELOPMENT, WHEN UNDER CURRENT MANAGEMENT CITY PLANNING WORKS WITH DEVELOPERS TO DISENFRANCHISE HOMEOWNERS AND SINGLE-FAMILY NEIGHBORHOOD COMMUNITIES IN ORDER TO CORRUPT ENVIRONMENTALLY SENSITIVE AREAS OF ENVIRONMENTAL PROTECTION, SAFETY, OPEN SPACE AND AVAILABLE PARKING, AND COMMITTED ENVIRONMENTAL FRAUD PREVIOUSLY ON PROJECTS IN THE AREA?

With the Olympics and World Cup coming to Los Angeles in a few years, Olympic Park will need a master plan of development that will keep it from turning into a disaster that has befallen Hollywood

at the hands of greedy developers and employees of the Dept. of City Planning. A master plan can revolutionize the area with careful, architecturally sensitive development that is beautiful, harmonious, functional and respects the safety of residents, businesses, wildlife, and provides adequate parking for new inhabitants and visitors, following the objectives of the Wilshire Community Plan.

History shows bad things happen to residential neighborhoods at the hands of LA City Planning. What happened previously to residential homes of Chavez Ravine and the neighborhoods of downtown Los Angeles isn't far away from happening to Oxford Square .

CEQA's purpose is to inform government of the effects of proposed activities in order to prevent significant, avoidable environmental damage. Oxford Square and the surrounding community would be better served by creating neighborhood districts similar to Larchmont and Fairfax. I have placed the majority of writings uncovering corruption and sleight of hand by the Dept. of City Planning, and Brown Act violations by the Olympic Park Neighborhood Council (OPNC) at www.whycantimove.com. Should you have any questions, I may be reached at info@Iknowitsthere.com.

Deserving mention, is the previous OPNC president who "colluded" with former City Council President Herb Wesson in 2019 to cancel a scheduled OPNC meeting on 9/9/19 in order to prevent complaints, which is described more in depth starting on Page 19 in "ATTACHMENT TO REPORT DATED 6-20-23 - NOTICE OF EXEMPTION".

Response to Jauregui Comment 15

This comment is similar to the previous **June 14, 2023 Jauregui Comment 14**. The comment adds additional references to City fraud and attaches additional communications and clarifications several separate documents. Among them are a FEMA Flood Map, the Wilshire Community Plan, the CE, and a Notice of Exception for a different project along Crenshaw Boulevard. These topics have already been responded to above or are not related to the specific Project and its CE Findings.

The **July 17, 2023 Response to Jauregui Comment 14** remains valid, and we also provide the following response:

This comment is about alleged fraud is not a comment on the CE.

The comment does not state a specific concern or question regarding the adequacy of the CE in identifying and analyzing the environmental impacts of the Project, nor does the comment identify any physical environmental impacts caused by the Project or any other element of the CE adopted by the Director for the Project. Therefore, this comment does not require any further response. (CEQA Guidelines, § 15088(c); *Citizens for East Shore Parks v. State Lands Comm'n* (2011) 202 Cal.App.4th 549.)