RESPONSES TO APPEALS

Table 1
Summary of Appeals on the Hollywood Ivar Gardens Project [1]

No.	DATE	NAME/REPRESENTATION	COMMENTS/CONCERNS
1A.	12-19-2016	Robert Mazariegos Representation by Gideon Kracov Gideon Kracov, Attorney at Law 801 South Grand Avenue, 11th Floor Los Angeles, California 90017	Traffic impacts, community benefits, noise impacts from heavy-duty truck trips, air quality impacts caused by diesel emissions, land use impacts, hazardous substances analysis, health risk assessment, cultural resources impacts, and conditions of approval.
1B.	12-13-2016	Neal K. Liddicoat, P.E.,Traffic Engineering Manager MRO Engineers, Inc.	Traffic impact analysis
1C.	9-1-2016	Neal K. Liddicoat, P.E.,Traffic Engineering Manager MRO Engineers, Inc.	Traffic impact analysis
2A.	12-16-2016	Coalition for Responsible Equitable Economic Development (CREED LA) Representation by Adams Broadwell Joseph & Cardozo c/o Rachael Koss 601 Gateway Boulevard, Suite 1000 South San Francisco, CA 94080	Air quality, public health, greenhouse gas emissions, and hazardous materials impacts.
2B.	9-7-2016	Coalition for Responsible Equitable Economic Development (CREED LA) Representation by Adams Broadwell Joseph & Cardozo c/o Rachael Koss 601 Gateway Boulevard, Suite 1000 South San Francisco, CA 94080	Air quality, public health, greenhouse gas emissions, and hazardous materials impacts.
2C.	9-7-2016	SWAPE Matt Hagemann, Jessie Jaeger 2656 29th Street, Suite 201 Santa Monica, CA 90405	Air quality and health risk assessment, greenhouse gas emissions, hazards and hazardous waste impacts.
3.	12-19-2016	Los Angeles Film School; 6363 Partners, LLLP c/o: Diana Derycz-Kessler 6363 Sunset Boulevard Los Angeles, California 90028 Representation by Manatt, Phelps & Phillips, LLP c/o Victor De la Cruz, Esq. 11355 West Olympic Boulevard Los Angeles, California 90064	Project description, Noise and vibration impacts, greenhouse gas emissions impacts, traffic impacts, hazards and hazardous materials impacts, streetscape design, zoning administrator's adjustment, conditional use permit, and site plan review.

[1] *Copies of the appeal letters are provided in Attachment 1, Copies of Appeal Letters.*

APPEAL No. 1A

Robert Mazariegos
Representation by Gideon Kracov
Gideon Kracov, Attorney at Law
801 South Grand Avenue, 11th Floor
Los Angeles, California 90017
December 16, 2016

COMMENT 1A.1:

To Whom It May Concern:

On behalf of Roberto Mazariegos ("Appellant"), this Office seeks to appeal the City of Los Angeles ("City") City Planning Commission ("Commission")'s decision on September 8, 2016 approval of R.D. Olson Development ("Applicant")'s Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-ZAA-SPR) ("Project"), which became effective on December 5, 2016 with the mailing of the Letter of Determination ("LOD"). As discussed in the appeal package, the Commission approved the Project's Conditional Use Permit, Zoning Administrator's Adjustment, and Site Plan Review (collectively "Approvals"), and recommended for City Council ("Council")'s approval the Projects Vested Zone Chance and Height District Change. Although these other entitlements are part and parcel of the Project as a whole, only the Project Approvals are appealable at this time in accordance with the instructions provided in the LOD.

In short, Appellant challenges the Project Approvals on grounds that the Commission erred when relying on an inadequate environmental review of the Project impacts, and the Commission abused its discretion by failing to make the necessary findings to support granting these discretionary entitlements. Therefore, Appellant submits this appeal application requesting Council to reverse the Commission's decision and deny the Project Approvals until a proper environmental analysis is prepared and circulated to the public.

This appeal application includes the entire administrative record of the Approvals and all previously provided materials in connection with the Project including but not limited to Neal Liddicoat, P.E. expert comment letter dated September 1, 2016. These materials have already been provided to the City; if not in its possession, let Appellant's lawyer know at once. Also included in this appeal and specifically attached are eight sets (one original and 7 duplicates) of the Appeal Application form CP-7769, Attachment: Justifications/Reason for Appeal copies of the LOD, and Mr. Liddicoat's comment letter dated December 13, 2016 in response to the LOD. When Council serves as an appellate body to Commission's approval of a Site Plan Review, as in is here, Council must base its decision "upon evidence in the record, including testimony and documents produced at the hearing before [it]." See LAMC § 16.05-H.4.

All said documents, including this cover letter and attachments hereto, are incorporated by this reference in their entirety. Please ensure that all of these documents are included in the record for the Project and

any future action taken by the City.

RESPONSE TO COMMENT 1A.1

This comment introduces the Commenter and requests to appeal the Project Approvals and the Council reverse the Commission's decision and deny the Project Approvals until a proper environmental analysis is prepared and circulated to the public. No specific information detailing the inadequacies of the MND are presented in this comment. No further response is warranted.

COMMENT 1A.2

Finally this Office is requesting, on behalf of the Appellant, all notices required under the California Environmental Quality Act ("CEQA") and any approvals, Project CEQA determinations, or Project public hearings under any provision of Title 7 of the California Government Code (California Planning and Zoning Law). This request is filed pursuant to Pub. Res. Code §§ 21092.2 and 21167(f), and Government Code § 65092, and Municipal Code §§12.28.C.3, 12.32.D.2 and 16.05.G.3.b, that collectively require local agencies to mail such notices to any person who has filed a written request for them. Please send notice by electronic and regular mail to: Gideon Kracov, Esq., 801 S. Grand Avenue, 11th Fl., Los Angeles, CA 90017, gk@gideonlaw.net.

Thank you for considering this appeal application. We again ask that they be placed in the Administrative Record for the Project.

RESPONSE TO COMMENT 1A.2

This comment requests all notices required under CEQA and any approvals, Proposed Project CEQA determinations, or Proposed Project public hearings be sent by electronic or regular mail to the Commenter. This comment is noted for the record and all required notices will be sent by electronic or regular mail to the Commenter. No further response is warranted.

COMMENT 1A.3

ATTACHMENT: JUSTIFICATION/REASON FOR APPEAL

Roberto Mazariegos ("Appellant") appeals the City of Los Angeles ("City") City Planning Commission ("Commission")'s approvals for R.D. Olson Development ("Applicant")'s Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-ZAA-SPR) ("Project"). While the Commission made its decision during the Project's public hearing on September 8, 2016, its actions did not become effective until the mailing of the Letter of Determination ("LOD") on December 5, 2016. Currently, only the Project's Conditional Use Permit ("CUB"), Zoning Administrator's Adjustment ("ZAA"), and Site Plan Review ("SPR") has been approved (collectively "Approvals"). The Approvals are part and parcel of the Project as a whole including it other entitlements (i.e. Vested Zone Chance and Height District Change), which have been recommended for appeal by the City Council ("Council") who has yet to take any action on these specific entitlements. Nevertheless, Appellant wishes to appeal the

Project Approvals at this time in accordance with the timeline stated in the LOD and on the reasons and justifications discussed below.

To begin, Appellant's appeal includes the entire administrative record of the Approvals and all previously provided materials in connection with the Project including, but not limited to, Neal Liddicoat, P.E. expert comment letter dated September 1, 2016, Appellant's lawyer's letter dated September 5, 2016 and his oral testimony on this Project provided to the Commission for Item 7 on September 8, 2016. Also included in this appeal and specifically attached is Mr. Liddicoat's letter dated December 13, 2016 responding to the LOD. Because this appeal involves review of the Commissions SPR approval, Council acting as an appellate body may base its decisions on new "testimony and documents produced at the hearing before [it]." See LAMC § 16.05-H.4.

All said documents are incorporated by this reference in their entirety. These materials have already been provided to the City; if not in its possession, let Appellant's lawyer know at once. Please ensure that all of this is included in the record for the Project and any future action taken by the City.

RESPONSE TO COMMENT 1A.3

This comment provides an understanding of the Project Approvals and reiterates the request to appeal the Project Approvals. This comment also lists the previously provided materials in connection with the Proposed Project. Commenter's concerns have been noted for the record and will be forwarded to the decision makers for their consideration. No further response is warranted.

COMMENT 1A.4

I. REASONS FOR THIS APPEAL

This Project is at 6407-6411 W. Sunset Boulevard, 1512 N. Cahuenga Boulevard, and 1511 N. Ivar Avenue in the Hollywood Community Plan and Hollywood Redevelopment Plan areas of the City. The Project involves the demolition of an existing fast food restaurant and surface parking, and the construction of a 21-story, 141,895 square-foot mixed use building at 6:1 FAR containing 275 hotel guestrooms with kitchenettes and 1,900 square feet of ground floor commercial space. The Project also includes four levels of subterranean parking. Project construction will require the export of 3,882 square feet of demolition material and 56,000 cubic yards of soil – approximately 4,000 heavy duty, diesel hauling-trips. Vehicular access for Project is proposed by way of two driveways: 1) a full-access driveway on Cahuenga Boulevard that would serve entering and exiting guests, visitors, and employees, as well as exiting service and delivery vehicles; and 2) a gate-controlled service driveway on Ivar Avenue; those vehicles would exit by way of the main driveway on Cahuenga Boulevard.

RESPONSE TO COMMENT 1A.4

This comment presents an understanding of the Proposed Project. No response is required.

COMMENT 1A.5

Appellant challenges this Project chiefly on two grounds; (1) the City failed to properly assess the Project's environmental impacts, and (2) the City cannot make the necessary findings to support the Project Approvals and other requested discretionary entitlements. The City prepared a Mitigated Negative Declaration/Initial Study("*MND*") to assess the Project's impact on the surrounding environment rather than a comprehensive Environmental Impact Report ("*EIR*"), pursuant to the California Environmental Quality Act ("*CEQA*"), As explained in greater detail below, the MND failed to adequately assess various environmental impacts –particularly traffic impacts in this heavily congested part of Hollywood. Additionally, the Project Approvals and other requested entitlements are discretionary under the LAMC and require certain findings to be made by the City, including those under Redevelopment Plan § 506.2.3 demanding traffic impacts to be overridden by other social, economic or physical considerations. Here, no attempt was made to make these findings for a project that includes virtually zero community benefits and threatens Los Angeles' prosperity.

For these reasons, Appellant requests that the Council reverse the Commission's Project Approvals and require the City to prepare an EIR compliant with CEQA.

RESPONSE TO COMMENT 1A.5

This comment asserts the MND failed to adequately assess the Proposed Project's, particularly traffic impacts, and the City made no attempt to make findings demanding traffic impacts to be overridden by other social, economic or physical considerations to support the Project Approvals and other requested discretionary entitlements. As further discussed below, all points of concern raised by the Commenter have been addressed and shown to result in a less than significant impact (as further analyzed in the MND). Section III, Environmental Impact Analysis, Section XVI. Transportation and Traffic, provides a detailed discussion of the Proposed Project's traffic impacts, which summarizes and incorporates by reference the information provided in Appendix G, *Draft Traffic Impact Study, Ivar Gardens Hotel Project, City of Los Angeles, California,* prepared by Linscott, Law & Greenspan, Engineers, dated December 23, 2015, and related correspondence from the Los Angeles Department of Transportation (LADOT) to the MND. Section XVI. Transportation and Traffic concludes the Proposed Project's impacts would be less than significant and implementation of mitigation measures would further ensure traffic impacts are less than significant. Additionally, Section § 506.2.3 of the Redevelopment Plan that the Commenter references states, " Any adverse environmental effects especially impacts upon the transportation and circulation system of the area caused by proposed development shall be mitigated or are overridden by other social, economic or physical considerations, and statements of findings are made."[2] As discussed above and in Section III, Environmental Impact Analysis, of the MND, the Proposed Project would not result any significant adverse environmental effects, including traffic impacts. Therefore, this section of the Redevelopment Plan does not apply. Furthermore, as no specific information detailing the inadequacies of the MND are presented in this comment, no further response is warranted.

[2] *City of Los Angeles, Hollywood Redevelopment Plan (Page 29), adopted July 12, 2003.*

COMMENT 1A.6

II. APPELLANT IS AGGRIEVED

Appellant is a resident of the City of Los Angeles and lives with his family approximately 1.5 miles from the Project location. Given this proximity, Appellant and his family risk a host of environmental impacts if the Commission's decision is not reverse and the Project is allowed to be built without further environmental review. Among this risks include more traffic congestion, greater noise from 3,000+ heavy-duty truck trips and poorer air quality caused by diesel emissions. Because of these Project impacts, Appellant is considered "aggrieved" under LAMC §§ 12.24.1-E and 12.24-I.2.

Furthermore, Appellant filled out a speaker card and testified before the Commission during the Project hearing on September 8, 2016. Those comments and this appeal are made to exhaust remedies under *Pub. Res. Code* § 21177 concerning the Project, and incorporates by this reference all written and oral comments submitted on the Project by any commenting party or agency. It is well established that any party, as Appellant did here, who participates in the administrative process can assert all factual and legal issues raised by anyone. *Citizens for Open Government v. City of Lodi* (2006) 144 Cal.App.4th 865, 875.

RESPONSE TO COMMENT 1A.6

This comment asserts the Appellant is considered aggrieved because of the environmental impacts, including more traffic congestion, greater noise from 3,000 heavy-duty truck trips and poorer air quality caused by diesel emissions, that the Appellant and his family would be exposed to given that the Appellant and his family live approximately 1.5 miles from the Proposed Project location. Based on the mailing address provided on the Appellant's appeal application, Mr. Mazariegos's mailing address is 1419 N. Kingsley Dr. In relation to the proposed Project Site, the Appellant resides 1.5 miles from the Project Site, and over 0.3 miles (approximately 1,500 feet) east of Western Avenue, which is the nearest point the proposed haul route will come to within proximity to the Appellant's address.

The MND identified two potential haul routes and identified impacts from the potential haul routes identified. See Figure II-16 on page II-30. The number of haul trucks were identified in the Appendix A, Air Quality Worksheets, to the MND. Based on the information provided in the IS/MND, the building demolition activities are anticipated to last 15 days and require a total of 18 haul trucks. The grading phase would last approximately 52 days and require an estimated 5,256 haul trips (including return trips), which equates to approximately 50 haul trucks entering and leaving the site each day over the course of an approximate 2.5-month period. The MND concluded that the impacts from either of the two haul routes identified would be less than significant because the haul routes that were identified would not pass by any schools, a construction management plan would be implemented to ensure pedestrian and vehicle safety, and hauling hours would be limited to 9 a.m. to 3 p.m. to avoid peak hours. The potential haul routes identified included the use of Western Avenue, Sunset Boulevard, and/or Cahuenga Boulevard. These streets are designated as Avenue I, Avenue I, and Avenue II streets, respectively, in the City's Mobility Plan. These streets are characterized by heavy traffic, and residential neighborhoods are typically not located on these primary streets. Therefore, because the hauling schedule would be limited to off-peak hours, the haul route would not impact any residential or school schedule.

Additionally, as discussed on page III-81 of the MND, a commonly used rule of thumb for roadway noise is that for every doubling of distance from the source, the noise level is reduced by about 3 dBA at acoustically "hard" locations (i.e., the area between the noise source and the receptor is nearly complete asphalt, concrete, hard-packed soil, or other solid materials) and 4.5 dBA at acoustically "soft" locations (i.e., the area between the source and receptor is normal earth or has vegetation, including grass). Page III-81 of the MND also states noise levels are also generally reduced by 1 dBA for each 1,000 feet of distance due to air absorption. Noise levels may also be reduced by intervening structures – generally, a single row of buildings between the receptor and the noise source reduces the noise level by about 5 dBA, while a solid wall or berm reduces noise levels by 5 to 10 dBA. The normal noise attenuation within residential structures with open windows is about 17 dBA, while the noise attenuation with closed windows is about 25 dBA.[3] Thus, at approximately 1,500 feet from Western Avenue, the noise generated from the haul trucks would not increase ambient noise by 3dBA (CNEL) or higher and, therefore, would not result in a significant noise impact related to heavy-duty truck trips upon the Appellant and his family.

Regarding traffic congestion, as noted in the LADOT approved traffic impact study for the Proposed Project (as contained in Appendix G of the MND for the Hollywood Ivar Gardens Project), the Proposed Project is expected to generate 77 net new vehicle trips (51 inbound trips and 26 outbound trips) during the weekday AM peak hour and 113 net new vehicle trips (53 inbound trips and 60 outbound trips) during the weekday PM peak hour. According to the LADOT's thresholds of significance, no significant traffic impacts were forecast to occur as a result of the Proposed Project.

Based on information provided by the project Applicant, the most intensive period of construction traffic generation is expected to occur during the excavation and grading activities of the site. As noted above, the grading phase would last approximately 52 days and equate to approximately 50 haul trucks entering and leaving the site each day. Hauling hours would also be limited from 9:00 AM to 3:00 PM to avoid the peak morning and afternoon commuter hours. Accounting for a six-hour hauling period and application of a passenger car equivalency (PCE) factor of 2.5 (i.e., each haul truck has the same effect on intersection operations as 2.5 passenger vehicles), a total of 20 PCE-adjusted inbound and 20 PCE-adjusted outbound vehicle trips are expected to be generated on an hourly basis during this peak phase of construction activity. It can therefore be concluded that even if hauling were to overlap with the commuter AM and PM peak hours, the resultant net new trip generation is lower than that expected to occur with operation of the Proposed Project. Thus, as no significant traffic impacts were forecast to occur with the Proposed Project's operational traffic based on the City's adopted significance thresholds, no significant traffic impacts are expected to occur during the peak grading and excavation activities associated with the construction of the Proposed Project.

As it relates to the general comment about traffic congestion, vehicle queuing in the vicinity has been acknowledged by the City of Los Angeles, given the existing signage at both the Ivar Avenue/Sunset Boulevard and Cahuenga Boulevard/Sunset Boulevard intersections. As an example, "DO NOT BLOCK INTERSECTION" signs are posted on traffic signal poles facing each of the four approaches at these

[3] *National Cooperative Highway Research Program Report 117, Highway Noise: A Design Guide for Highway Engineers, 1971.*

intersections. While no on-street parking is allowed on Sunset Boulevard along the direct project frontage, Sunset Boulevard both east and west of the project site is posted as an "ANTI-GRIDLOCK ZONE" with posted signs indicating "Tow Away No Stopping" between the hours of 7:00 AM and 9:00 AM and between 4:00 PM and 7:00 PM, except Saturday and Sunday. In addition, as stated in Section 22526 (Anti-Gridlock Law) of the State of California Vehicle Code, it is important to note the following with respect to entering an occupied intersection or marked crosswalk (refer specifically to subsections (a) and (b):

Section 22526 of the State of California Vehicle Code

(a) Notwithstanding any official traffic control signal indication to proceed, a driver of a vehicle shall not enter an intersection or marked crosswalk unless there is sufficient space on the other side of the intersection or marked crosswalk to accommodate the vehicle driven without obstructing the through passage of vehicles from either side.

(b) A driver of a vehicle which is making a turn at an intersection who is facing a steady circular yellow or yellow arrow signal shall not enter the intersection or marked crosswalk unless there is sufficient space on the other side of the intersection or marked crosswalk to accommodate the vehicle driven without obstructing the through passage of vehicles from either side.

(c) A driver of a vehicle shall not enter a railroad or rail transit crossing, notwithstanding any official traffic control device or signal indication to proceed, unless there is sufficient undercarriage clearance to cross the intersection without obstructing the through passage of a railway vehicle, including, but not limited to, a train, trolley, or city transit vehicle.

(d) A driver of a vehicle shall not enter a railroad or rail transit crossing, notwithstanding any official traffic control device or signal indication to proceed, unless there is sufficient space on the other side of the railroad or rail transit crossing to accommodate the vehicle driven and any railway vehicle, including, but not limited to, a train, trolley, or city transit vehicle.

(e) A local authority may post appropriate signs at the entrance to intersections indicating the prohibition in subdivisions (a), (b), and (c).

(f) A violation of this section is not a violation of a law relating to the safe operation of vehicles and is the following:

(1) A stopping violation when a notice to appear has been issued by a peace officer described in Section 830.1, 830.2, or 830.33 of the Penal Code.

(2) A parking violation when a notice of parking violation is issued by a person, other than a peace officer described in paragraph (1), who is authorized to enforce parking statutes and regulations.

(g) This section shall be known and may be cited as the Anti-Gridlock Act of 1987.

Thus, the State's Vehicle Code and Rules of the Road expressly prohibit blocking of intersections and such traffic movements by motorists are violations subject to citation by peace officers.

COMMENT 1A.7

III. THE COMMISSION ERRED & ABUSED ITS DISCRETION

When making the Project Approvals, the Commission (A) erred in relying on an inadequate MND and problematic LOD, and (B) abused its discretion by failing to make the necessary findings.

A. Under CEQA, The Commission Erred By Relying On An Inadequate MND And LOD.

A MND was prepared for this 21-story high rise project, not a more comprehensive EIR pursuant to CEQA law. This means that the less deferential "fair argument" standard applies. The "fair argument" standard creates a "low threshold" favoring environmental review through an EIR rather than through issuance of a negative declaration, even if other substantial evidence supports the opposite conclusion. *Mejia v. Los Angeles* (2005) 130 Cal.App.4th 322; *Pocket Protectors v. Sacramento* (2005) 124 Cal.App.4th 903. "Substantial evidence includes … expert opinion." Pub. Res. Code § 21080(e)(1); 14 Cal. Code Regs. § 15064(f)(5). An agency's decision not to require an EIR can be upheld only when there is no credible evidence to the contrary. *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th, 1307, 1318.

When making its decision on September 8, 2016, the Commission knew there was a *"fair argument" that the Project may cause traffic impacts in this congested part of Hollywood and that, as a matter of law, the City needed to prepare an EIR. As indicated in* traffic engineer Neal Liddicoat's letter dated September 1, 2016, there were several substantial issues affecting the validity of the MND's conclusions and that a corrected traffic impact analysis would reveal one or more significant impacts not documented in the MND. Not only was it suggested to prepare a modified traffic impact analysis into a revised environmental document, but Appellant's attorney's letter dated September 5, 2016 explicit stated it was required as a matter of law.

RESPONSE TO COMMENT 1A.7

The first paragraph of the comment cites to what is referred to as the "fair argument" standard under CEQA, but does not state a specific concern or questions regarding the adequacy of the analysis conducted for the Project. No response is required, however, the comment is nevertheless acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

The second paragraph states that on September 8, 2016 the Commission "knew there was a 'fair argument' that the Project may cause traffic impacts… and that, as a matter of law, the City needed to prepare an EIR." The alleged basis for this statement is the existence of Neal Liddicoat's September 1, 2016 letter and the conclusions therein, the responses to which are included in Appeal No. 1C, below, and LLG's Technical Memorandum dated September 26, 2016 provided in Attachment 2. As such, please refer to Response to Comment No. 1C.

COMMENT 1A.8

The newly released LOD fails to cure these errors. This appeal incorporates by this reference Mr. Liddicoat's review of the LOD dated December 13, 2016. As noted on page 1, the LOD repeatedly states that comment letters critical of the Project's MND was received, and that formal responses were prepared. However, none of these responses addressed the issues raised in Mr. Liddicoat's September 1 letter. Furthermore, the LOD contains additional inaccuracies and contradictions. First, several of the approval conditions raise truck traffic issues such as blocking traffic flow due to insufficient 20-foot reservoir space between the security gate and property line (Condition of Approval 4a), blocking access to the site during trash pickup due to the location of containers (Condition of Approval 5b), and lack of information discussing how restrictions on truck activity will be enforced (Condition of Approval 34c, 34e, and 34f). Second, the LOD make numerous inaccurate references to "reduction of traffic congestions" associated with the Project when it will in fact increases traffic congestions – adding a net total of 1,285 daily trips, 77 AM peak hour trips, and 113 PM peak hour trips. Finally, the LOD completely contradicts itself when it states on p. F-38 that the Project "does not have any residential component," but repeatedly treats it like one in order to meet certain goals, objectives, and policies.

Because the MND and LOD were deficient under CEQA, the Commission erred when granting the Project Approvals without proper analysis to environmental impacts.

RESPONSE TO COMMENT 1A.8

Refer to Response to Comment No. 1A.6 for a full discussion of the analysis of the peak construction traffic expected to be generated by the proposed project and general traffic congestion. Refer also to the detailed responses to the September 1, 2016 and December 13, 2016 MRO Engineers comment letters (Appeal No. 1B and 1C, above, and Attachment 2) for a full discussion of the project's operational site access and circulation scheme, service and delivery operations and general traffic impact. The LOD is correct in stating on page F-38 that the Project does not have any residential component. In fact, the Project consists of a hotel with ground floor retail/commercial which is adequately described in the LOD as meeting various goals, objectives, and policies that are geared towards such a commercial and visitor-serving use.

Finally, the commenter's statement regarding alleged deficiencies of the MND and LOD is a statement of opinion and does not state a specific concern or question regarding the adequacy of the analysis. For the reasons contained in the record and the various responses to comments, the MND and LOD are adequate pursuant to CEQA and the Commission's actions and findings are supported by the evidence in the record. Nevertheless, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

COMMENT 1A.9

B. The Commission Abused Its Discretion by Failing to Make the Necessary Finding Required Under the LAMC.

This Project is discretionary, not by right. The Project Approvals and other entitlements are discretionary approvals under the City's Municipal Code. As such, the Commission must make express findings under the Municipal Code, Hollywood Community Plan and Hollywood Redevelopment Plan. *The Commission has clear legal authority to disapprove the Project if these findings cannot be made*. *Kavanau v. Santa Monica Rent Control* (1997) 16 Cal.4th 761.

More specifically, Redevelopment Plan §506.2.3 requires findings that the Project's impacts upon the transportation and circulation system of the area are overridden by other social, economic or physical consideration. *They are not* in exchange for a host of discretionary development favors, the City requires close to nothing in return. First, the required Owner Participation Agreement ("OPA") or Hollywood Redevelopment Plan § 506.2.3 and Ordinance No. 165,660 "D" Limitation Development and Disposition Agreement ("DDA") are nowhere to be found. It has not been explained why those documents on a separate track. Second, there are virtually zero community benefits for the Project, other than required enhancements to mitigate direct transportation impacts – R.D. Olson offers on $1,000 scholarship, a "[c]ommitment to coordinate" a job fair and two internships.

In reality, the proposed findings make no attempt to determine the required "social, economic or physical considerations" of the Project required by Hollywood Redevelopment Plan § 506.2.3. For example, there is no disclosure of the kind of jobs created by the Project, these jobs will be, and whether employees will have the right to collectively bargain. Without this information, the City lacks substantial evidence to make any statement of overriding considerations.

Inequality threatens Los Angeles' prosperity by frustrating the goal of making our City a place of opportunity for all – a place where its members can work and afford to live. This Project does nothing to help either concern, and fails to satisfy the City's required zoning findings and General Plan goals and policies in this regard. The Commission, on the record before it, cannot find that the economic and social benefits of the Project outweigh the environmental costs.

Because the necessary findings could not be made on the record before it, the Commission abused its discretion when granting the Project Approvals.

RESPONSE TO COMMENT 1A.9

The commenter misstates Redevelopment Plan §506.2.3 that "required findings that impacts to transportation and circulation caused by the Project are overridden by other social, economic or physical considerations." In fact, the required finding states that "[a]ny adverse environmental effects especially impacts upon the transportation and circulation system of the area caused by proposed development shall be mitigated ***or*** are overridden by other social, economic or physical considerations, and statements of findings are made." *[Emphasis added.]* As described further below, the transportation and traffic

environmental impacts of the proposed development will be mitigated by mitigation measures TRAFFIC-1 through TRAFFIC-5 and reduced to a less than significant impact. As such, it is unnecessary to find that the impacts are "…overridden by other social, economic or physical considerations…"

A Mitigated Negative Declaration (ENV-2015-2895-MND) and corresponding Mitigation Monitoring Program (MMP) were prepared for the proposed project. The MMP is a document that is separate from the MND and is prepared and adopted as part of the project's proposal. Section 21081.6 of the Public Resources Code requires a Lead Agency to adopt a "reporting or monitoring program for the changes made to the project or conditions of approval, adopted in order to mitigate or avoid significant effects on the environment." The MND was circulated for public review on June 16, 2016 through July 6, 2016. During the review period, the Department of City Planning received three comment letters.

Parker Environmental Consultants and Gaines & Stacey LLP prepared a formal response to all three comments. The comments and responses are included in the staff report with Exhibit "C."

In connection with the MND, a traffic impact study was prepared by Linscott Law & Greenspan Engineers on December 23, 2015, and was approved by the Los Angeles Department of Transportation on December 23, 2015. (See Appendix G to the MND.) Five (5) measures were identified to mitigate transportation and traffic related impacts as a result of the project. Those mitigation measures are identified in the MND as TRAFFIC-1 through TRAFFIC-5. Specifically, it was determined that the Project would not cause any significant operational traffic impacts in either the AM or PM peak hour and that implementation of mitigation measure TRAFFIC-1 would further ensure traffic impacts are less than significant. It also requires the applicant to comply with any applicable conditions and recommendations from the Department of Transportation. With respect to construction related traffic, it was determined that the construction traffic would not cause any significant impacts at the studied intersections. Truck trips would be limited to the length of time required for the Project's construction. Due to the temporary nature of the traffic, construction impacts would be less than significant with the incorporation of Mitigation Measures TRAFFIC-2 through TRAFFIC-5.

Even though impacts will be mitigated to a less than significant level, any impacts associated with the project would be overridden by social, economic, and physical considerations. Currently the site is underutilized and developed with an outdated drive-through fast food restaurant and tired streetscape. The proposed project will update and maximize the potential of the site by developing a hotel that caters to the business traveler and families with children, a demographic that is underserved by current Hollywood hotel uses. There will be a significant increase in employment opportunities, both with respect to temporary construction jobs as well as hotel operations. Additionally, the ground floor retail/commercial component will serve local pedestrians, as well as the Hollywood tourist. The streetscape will be updated and improved and, overall, redevelopment of the site with a new 275 room hotel will provide new facilities for visitors. The hotel and its associated development will provide social, economic and physical improvements that will override any potential transportation or traffic related impacts.

Pursuant to a "D" Development Limitation, the project applicant shall also enter into an Owner Participation Agreement ("OPA"). The OPA is one of the requirements to permit the FAR to exceed 4.5:1

FAR, but not to exceed a 6:1 FAR and will be made a condition of project approval. The OPA must be reviewed and approved by the CRA/LA successor agency, rather than the City of Los Angeles, under its continued authority to enter into and approve OPAs for certain projects.

The final MND document was prepared in accordance with the California Environmental Quality Act (CEQA) to determine if the project would result in a significant impact on the environment. Staff from the Los Angeles Department of City Planning has reviewed the final MND and finds that it was prepared in accordance with the City of Los Angeles CEQA Thresholds Guide and other applicable City requirements. As such, the MND is adequate for CEQA clearance, as noted in Exhibit "C" of the staff report. On the basis of the whole of the record before the Lead Agency including any comments received the Lead Agency finds that, with imposition of the mitigation measures described in the MND, there is no substantial evidence that the proposed project will have a significant effect on the environment.

As discussed above in Response to Comment 1A.5, Section § 506.2.3 of the Hollywood Redevelopment Plan that the Commenter references states, " Any adverse environmental effects especially impacts upon the transportation and circulation system of the area caused by proposed development shall be mitigated or are overridden by other social, economic or physical considerations, and statements of findings are made."[4] As discussed above and in Section III, Environmental Impact Analysis, of the MND, the Proposed Project would not result any significant adverse environmental effects. Therefore, this section of the Redevelopment Plan does not apply. Furthermore, the Commenter asserts the City lacks substantial evidence to make any statement of overriding considerations. However, pursuant to CEQA Section 15093, a statement of overriding considerations is not necessary for the Proposed Project, as the Proposed Project would not result in any significant adverse environmental effects.

Additionally, the requested Vesting Zone Change enables a Proposed Project that will meet area needs for additional hotel rooms to support tourism and short term and long term business guests working nearby. It will positively impact economic development through generation of additional revenue through sales tax, Transit Occupancy Tax, property tax, business license, and other fees. The Proposed Project will also provide a significant amount of temporary construction and permanent hospitality and retail jobs. Its proximity to major transit, job centers, retail, and entertainment will facilitate guests' interaction with the surrounding regional center, bringing more people onto the street (possibly reducing crime, which would further improve general welfare) and providing more potential customers for local businesses. In addition, the Project Site is well-equipped to accommodate a mixed-use hotel and retail building that is compatible with its Regional Center Commercial land use designation, as well as the density and mix of uses in the surrounding area. The General Plan establishes that regional centers should serve as focal points of regional commerce, identity, and activity with a diversity of uses. The Proposed Project and requested actions are consistent with the Hollywood Redevelopment Plan goal of implementing community revitalization activities and retaining tourists in the area. The Proposed Project will support a circulation system coordinated with land uses and densities to accommodate traffic and encourage improvement of public transportation services, as envisioned in the Hollywood Community and Redevelopment Plans.

[4] *City of Los Angeles, Hollywood Redevelopment Plan (Page 29), adopted July 12, 2003.*

Furthermore, as discussed in Table III-9 on page III-69 and Table III-10 on page III-70 of the MND, the Proposed Project is consistent with the applicable objectives and policies of the Hollywood Community Plan and the applicable goals of the Redevelopment Plan. Thus, the MND concluded in Section X, Land Use and Planning, the Proposed Project would result in a less than significant land use impact and would not conflict with any applicable land use plan, policy, or regulation adopted for the purposes of avoiding or mitigating an environmental effect. The Appellants' concerns are noted for the record and will be submitted to the decision makers for their consideration.

COMMENT 1A.10

IV. SPECIFIC POINTS AT ISSUE

Due to the specific issues discussed below, Council should (A) reject the MND and require an EIR, and (B) deny the Project Approval on grounds that the required land use findings cannot be made.

RESPONSE TO COMMENT 1A.10

Commenter's concerns have been noted for the record and will be forwarded to the decision makers for their consideration. No further response is required.

COMMENT 1A.11

A. Council Should Reject the MND and Require an EIR.

1. **Traffic and Transportation Impacts:** CEQA requires analysis of traffic impacts related to a project. *Kings County Farm Bureau v. Hanford* (1990) 221 Cal.App.3d 692,727. *Expert traffic engineer Neal Liddecoat P.E.'s September 1, 2016 comment on the IS/MND reveals significant deficiencies and a "fair argument" of significance traffic impacts that must be addressed prior to approval of the Project and its related environmental documentation*. Expert Liddecoat concludes in his September 1, 2016 letter, the entirety of which is incorporated in this appeal, that:

> "The trip generation estimates developed with respect to the proposed Ivar Gardens Hotel project are flawed. The decision to use the "average rate" was wrong, the trip generation approach was not sufficiently conservative, and the treatment of pass-by and diverted trips was erroneous. We have demonstrated that correcting these errors will almost certainly result in significant impacts in both the AM and PM peak hours.
>
> With very few exceptions, our analysis reveals higher project-related traffic at each of the study intersections. Table 3 summarizes a comparison of our project traffic assignment to the corresponding values presented on Figure 7-2 in the LLG report (p. 41). Only the movements where project traffic has been added are represented in Table 3; any movements not shown would have no project trips.
>
> Only one movement would have a lower project-related volume under our assignment

compared to the LLG assignment (i.e., the westbound through at Cahuenga Boulevard/Hollywood) and one would be the same (i.e., the eastbound left turn at Vine Street/Sunset Boulevard). In every other case, our assignment indicates higher project traffic. Although the differences may seem minor, as we demonstrated above, differences of as little as one additional project vehicle could determine whether or not a significant impact would occur. In the example we presented above, we found that the addition of one PM peak-hour eastbound left turn at Cahuenga Boulevard/Sunset Boulevard would result in a significant impact.

Our traffic assignment indicates that 13 more project-generated vehicles will occur on that movement than were accounted for in the LLG analysis. With that being the case, a significant impact would occur at Cahuenga Boulevard/Sunset Boulevard not revealed in the IS/MND …

Table 3: Project Traffic Assignment Comparison

Intersection		Net Project Traffic Assignment		
Approach	Movement	MRO	LLG[1]	Difference
Cahuenga Blvd./Sunset Blvd.				
Southbound	Right	30	23	7
	Thru	6	2	4
	Left	20	13	7
Westbound	Right	26	21	5
	Thru	-6	-12	6
Northbound	Thru	6	0	6
Eastbound	Left	14	1	13

Notes: [1] Reference: Linscott, Law & Greenspan, *Traffic Impact Study – Ivar Gardens Hotel Project*, December 23, 2015

Our review of the "Transportation and Traffic" section of the Initial Study/Mitigated Negative Declaration for the Hollywood Ivar Gardens Project revealed several substantial issues affecting the validity of the conclusions presented. Our review indicates that a corrected traffic impact analysis will reveal one or more significant impacts that were not documented in the IS/MND. A modified traffic impact analysis must be prepared, and incorporated into a revised environmental document."

RESPONSE TO COMMENT 1A.11

As discussed in Response No. 5 of Attachment 2, LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016, in double checking the traffic volumes figures with the actual intersection calculation worksheets as contained in Appendix C of the LLG December 23, 2015 traffic impact study, it is apparent that an inadvertent downloading error occurred in production of the traffic volume figures. Therefore, the differences that the Commenter has pointed out with respect to Figures 7-1 and 7-2 of the LLG traffic impact study and MRO Engineers' figures can be clarified. The corrected traffic volumes figures are included in Attachment 2 as Figures 5-1, 5-2, 6-2, 6-3,

7-1, 7-2, 9-1, 9-2, 9-3, 9-4, 9-5 and 9-6. The net-new project traffic volumes are consistent for 4 of the 6 intersections when compared to the actual intersection calculation worksheets. The other two adjacent intersections are different since LADOT policy does not allow pass-by reductions at adjacent intersections and MRO Engineers is likely not aware of this.

COMMENT 1A.12

Also, expert traffic engineer Liddecoat's letter comments on a lack of information and potential safety concerns given the Project driveway configuration in this heavily trafficked area in Hollywood:

"Project Driveway Operations – The project proposes one full-access (i.e., all turning movements allowed) public driveway on Cahuenga Boulevard plus an inbound-only, gate controlled service driveway on Ivar Avenue. All traffic (including delivery trucks and service vehicles) must exit at the Cahuenga Boulevard location. Both driveways are located about 100 – 125 feet (i.e., 4 – 5 car lengths) north of Sunset Boulevard.

However, no analysis of either project driveway intersection is done. Issues to address include:

- Will drivers be able to safely make left turns into and out of the site at the Cahuenga Boulevard driveway? This is a particular issue for exiting trucks.
- It appears that Cahuenga Boulevard has a "painted median" at the driveway (i.e., "double-double" yellow lines). As described in the 2016 California Driver Handbook, it is illegal to turn left across a barrier/painted median, so this driveway must be limited to right-turns only.
- How much delay will drivers experience as they enter or exit?
- When delays become excessive, will drivers perform ill-advised and unsafe maneuvers, such as trying to turn into or through inadequate gaps in Cahuenga Boulevard traffic?
- As noted above, the driveways are only about 100 – 125 feet north of Sunset Boulevard. How long will the queues be on southbound Cahuenga Boulevard and southbound Ivar Avenue, and what effect will those queues have on the ability to enter or exit the site?
- How long will the inbound queue of delivery trucks/service vehicles be at the gate-controlled Ivar Avenue driveway? Will the tucks back out onto the public street and block northbound and/or southbound traffic on Ivar Avenue?
- Will trucks waiting on northbound Ivar Avenue to turn left into the site block the

northbound traffic flow on Ivar Avenue, potentially causing queues to extend back to Sunset Boulevard?

…

These issues must be addressed to ensure that the public fully understands the potential impacts of developing the proposed project. A revised traffic analysis is necessary."

RESPONSE TO COMMENT 1A.12

The responses to the issue of project driveway operations raised in the comment letter prepared by MRO dated September 1, 2016 are included in Appeal No. 1C, below, and Attachment 2 LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016. Please refer to Responses to Comments 1C.7 through 1C.15, below, and Response No. 4A through 4I in Attachment 2 for a detailed discussion of the review of the site access and circulation scheme associated with the Proposed Project and subsequent review by LADOT.

COMMENT 1A.13

All of these potential "fair argument" transportation impacts require the preparation of an EIR for the Project, *as a matter of law*, and raise unidentified and unanalyzed General Plan and Community Plan inconsistency with regard to transportation and circulation issues. *See City of Los Angeles General Plan Mobility Plan 2035* Objective 1.1 "Roadway User Vulnerability: Design, plan, and operate streets to prioritize the safety of the most vulnerable roadway user"; Objective 2.3 "Pedestrian Infrastructure: Recognize walking as a component of every trip, and ensure high quality pedestrian access in all site planning and public right-of-way modifications to provide a safe and comfortable walking environment"; Chapter 2 Policies "Achieve established performance levels on 100% of the streets within the Neighborhood Enhanced Network by 2035 …" and "Increase vehicular travel time reliability on all segments of the Vehicle Enhanced Network by 2035"; Policy L.U.1.22 "Keep existing streets open for public use. Protect existing streets from closure to prevent the creation of "superblocks", improve circulation, keep streets publicly accessible, and support walkable and bikeable neighborhoods"; *Hollywood Community Plan* Objective "[t]o make provision of a circulation system, coordinated with land uses and densities and adequate to accommodate traffic"; and Circulation Standards and Criteria "[n]o increase in density shall be effected by zone change or subdivision unless it is determined that the local streets … available in the area of the property involved, are adequate to serve the traffic generated."[5]

RESPONSE TO COMMENT 1A.13

The City of Los Angeles (the "City") Department of City Planning is the Lead Agency under CEQA. An Initial Study is a preliminary analysis prepared by and for the City as Lead Agency to determine whether

[5] *See http://planning.lacity.org/documents/policy/mobilityplnmemo.PDF; see also http://cityplanning.lacity.org/cpu/hollywood/text/HwdCommunityPlan.pdf.*

an Environmental Impact Report ("EIR") or a Negative Declaration or Mitigated Negative Declaration must be prepared for a proposed project. In this case, the City correctly determined that an MND be adopted for the project (Case No. ENV-2015-2895-MND) and the MND was published on June 16, 2016 for the mandatory 20 day public comment period.

Pursuant to CEQA Guideline 15064, an MND is prepared for a project when the Initial Study identifies potentially significant effects on the environment, but (1) revisions in the project plans or proposals made by, or agreed to by, the applicant would avoid the effects of the project or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment. As detailed in the environmental analysis contained the City's Initial Study and associated reports and analyses, the Project involves some potentially significant effects on the environment, but these potential effects will be reduced to less-than-significant effects by project revisions in the form of mitigation measures. With regard to other impacts, the Initial Study shows that no substantial evidence indicates that the Project would have a significant environmental effect. Consequently, the City's Initial Study correctly concluded that an MND be prepared for the proposed Project.

An EIR is not required on any project proposed to be carried out or approved unless substantial evidence in light of the whole record supports a fair argument that the proposed project may have a significant effect on the environment. *See* CEQA Guidelines §15070; *see also* Citizens for Responsible Dev't in West Hollywood v. City of West Hollywood, 39 Cal. App. 4th 490, 499 (1995). In the absence of such a finding, the adoption of a MND must be upheld. *See* Lucas Valley Homeowners Assn. v. County of Marin, 233 Cal. App. 3d 130, 141-42 (1991); Leonoff v. Monterey County Bd. of Supervisors, 222 Cal. App. 3d 1337, 1348 (1990). Where, as here, the Initial Study identifies potentially significant effects on the environment, but, revisions to the project "would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur," and there is no substantial evidence that the project as revised may have a significant effect on the environment, an MND is the appropriate environmental document. Pub. Res. Code §21064.5.

COMMENT 1A.14

2. **Land Use Inconsistency:** A DEIR must discuss any inconsistencies between the proposed Project and applicable General Plan. 14 Cal. Code Regs. "*CEQA Guidelines*" § 15125(d). This inconsistency is particularly acute here when it comes to taking away land zoned for housing, including affordable housing – a topic that the Project DEIR ignores.

   The Project's 275-guestroom hotel will take away the ability to develop housing on the site, especially affordable housing that would be allowed under the site's C4 zoning designation. This is a great concern. According to the UCLA Ziman Center, Los Angeles housing prices have grown about four times faster than incomes since 2000 and "affordable housing

production and preservation needs to accelerate."[6] Los Angeles is the least affordable rental market in the country, according to Harvard University's Joint Center for Housing Studies, and has been ranked the second-least affordable region for middle-class people seeking to buy a home.[7] The City of Los Angeles' Housing Needs Assessment indicates that through September 30, 2021, 20,426 additional housing units are needed in the City for a very low-income, 12,435 for low-income, and 13,728 are for a moderate income.[8]

The City's General Plan reflects this urgent need for affordable housing. *See City of Los Angeles General Plan Housing Element* Goal 1 "A City where housing production and preservation result in an adequate supply of ownership and rental housing that is safe, healthy and affordable to people of all income levels, races, ages, and suitable for their various needs"; Policy 1.1.1 "Expand affordable home ownership opportunities and support current homeowners in retaining their homeowner status"; Policy 1.1.2 Expand affordable rental housing; Objective 2.5 "Promote a more equitable distribution of affordable rental housing; Objective 2.5 "Promote a more equitable distribution of affordable housing opportunities throughout the City'; Policy 2.5.1 "Target housing resources, policies and incentives to include affordable housing in residential development, particularly in mixed use development, Transit Oriented Districts and designated Centers"; and Policy 2.5.2 "Foster the development of new affordable housing units citywide and within each Community Plan area."[9]

RESPONSE TO COMMENT 1A.14

The Commenter asserts the Proposed Project's DEIR ignores the land use inconsistency of taking away land zoned for housing, including affordable housing. A MND, not a DEIR was prepared for the Proposed Project. In addition, the Project Site is zoned C4-2D-SN with the land use designation of Regional Center Commercial. The C4 zone allows for C2 uses with limitations and R4 uses. The Project Site is designated for Regional Center Commercial land uses under the Hollywood Community Plan. The corresponding zones for Regional Center Commercial are the C2, C4, P, PB, RAS3, and RAS4. Thus, the Regional Center Commercial land use designation is consistent with the Project Site's existing C4 zoning designation. Both hotel and retail uses are expressly permitted on lots zoned for C4 uses that are located within the Hollywood CPA and the Hollywood Redevelopment Project Area. Thus, while the C4-2D-SN zoning designation allows for residential uses, the C4-2D-SN zoning designation also allows for hotel and commercial retail land uses. Therefore, the Proposed Project would conform the to the allowable land uses pursuant to the LAMC and would not conflict with the allowable land uses in the Hollywood Community Plan and the LAMC.

Additionally, the Project Site is currently developed with a "Jack in the Box" fast food restaurant and a surface parking lot, which is not a residential use. Thus, as discussed on page III-99 of the MND, the

6 *See http://www.anderson.ucla.edu/Documents/areas/ctr/ziman/2014-08WPrev.pdf.*
7 *See http://www.latimes.com/opinion/editorials/la-ed-affordable-housing-part-1-20150111-story.html.*
8 *See http://planning.lacity.org/HousingInitiatives/HousingElement/Text/Ch1.pdf.*
9 *See http://planning.lacity.org/HousingInitiatives/HousingElement/Text/Ch6.pdf*

Proposed Project's development of a mixed-use hotel and retail building would not displace any existing housing or residential use. Furthermore, as discussed in Table III-9 on page III-69 and Table III-10 on page III-70 of the MND, the Proposed Project is consistent with the applicable objectives and policies of the Hollywood Community Plan and the applicable goals of the Redevelopment Plan. Thus, the MND concluded in Section X, Land Use and Planning, the Proposed Project would result in a less than significant land use impact and would not conflict with any applicable land use plan, policy, or regulation adopted for the purposes of avoiding or mitigating an environmental effect. The Appellants' concerns are noted for the record and will be submitted to the decision makers for their consideration.

COMMENT 1A.15

> The same affordability concerns must be addressed under the governing Hollywood Community Plan and Redevelopment Plan. *See City of Los Angeles Hollywood Community Plan* Objective 3 "To make provision for the housing required to satisfy the varying needs and desires of all economic segments of the Community … [a]dditional low and moderate-income housing is needed in all parts of this Community"; *Hollywood Redevelopment Plan* Goal 300.9 "Provide housing choices and increase the supply and improve the quality of housing for all income and age groups, especially for persons with low and moderate incomes; and to provide home ownership opportunities and other housing choices which meet the needs of the resident population"; Goal 410.4 "At least fifteen percent (15%) of all new or rehabilitated units developed within the Project Area by public or private entities or persons other than the Agency shall be for persons and families of low or moderate income; and of such fifteen percent, not less than forty percent (40%) thereof shall be for very low income households"; and Goal 412 "The social needs of the community include but are not limited to the need for day care facilities, housing for very low and low income persons including the elderly, the homeless, and runaways, educational and job training facilities, counseling programs and facilities."[10]
>
> By taking away the ability to build housing on site, this Project likely is General, Community and Redevelopment Plan inconsistent, not in the "general welfare," and the City may be paying mere lip service to the mandates of its governing Plans. *If the City is going to bless this zero housing Project, real community benefits should be required.*

RESPONSE TO COMMENT 1A.15 As discussed above in Response to Comment 1A.14, the Project Site is zoned C4-2D-SN with the land use designation of Regional Center Commercial. The Regional Center Commercial land use designation is consistent with the Project Site's existing C4 zoning designation. While the C4-2D-SN zoning designation allows for residential uses, the C4-2D-SN zoning designation also expressly allows for hotel and commercial retail land uses. Therefore, the Proposed Project would conform the to the allowable land uses pursuant to the LAMC and would not conflict with the allowable land uses in the Hollywood Community Plan and the LAMC. Additionally, the Project Site is currently developed with a "Jack in the Box" fast food restaurant and a surface parking lot, which is not

[10] *See http://planning.lacity.org/complan/pdf/HwdCpTxt.pdf; http://www.crala.org/internetsite/Projects/Hollywood/upload/HollywoodRedevelopmentPlan.pdf.*

a residential use. Thus, as discussed on page III-99 of the MND, the Proposed Project's development of a mixed-use hotel and retail building would not displace any existing housing or residential use.

Furthermore, as discussed in Table III-9 on page III-69 and Table III-10 on page III-70 of the MND, the Proposed Project is consistent with the applicable objectives and policies of the Hollywood Community Plan and the applicable goals of the Redevelopment Plan. Thus, the MND concluded in Section X, Land Use and Planning, the Proposed Project would result in a less than significant land use impact and would not conflict with any applicable land use plan, policy, or regulation adopted for the purposes of avoiding or mitigating an environmental effect. The Appellants' concerns are noted for the record and will be submitted to the decision makers for their consideration.

COMMENT 1A.16

3. **Hazardous Substances Analysis:** The potential existence of toxic contamination on a Project site is a significant impact requiring CEQA review. *McQueen v. Board of Directors* (1988) 202 Cal.App.3d 1136. As set forth in the SWAPE July 5, 2016 comment letter incorporated in its entirety by this reference, the potential presence of dry cleaning volatile organic compound ("*VOC*") releases onsite has not been properly investigated. The Hollywood Laundry existed on the site for over two decades. This is a major red flag. Yet, the Texaco UST cleanup from the mid-1980s, when cleanup technology was less sophisticated and regulatory sampling standards less thorough than today, *never* sampled for dry cleaner chemicals such as perchloroethylene ("*PCE*"). The Geotracker database, and the IS/MND Appendix C "SOILS INVESTIGATION REPORT Geo-Etka, Inc., Foundation Soils Investigation and Pavement Design Recommendations at the Northwest Corner of Sunset Boulevard and Cahuenga Boulevard Hollywood" confirm this omission to sample – at all- for VOCs or PCE. A site investigation study and sampling should be conducted to do so. A lead agency is precluded from making the required CEQA findings unless the record shows that all uncertainties regarding the mitigation of impacts have been resolved; an agency may not rely on mitigation measures of uncertain efficacy or feasibility. *Kings County Farm Bureau v. Hanford* (1990) 221 Cal.App.3d 692,727 (finding groundwater purchase agreement inadequate mitigation because there was no evidence that replacement water was available)/ This approach helps "insure the integrity of the process of decision making by precluding stubborn problems or serious criticism from being swept under the rug." *Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929,935.

RESPONSE TO COMMENT 1A.16

This comment asserts the potential existence of toxic contamination on the Project Site is a significant impact requiring CEQA review because the potential presence of dry cleaning volatile organic compound ("VOC") releases onsite has not been properly investigated as set forth in the SWAPE July, 5 2016 comment letter. As disclosed in the MND, various subsurface investigations were conducted on the Project Site and received case closure notices from the RWQCB in 1986. The Phase I ESA noted that any

contamination from the dry cleaning service would have been present during the gas station subsurface investigation. Because the case closed in 1986, there are no recognized environmental conditions (RECs) in connection with the historical uses on the Project Site. The MND analysis concluded that the Project's Phase I ESA did not find any REC's in connection with the Project Site due to case closure from the RWQCB in regards to the previous gas station and the lack of any contamination history or violations from the previous laundry facility. Although the specific data logs and monitoring surveys that were referenced in the RWQCB's closure report documentation were unavailable, the fact that closure reports were issued for the site support the conclusion that the site was remediated to an acceptable level. Nevertheless, the Proposed Project would incorporate Mitigation Measure HAZ-1, which requires approval and sign-off from the Fire Department indicating that all on-site hazardous materials have been remediated. Thus, the potential presence of dry cleaning VOC releases on site was properly investigated in the MND. Therefore as stated on page III-55 of the MND, with implementation of Mitigation Measure HAZ-1, impacts related to accidental conditions involving the release of hazardous materials into the environment would be less than significant and no further CEQA review is required.

COMMENT 1A.17

4. **Noise Impacts:** The Project as designed will create noise impacts during construction on the adjacent residents on Ivar Avenue and Cahuenga and Sunset Boulevards. It is unclear in the MND what significance threshold the City is applying for construction noise in Table III-13. Vibration noise from the 3,000+ heavy-duty haul truck trips is undisclosed. The fact that construction noise is "temporary" does not mean it is not significant, and there is a "fair argument" or significant noise impacts. Further, the construction noise mitigation in the MND for mufflers (N-3) lacks appropriate performance standards. *Mount Shasta Bioregional Ecology Center v. County of Siskiyou* (2012) 210 Cal.App.4th 184,207. So too, there is no discussion in the IS/MND of hours of operation for open space noise.

RESPONSE TO COMMENT 1A.17

Here the commenter is concerned about construction noise impacts on the adjacent residents on Ivar Avenue and Cahuenga and Sunset Boulevards. However, it should be noted that in Comment 1A.6, above, Appellant and his family reside approximately 1.5 miles from the Project location. Given this proximity, and the densely populated area between the Project Site and the Appellant's residence, the Appellant and his family will not be impacted by the project's construction noise impacts.

The Commenter states it is unclear in the MND what significance threshold the City is applying for construction noise. Page III-82 of the MND identifies the significance threshold the City is applying to evaluate the Proposed Project's construction noise impacts. Construction-related noise impacts upon adjacent land uses would be significant if, as indicated in LAMC Section 112.05, noise from construction equipment within 500 feet of a residential zone exceeds 75 dBA at a distance of 50 feet from the noise source. However, the above noise limitation does not apply where compliance is technically infeasible. Technically infeasible means that the above noise limitation cannot be complied with despite the use of

mufflers, shields, sound barriers and/or any other noise reduction device or techniques during the operation of the equipment. Additionally, as defined in the *L.A. CEQA Thresholds Guide* threshold for construction noise impacts, a significant impact would occur if construction activities lasting more than one day would increase the ambient noise levels by 10 dBA or more at any off-site noise-sensitive location. Furthermore, the *L.A. CEQA Thresholds Guide* also states that construction activities lasting more than ten days in a three-month period, which would increase ambient exterior noise levels by 5 dBA or more at a noise sensitive use, would also normally result in a significant impact. (see IS/MND on page II-82)

This comment also asserts the Proposed Project as designed will create noise impacts during construction on the adjacent residents on Ivar Avenue and Cahuenga and Sunset Boulevards. Notwithstanding the fact that the Appellant resides over 1.5 miles away from the Project Site and will not be impacted by the Project's construction noise impacts, noise impacts to the surrounding land uses on Sunset Boulevard, Cahuenga Boulevard and Ivar Avenue were analyzed in the IS/MND. In evaluating a project's construction noise impacts, the *L.A. CEQA Thresholds Guide* requires the identification of noise sensitive land uses (which include residences, transient lodgings, schools, libraries, churches, hospitals, nursing homes, auditoriums, concert halls, amphitheaters, playgrounds, and parks) within 500 feet of the project site, including description, location, and distance from the project. Pages III-83 and III-84 of the MND provide a list of the noise and vibration sensitive land uses that were identified within proximity to and with direct line of sight of the Project Site. The closest residences to the Project Site are the residential units as part of the Sunset and Vine mixed-use project, which are located as close as 300 feet of the Project Site (at Sunset and Morningside). As discussed on page III-84 of the MND, these residential units are buffered by the Los Angeles Film School building, which blocks the line of site to the project and creates an effective noise barrier isolating this receptor from the Project Site. Thus, the Proposed Project would not create significant noise impacts during construction on the closest residences to the Project Site. No other sensitive receptors were found in a 500-foot radius of the Project Site for noise and vibration related impacts. Additionally, page III-81 of the MND also states noise levels are also generally reduced by 1 dBA for each 1,000 feet of distance due to air absorption. Noise levels may also be reduced by intervening structures – generally, a single row of buildings between the receptor and the noise source reduces the noise level by about 5 dBA, while a solid wall or berm reduces noise levels by 5 to 10 dBA. The normal noise attenuation within residential structures with open windows is about 17 dBA, while the noise attenuation with closed windows is about 25 dBA.[11] Therefore, as no other sensitive receptors were found in a 500-foot radius of the Project Site for noise and vibration related impacts, due to distance, the Proposed Project would not create noise impacts during construction on the adjacent residents on Ivar Avenue and Cahuenga and Sunset Boulevards.

In addition, the Commenter states construction noise mitigation in the MND for mufflers (N-3) lacks appropriate performance standards. Mitigation Measure N-3 of the MND states the project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devises. During

[11] *National Cooperative Highway Research Program Report 117, Highway Noise: A Design Guide for Highway Engineers, 1971.*

the construction period, the Los Angeles Department of Building and Safety would monitor the project contractor through ongoing field inspections to ensure the project contractor uses power construction equipment state-of-the-art noise shielding and muffling devises with appropriate performance standards. The Los Angeles Department of Building and Safety would indicate the project contractor is implementing Mitigation Measure N-3 with field inspection sign-off.

With respect to the hours of operation for the Proposed Project's open space uses, the use of the amenities proposed within the hotel common open space, which include a garden on Level 2 and a swimming pool with a pool deck on Level 21, would occur during the typical hours for amenities similar to these in hotel uses. Condition 10 of the Letter of Decision states that no live entertainment shall be permitted on the rooftop/pool deck. Ambient background music shall be permitted on the rooftop/pool deck between the hours of 7 a.m. and 11 p.m., daily. As noted on page III-94 of the MND, the noise generated by hotel guests utilizing the open spaces on Level 2 and Level 21 would be regulated by the LAMC, specifically LAMC Section 116.01. LAMC Section 116.01 prohibits any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary, and unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area. Thus, the Proposed Project would not cause the ambient noise level measured at the property line of affected uses to increase by 3 dBA in CNEL to or within the "normally unacceptable" or "clearly unacceptable" category, or any 5 dBA or greater noise increase. Therefore, the Proposed Project's open space noise impacts would be less than significant and no further CEQA review is required. The Appellants' concerns are noted for the record and will be submitted to the decision makers for their consideration.

COMMENT 1A.18

5. **Air Quality/Health Risk Assessment:** Air quality impacts, and their concomitant impacts on human health, must be studied in the CEQA document. *Bakersfield Citizens*, 124 Cal.App.4th at 1220. Here, as set forth in the July 5, 2016 SWAPE comment letter incorporated herein in its entirety by this reference, the MND does not adequately analyze through a health risk assessment whether the Project will expose sensitive receptors including the nearby residential uses to substantial pollutant concentrations during Project construction, including diesel particulate matter through the use of diesel-fueled construction equipment on-site.

RESPONSE TO COMMENT 1A.18

This comment asserts the MND does not adequately analyze whether the Proposed Project will expose sensitive receptors to substantial pollutant concentrations during Project construction, including diesel particulate matter through the use of diesel-fueled construction equipment on-site. As discussed in greater detail in response to Adams Broadwell Joseph & Cardozo's July 6, 2016 comment letter (See Response to Comment 2.12 in Attachment 3, Response to Comments on Adams Broadwell Joseph & Cardozo, *Comments on the Initial Study / Mitigated Negative Declaration for the Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-SPR),* July 6, 2016), the Health

Risk Assessment Guidelines developed by OEHHA were not intended for non-point source operations such as a hotel project, nor were they developed for purposes of assessing short-term construction impacts for residential or commercial development projects that do not involve regulatory permits from OEHHA.

A Health Risk Assessment is not warranted and was not prepared for the Proposed Project's construction activities because the construction activities that are anticipated would not generate a major source of PM_{10} or $PM_{2.5}$ emissions, and thus would not generate a substantial amount of diesel particulate matter (DPM) or associated toxic air contaminants. The Project's construction emissions were quantified and analyzed in the MND using CARB's recommended CalEEMod modeling program and were compared to the SCAQMD's adopted thresholds for regional and localized air emissions. As noted in the MND, the highest daily peak particulate matter (PM) emissions would occur during the projects grading phase, which is estimated to last approximately 2.5 months. As shown in Table III-1, Estimated Peak Daily Construction Emissions, the highest daily peak PM_{10} and $PM_{2.5}$ emissions estimated for the grading phase were 4.8 lbs./day and 2.54 lbs/day, respectively. As compared to the SCAQMD's significance thresholds of 150 lbs/day for PM10 and 55 lbs/day for $PM_{2.5}$, the Project's construction emissions were well below the regional significance thresholds.

Additionally, the on-site emissions were analyzed in the MND for purposes of addressing localized air quality impacts on adjacent land uses pursuant to the SCAQMD's Localized Thresholds of Significance. As shown in Table III-4, Localized On-Site Peak Daily Construction Emissions, the localized PM_{10} and $PM_{2.5}$ emissions were estimated to be 0.17 lbs/day, in comparison to significance thresholds of 33 lbs/day for PM_{10} and 10 lbs/day for $PM_{2.5.}$ Diesel particulate matter is a subset of both PM_{10} and $PM_{2.5.}$ For further information, please see Response to Comment 2.12 in Attachment 3, Response to Comments on Adams Broadwell Joseph & Cardozo, *Comments on the Initial Study / Mitigated Negative Declaration for the Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-SPR),* July 6, 2016.

COMMENT 1A.19

> 6. **Cultural Resources:** CEQA requires analysis of the Project's impact on cultural resources. In particular, Appellant respectfully insists on compliance with AB 52, set forth in Pub. Res. Code §§ 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 5097.94. Yet, the MND does not mention AB 52. Under AB 52, a project that may cause a substantial adverse change in the significance of a tribal cultural resource is defined as a project that may have a significant effect on the environment under CEQA.[12] AB 52 requires the City to provide notice to tribes that are traditionally and culturally affiliated with the geographic area of Project. If the tribe requests consultation within 30 days upon receipt of the notice, the City of Los Angeles must consult with the tribe. Mitigation measures agreed upon during consultation must be recommended for inclusion in the environmental document.

RESPONSE TO COMMENT 1A.19

[12] *See https://www.opr.ca.gov/s_ab52.php.*

In compliance with AB 52, the City of Los Angeles (lead agency) distributed AB 52 tribal consultation notices related to the Proposed Project to tribes within the greater Los Angeles and southern California region. Therefore, no further response is warranted.

COMMENT 1A.20

7. **Failure to Cure:** The LOD fails to address the abovementioned issues that were raised in traffic expert Neal Liddicoat's letter dated September 1, 2016. Therein, Mr. Liddicoat highlighted several substantial issues affecting the validity of the conclusions presented in the MND. He indicated that a corrected traffic impact analysis would reveal one or more significant impacts that were not documented in the MND, and that a modified traffic impact analysis needed to be prepared, and incorporated into a revised environmental document. Rather than addressing these issues, the LOD states (at pp. F-7, F-17, F-28, F-35, and F-38) that three comment letters were received in connection with the Project's MND and that formal responses were prepared for all three comments. However, these responses do not address the issues raised in the September 1 letter.

RESPONSE TO COMMENT 1A.20

The responses to the issues raised in the comment letter prepared by MRO dated September 1, 2016 are included in Appeal No. 1C, below, and Attachment 2.

COMMENT 1A.21

8. **Conditions of Approval:** The conditions imposed raise additional traffic issues not adequately addressed in the LOD.

   - Condition of Approval 4a. (p. C-1) call for a minimum 20-foot reservoir space between any security gate and the property line. The project proposes a gated service entrance on Ivar Avenue. The required 20-foot reservoir space will not accommodate the trucks that will uses this entrance, however, as those vehicles could be 60 – 70 feet long. Consequently, trucks will extend over the sidewalk and into Ivar Avenue, potentially blocking traffic flow on the public street and creating a safety hazard.

   - Condition of Approval 5b. (p. C-2) states that "Trash/recycling containers shall not be placed in or block access to required parking." According to the project site plan presented as Figure II-7 in the IS/MND (p. II-13), the proposed trash enclosures are located along the Ivar Avenue service entrance and, therefore, will block access to the site when trash is being picked up. This issue was raised on p 6 of the September 1 letter.

   - Conditions of Approval 34. (p. C-7) is supposed to impose restrictions on truck activity at the project site, such as restrict where truck loading and unloading can occur (Condition 34c); limit the number of trucks to no more than two at a time

(Condition 34e); and prohibit staging of trucks on public streets (Condition34f). However, truck activity at the site will change often through the course of the day. Nowhere does the LOD address how these limits on trucks are to be enforced.

RESPONSE TO COMMENT 1A.21

While Condition of Approval 4.a does note a Department of Transportation condition for a 20-foot reservoir to be provided between any security gate(s) and the property line, the site plan has been designed to provide a much greater distance than 20 feet in order accommodate larger service vehicles at the security gate. Refer to Response to Comments 1.C.7, 1C.10, 1C.11, and 1C.13 through 1C.15 for further discussion of service vehicle access associated with the Proposed Project and responses to the September 1, 2016 MRO Engineers comment letter (see Appeal No. 1C, below, and Attachment 2).

In response to Commenter's concern regarding Condition of Approval 5b, refer to above for a discussion of service vehicle access associated with the Proposed Project and responses to the September 1, 2016 MRO Engineers comment letter (see Appeal No. 1C, below, and Attachment 2).

Additionally, in response to Commenter's concern regarding Condition of Approval 34c., 34e., and 34f., while the City's Letter of Determination does not specifically state how Condition of Approval Nos. 34(c), 34(e), and 34(f) will be enforced, Condition of Approval No. 34(m) requires that the Applicant shall identify a construction manager and provide a telephone number for any inquiries or complaints from residents regarding construction activities. The telephone number is required to be posted at the site readily visible to any interested party during site preparation, grading and construction. Thus, any violation of Condition of Approval Nos. 34(c), 34(e), and/or 34(f) are reportable and subject to correction and City enforcement.

COMMENT 1.A22

9. **LOD Contradictions:** First, the LOD contains numerous inaccurate references to "reduction of traffic congestion" associated with the Project. Very simply, the project does not reduce traffic congestion. In fact, the MND Table III-26 (p. III-115) shows that it will add to the road network a net total of 1,285 daily trips, 77 AM peak hour trips, and 113 PM peak hour trips. Further, MND Tables III-27 through III-30 (MND pp. III-117 – III-119) show that the volume/capacity (V/C) ratios at the study intersections increase when project traffic is added to the street system (with limited exceptions), representing increases in traffic congestion. Second, in order to meet certain goals, objectives, and policies, the Project is repeatedly treated as being residential, although on p. F-38 (under item 14) the document states that, the proposed Project "does not have any residential component."

RESPONSE TO COMMENT 1A.22

The Commenter correctly quotes the weekday daily, AM and PM peak hour traffic generation differences between the Proposed Project and the existing on-site land use (i.e., the existing fast-food restaurant with

drive through window). As such, the traffic impacts associated with the proposed project have been correctly assessed.

COMMENT 1A.23

B. Council Should Deny the Project Approval Because the Required Land Use Findings Cannot be Made.

The CEQA, land use and other concerns addressed in this appeal must be adequately addressed in order to make the required City Zoning Code, Community Plan, and Redevelopment Plan findings. *The entitlements are discretionary, not by right*. Absent compliance with the issues addressed herein, the Commission could not make the necessary findings and therefore should have rejected Applicant's requested discretionary entitlements. *Los Angeles Municipal Code* § 12.32.F.1 (requiring for zone change "that the public necessity, convenience, general welfare or good zoning practice so require"; § 12.24.E (conditional use permit for alcohol requires that Project "will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood …" and "substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan …"); §12.28.C.4 (zoning administrator adjustment for zero-foot rear yard must show Project "will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety" and "is in substantial conformance with the purpose, intent and provisions of the General Plan, the applicable community plan …"); § 16.05.F (site plan review findings must show "that the project is in substantial conformance with the purposes, intent and provisions of the General Plan, applicable community plan …" and "that the project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, that is or will be compatible with existing and future development on adjacent properties and neighboring properties"); and *Hollywood Redevelopment Plan* § 506.2.3 (in order to grant up to 6:1 FAR Project must be designed "to concentrate high intensity and/or density development in areas with reasonable proximity or direct access to high capacity transportation facilities or which effectively utilize transportation demand management programs" and "[a]ny adverse environmental effects especially impacts upon the transportation and circulation system of the area caused by proposed development shall be mitigated or are overridden by other social, economic or physical considerations, and statements of findings are made").

In particular, Appellant wants to call attention to the purported Redevelopment Plan § 506.2.3 required findings that impacts to transportation and circulation caused by the Project are overridden by other social, economic or physical considerations. This required statement of overriding considerations must be supported by substantial evidence in the record and the agency must present an explanation to supply the logical steps between the ultimate finding and the facts in the record. *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515. It has not.

Here, in exchange for giving this Project a host of discretionary development favors, the City is requiring close to nothing . First, the OPA[13] or required Hollywood Redevelopment Plan § 506.2.3 and Ordinance No. 165,660 "D" Limitation DDA or "binding written agreement with the Agency … providing for, among other things, Agency review and approval of all plans and specifications, the compliance with all conditions applicable to development in excess of a 4:5:1 site FAR and the provision of adequate assurances and considerations for the purpose of effectuating the objectives of the Plan" are nowhere to be found. Why are those documents on a separate track? The most that is said is buried in the MND note 49 that suggests "Applicant expects to enter" into an OPA. Second, there are virtually zero community benefits for the Project, other than required enhancements to mitigate direct transportation impacts. Applicant offers one $1,000 scholarship, a "[c]ommitment to coordinate" a job fair and two internships. Is this really appropriate for a Project of this magnitude?

In reality, the proposed findings make no attempt to determine the required "social, economic or physical considerations" of the Project. For example, identifying new jobs created by the Project, in either the construction phase or the operational phase, the likely salary and wage ranges, and whether employees will have the right to collectively bargain. Without this information, the City lacks substantial evidence to make any statement of overriding considerations. The City cannot find that the economic and social benefits of the Project outweigh the environmental costs.

RESPONSE TO COMMENT 1A.23

See Response to Comment 1A.9.

APPEAL No. 1B

Neal K. Liddicoat, P.E.

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December 13, 2016

[13] *In light of CRA/LA dissolution, the appropriate action in order to remove the limitation requiring the OPA or otherwise divest the CRA/LA of its responsibility to enter into OPAs would be to: i) transfer the powers of the former CRA to the City, or ii) amend the Hollywood Redevelopment Plan. Neither has yet occurred. The City is in the process of considering an ordinance to take control from the former CRA's responsibilities. https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=13-1482-S1; https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=11-0086-S4; https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=12-0014-S4. Once the City transfers authority, then it will have the ability to assume the role of the former CRA/LA. In the absence of a successor agency to administer redevelopment activities, the Applicant cannot cherry pick portions of the Hollywood Redevelopment Plan that it likes (the FAR increase) while ignoring others (the OPA/DDA requirement).*

COMMENT 1B.1

Dear Mr. Kracov:

On September 1, 2016, MRO Engineers, Inc., (MRO) prepared a letter documenting our review of the "Transportation and Traffic" section of the Initial Study/Mitigated Negative Declaration (IS/MND) for the Hollywood Ivar Gardens Project (Parker Environmental Consultants, June 9, 2016). The "Transportation and Traffic" section of the IS/MND was based on a traffic impact analysis prepared by Linscott, Law & Greenspan (LLG). (Reference: Linscott, Law & Greenspan, *Traffic Impact Study – Ivar Gardens Hotel Project*, December 23, 2015.)

Our review revealed several substantial issues affecting the validity of the conclusions presented in the IS/MND. We also determined that a corrected traffic impact analysis would reveal one or more significant impacts that were not documented in the IS/MND, and that a modified traffic impact analysis must be prepared, and incorporated into a revised environmental document.

RESPONSE TO COMMENT 1B.1

This comment discusses the comment letter prepared by MRO Engineers, Inc. (MRO) dated September 1, 2016, which is included with detailed responses in Appeal No. 1C, below, and Attachment 2. This comment also provides a general introduction to the Appellants' concerns and claims, which are further discussed in succeeding paragraphs. As further discussed below, all points of concern raised by the Commenter have been addressed and shown to result in a less than significant impact (as further analyzed in the MND). This comment is noted for the record and will be forwarded to decision makers.

COMMENT 1B.2

We have now received a copy of the December 5, 2016 "Letter of Determination from the Los Angeles City Planning Commission with respect to the proposed Ivar Gardens Hotel Project. That letter documents the approval of the project by the Planning Commission as well as the Conditions of Approval that apply to the project. This letter documents the results of our review of the Letter of Determination.

First, we note that the Letter of Determination states (at pp. F-7, F-17, F-28, F-35, and F-38) that three comment letters were received in connection with the Ivar Gardens Hotel IS/MND, and that formal responses were prepared for all three comments. It does not appear, however, that any response has been prepared to address the issues raised in our September 1 letter.

RESPONSE TO COMMENT 1B.2

The responses to the issues raised in the comment letter prepared by MRO dated September 1, 2016 are included in Appeal No. 1C, below, and Attachment 2.

COMMENT 1B.3

In addition, we have the following comments:

1. Conditions of Approval

   a. Condition of Approval 4a. (p. C-1) call for a minimum 20-foot reservoir space between any security gate and the property line. The project proposes a gated service entrance on Ivar Avenue. The required 20-foot reservoir space will not accommodate the trucks that will uses this entrance, however, as those vehicles could be 60 – 70 feet long. Consequently, trucks will extend over the sidewalk and into Ivar Avenue, potentially blocking traffic flow on the public street and creating a safety hazard.

   b. Condition of Approval 5b. (p. C-2) states that "Trash/recycling containers shall not be placed in or block access to required parking." According to the project site plan presented as Figure II-7 in the IS/MND (p. II-13), the proposed trash enclosures are located along the Ivar Avenue service entrance and, therefore, will block access to the site when trash is being picked up. This issue was raised on p 6 of the September 1 letter.

   c. Conditions of Approval 34c., 34e., and 34f. (p. C-7) are intended to impose restrictions on truck activity at the project site.

      i. Condition 34c. restricts where truck loading and unloading can occur.

      ii. Condition 34e. limits the number of trucks to no more than two at a time.

      iii. Condition 34f. prohibits staging of trucks on public street.

      Truck activity at the site will change often through the course of a day. Nowhere does the Letter of Determination address how these limits on trucks are to be enforced.

RESPONSE TO COMMENT 1B.3

While Condition of Approval 4.a does note a Department of Transportation condition for a 20-foot reservoir to be provided between any security gate(s) and the property line, the site plan has been designed to provide a much greater distance than 20 feet in order accommodate larger service vehicles at the security gate. Refer to Response to Comments 1.C.7, 1C.10, 1C.11, and 1C.13 through 1C.15 for further discussion of service vehicle access associated with the Proposed Project and responses to the September 1, 2016 MRO Engineers comment letter (see Appeal No. 1C, below, and Attachment 2).

In response to Commenter's concern regarding Condition of Approval 5b, refer to above for a discussion of service vehicle access associated with the Proposed Project and responses to the September 1, 2016 MRO Engineers comment letter (see Appeal No. 1C, below, and Attachment 2).

Additionally, in response to Commenter's concern regarding Condition of Approval 34c., 34e., and 34f., while the City's Letter of Determination does not specifically state how Condition of Approval Nos. 34(c), 34(e), and 34(f) will be enforced, Condition of Approval No. 34(m) requires that the Applicant shall identify a construction manager and provide a telephone number for any inquiries or complaints from residents regarding construction activities. The telephone number is required to be posted at the site

readily visible to any interested party during site preparation, grading and construction. Thus, any violation of Condition of Approval Nos. 34(c), 34(e), and/or 34(f) are reportable and subject to correction and City enforcement.

COMMENT 1B.4

2. The Letter of Determination contains numerous inaccurate references to "reduction of traffic congestion" associated with the Ivar Gardens Hotel project. Very simply, the project does not reduce traffic congestion. In fact, IS/MND Table III-26 (p. III-115) shows that it will add to the road network a net total of 1,285 daily trips, 77 AM peak hour trips, and 113 PM peak hour trips. Further, IS MND Tables III-27 through III-30 (MND pp. III-117 – III-119) show that the volume/capacity (V/C) ratios at the study intersections increase when project traffic is added to the street system (with limited exceptions), representing increases in traffic congestion.

RESPONSE TO COMMENT 1B.4

The Commenter correctly quotes the weekday daily, AM and PM peak hour traffic generation differences between the Proposed Project and the existing on-site land use (i.e., the existing fast-food restaurant with drive through window). As such, the traffic impacts associated with the proposed project have been correctly assessed.

COMMENT 1B.5

3. Finally, we note that, in order to meet certain goals, objectives, and policies, the project is repeatedly treated as being residential although on p. F-38 (under item 14) the document states that, "The Proposed Project does not have any residential component."

RESPONSE TO COMMENT 1B.5

The Commenter asserts the Proposed Project is treated as being residential. However, the Commenter does not elaborate on this claim nor does the Commenter provide examples within this comment. The MND analyzed the Proposed Project, which includes the construction and operation of a mixed-use hotel and retail building. As such, the Proposed Project does not include a residential component.

COMMENT 1B.6

We hope this information is useful. If you have questions concerning anything presented, please feel free to contact me at (916) 783-3838.

RESPONSE TO COMMENT 1B.6

Commenter's concerns have been noted for the record and will be forwarded to the decision makers for their consideration. No further response is warranted.

APPEAL No. 1C

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September 1, 2016

COMMENT 1C.1

MRO Engineers, Inc., (MRO) has reviewed the Planning Commission Staff Report that incorporates the "Transportation and Traffic" section of the Initial Study/Mitigated Negative Declaration (IS/MND) for the Hollywood Ivar Gardens Project at 6409 Sunset Boulevard, Los Angeles, California (Parker Environmental Consultants, June 9, 2016). . The "Transportation and Traffic" section of the IS/MND is based on a traffic impact analysis prepared by Linscott, Law & Greenspan (LLG). (Reference: Linscott, Law & Greenspan, *Traffic Impact Study – Ivar Gardens Hotel Project*, December 23, 2015.) The LLG traffic study is presented as Appendix G to the IS/MND. Our review focused on the technical adequacy of the Transportation and Traffic analysis, including the detailed procedures and conclusions documented in the LLG study.

Our review of the IS/MND Transportation and Traffic analysis revealed potentially significant deficiencies and impacts that should be addressed prior to approval of the project and its related environmental documentation by the City of Los Angeles. These issues are summarized below.

1. ***Traffic Volume Data*** – The basic ground rules for conduct of the traffic impact analysis are established by the Los Angeles Department of Transportation (LADOT). That department has published a document entitled, *Traffic Study Policies and Procedures* (August 2014), which presents the specific guidelines to be followed in preparing a traffic impact analysis in the City of Los Angeles. Page 7 of the document states: . . . *all traffic counts should generally be taken when local schools or colleges are in session, on days of good weather, on Tuesdays through Thursdays during non-Summer months, and* ***should avoid being taken on weeks with a holiday.*** [Emphasis added.] Table 5-1 (p. 23) in the LLG report lists the dates on which the intersection turning movement counts were performed. As shown there, traffic counts were conducted at two of the study intersections (Ivar Avenue/Sunset Boulevard and Vine Street/Sunset Boulevard) on April 8, 2015. Referring to a 2015 calendar, we see that Easter Sunday occurred on April 5, and the data collection occurred on the following Wednesday (i.e., during a week with a holiday). This is a clear violation of LADOT traffic study policies and procedures. Because the intersection traffic volumes represent the most critical input parameter in the level of service calculation process, any inaccuracies in those values directly affect the validity of the level of service results. To the extent that the "existing" peak-hour traffic volumes are inaccurate, the corresponding level of service results in the traffic analysis will be invalid, and a misleading analysis of environmental setting and project-related impacts will be provided. Consequently, in

accordance with LADOT traffic study guidelines, updated traffic data must be obtained for the two locations listed above and revised level of service calculations performed for all analysis scenarios, and incorporated into a revised environmental document.

RESPONSE TO COMMENT 1C.1

As discussed in Response No. 1 of Attachment 2, LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016, Commenter's quoting of the LADOT *Traffic Study Policies and Procedures* document as it relates to the conduct of baseline existing traffic counts is acknowledged. The commenter calls into question the validity of the two intersection manual peak hour traffic counts that were conducted on Wednesday, April 8th, 2015 (i.e., the Wednesday after Easter Sunday, 2015) as part of the traffic study. These two locations correspond to the Ivar Avenue/Sunset Boulevard and Vine Street/Sunset Boulevard intersections, Study Intersection Nos. 5 and 6, respectively. It should be noted that these two intersections were required to be recounted since LLG's prior approved traffic impact study and corresponding manual traffic counts for these two locations became outdated (i.e., were more than two years old when the revised project description was received and a revised traffic impact study was required for entitlement processing). LADOT policy is that traffic count data should be no more than two years old.

While Easter Sunday was April 5th, LLG verified with LADOT that it would be acceptable to conduct traffic counts later the following week, since it was verified that all schools were back in full Spring session. UCLA, USC, and LAUSD schools including Hollywood High School and the nearby Armenian High School all were in regular session. LADOT approved the conduct of the manual peak hour traffic counts for this reason. LLG and LADOT concurred in the assessment that the traffic counts were not influenced by vacations and schools being out of session, since the Spring break session occurred before Easter that year.

COMMENT 1C.2

2. ***Project Trip Generation***– The trip generation estimates for the proposed Ivar Gardens Hotel are presented in IS/MND Table III-29 (p. III-115) and LLG Table 7-1 (p. 38). We have identified several issues relating to these estimates.

Pass-by And Diverted Trips Were Not Properly Addressed

The IS/MND traffic analysis improperly applies a 50 percent adjustment for "pass-by" trips that (because of round-offs) eliminated all of the AM trips and four of the seven PM trips. (In effect, the analysis applied a 100 percent pass-by trip reduction to the AM peak-hour values and a 57 percent reduction to the PM peak-hour numbers.)

As background, three types of trips are commonly made to retail facilities:

- Primary trips – Trips made for the specific purpose of visiting the retail use.

- Pass-by trips – Trips that are already on the roadway adjacent to the project access location(s), with the trip to the project site being an intermediate stop as part of another trip.

- Diverted trips – Trips attracted from roadways in the vicinity of the project site, but without direct access to the site.

Pass-by trips are specifically defined on p. 93 of the ITE *Trip Generation Handbook*, which presents the current state-of-the-practice with regard to pass-by trips:

> *Pass-by trips are attracted from traffic passing the site* on an adjacent street or roadway *that offers direct access to the generator.* ***Pass-by trips are not diverted from another roadway not adjacent to the site.*** [Emphasis not added.]

The classic example of a pass-by trip is stopping for a gallon of milk on the way home from work. In that example, the trip from work to home represents the primary trip purpose and the shopping trip is the pass-by trip.

The ITE *Trip Generation Handbook* presents a detailed example to illustrate the proper method for assigning primary, diverted, and pass-by trips. In the Ivar Gardens Hotel traffic analysis, it does not appear that the pass-by trips or diverted trips have been assigned in accordance with the procedure set forth in the ITE document. If the assignment has been incorrectly performed, the project's impacts will be understated at key study intersections near the site.

IS/MND Table III-29 (p. III-115) and LLG Table 7-1 (p. 38) summarize the pass-by trip reductions associated with the proposed project's retail component and the existing Jack in the Box restaurant, and provide the resulting "net increase" in traffic. As presented there, the "net increase" simply reflects subtraction of the number of pass-by trips from the total estimated project trip generation. However, suggesting that pass-by trips result in a simple reduction in the project's trip generation is inaccurate, as the total volume of traffic generated by the proposed project will occur at the project's driveways, regardless of the pass-by percentage.

In fact, when incorporating a pass-by trip adjustment into a traffic impact analysis, only the <u>method</u> of assigning those trips to the roadway system differs from the assignment of non-pass- by (i.e., "primary" or "diverted") trips; the number of project-related trips assigned to the roads is unchanged (i.e., no reduction occurs). Specifically, separate assignments of primary trips, pass-by trips, and diverted trips must be performed, and the results of those three processes combined to create the overall project traffic assignment. Among other shortcomings, the IS/MND traffic analysis does not recognize the distinction between "pass-by" trips and "diverted" trips. Pass-by trips are literally derived from the traffic passing by on the adjacent street providing direct access to the site (in this case, Cahuenga Boulevard provides direct access for all but service/delivery vehicles). Trips that are attracted from traffic on nearby (but not adjacent) streets, such as Sunset Boulevard (which provides no direct access to the proposed project), are diverted trips. A key distinction between the two types of trips is that diverted trips represent new traffic on the street adjacent to the project site access driveway, whereas pass-by trips do not.

Consider the following example. When the retail component of the proposed project opens for business, some drivers on eastbound Sunset Boulevard will be attracted to that use. Currently, those drivers pass through the Cahuenga Boulevard/Sunset Boulevard intersection as eastbound through vehicles – that is, they travel straight through the intersection. When they, instead, travel to the retail space, they will make a left turn from eastbound Sunset Boulevard to northbound Cahuenga Boulevard, in order to enter the project driveway.

Because of the failure to recognize the difference between pass-by trips and diverted trips, the IS/MND traffic analysis fails to account for these added eastbound left-turns. This is important, because the level of service calculation method used in the analysis is based, in part, on the number of conflicting left turns at an intersection. If the proposed retail use results in added eastbound left turns at Cahuenga Boulevard/Sunset Boulevard, the volume/capacity (V/C) ratio at the intersection will increase (as that is a critical movement) and the level of service might be worse than reported in the IS/MND.

RESPONSE TO COMMENT 1C.2

As discussed in Response No. 2A of Attachment 2, LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016, LLG acknowledges the various types of trips generated by most development projects (primary, pass-by and diverted link trips). The traffic impact study was prepared in accordance with LADOT policy regarding pass-by trips and an executed Memorandum of Understanding (MOU) between LADOT and LLG as the traffic consultant was obtained (i.e., signed approval) prior to commencement of the analysis. Having stated this, the main point of this response is that LADOT policy is that pass-by trip reductions are not allowed for consideration at project-adjacent intersections. As such, LADOT does not require separate assignments of each individual trip type since these adjustments are not taken at adjacent intersections. The intersection worksheets appropriately reflect that pass-by trip reductions were not applied at both the Cahuenga Boulevard/Sunset Boulevard and Ivar/Sunset Boulevard intersections, Study Intersection Nos. 3 and 5, respectively. The commenter is likely not aware of this local LADOT policy.

LLG concurs with Commenter that the total volume of traffic generated by the proposed project will occur at the project's driveways, regardless of the pass-by percentage. Finally, for purposes of assessing project-related traffic impacts and pass-by trip reductions at non-adjacent intersections, LADOT traffic study guidelines do allow the incorporation of existing-use trip generation credits (i.e., the existing trip generation credit for the Jack-in-the-Box fast-food restaurant which will be demolished for this project). Therefore, the traffic impact study conclusions remain valid.

COMMENT 1C.3

In fact, review of the LOS calculation sheets presented in Appendix C of the LLG traffic impact analysis report reveals that addition of one PM peak-hour eastbound left turn at the intersection of Cahuenga Boulevard/Sunset Boulevard will increase the project-related incremental increase in V/C to 0.020 under future conditions. Because the intersection is projected to operate at LOS D under both Future Without Project and Future With Project conditions, a project-related V/C increase equal to or greater than 0.020 represents a significant impact under LADOT criteria.

Table 1 summarizes the critical movements and V/C results for the PM peak hour from the Project's AM and PM peak-hour LOS calculation sheets from the LLG study for the Cahuenga Boulevard/Sunset Boulevard intersection and also illustrates the effect of adding one eastbound left turn in that time period, based on data taken directly from the calculation sheets for that intersection in the LLG study. As noted above, that one additional left turn results in a significant impact at the intersection.

As demonstrated in Table 1, any minor correction or modification to the traffic analysis that would add a single project-related PM peak-hour eastbound left turn at Cahuenga Boulevard/Sunset Boulevard would result in a significant impact. The same is true with respect to each of the critical volumes shown in Table 1 (i.e., the northbound through, the southbound left, or the westbound through). We believe that correctly accounting for diverted and pass-by trips at the project will have that effect.

Table 1
Level of Service Calculation Summary
Cahuenga Boulevard/Sunset Boulevard
PM Peak Hour

Critical Movement	Lane Volume		
	IS/MND Calculations[1]		Modified Future With Project[2]
	Future Without Project	Future With Project	
Northbound Through	427	428	428
Southbound Left	86	103	103
Eastbound Left	244	249	**250**
Westbound Through	575	580	580
Critical Volumes	North-South: 513 East-West: 819 SUM: 1,332	North-South: 531 East-West: 829 SUM: 1,360	North-South: 531 East-West: **830** SUM: **1,361**
Volume/Capacity (V/C) Ratio	0.935	0.954	**0.955**
V/C Less ATSAC/ATCS Adjustment	0.835	0.854	**0.855**
Level of Service (LOS)	D	D	D
Change in V/C due to project		0.019	**0.020**
Significant impact?		No	**Yes**

Notes:
[1] Reference: : Linscott, Law & Greenspan, *Traffic Impact Study – Ivar Gardens Hotel Project*, December 23, 2015
[2] Modified to reflect one additional eastbound left turn; Modified values shown in **bold** font.

We also evaluated the AM peak-hour calculation for this intersection under future year conditions. In that case, addition of three project-generated vehicles to any of the critical movements would increase the incremental V/C value sufficiently to result in a significant traffic impact. Table 2 summarizes the critical movements and V/C results for that peak hour. In that case, because the intersection is projected to operate at LOS E, a project-related incremental increase in V/C ratio of only 0.010 constitutes a significant impact.

Table 2 Level of Service Calculation Summary Cahuenga Boulevard/Sunset Boulevard AM Peak Hour			
	Lane Volume		
	IS/MND Calculations[1]		Modified Future With Project[2]
Critical Movement	Future Without Project	Future With Project	
Northbound Through	43	43	43
Southbound Left	661	667	667
Eastbound Left	175	176	**179**
Westbound Through	604	608	608
Critical Volumes	North-South: 704 East-West: 779 SUM: 1,483	North-South: 710 East-West: 784 SUM: 1,494	North-South: 710 East-West: **787** SUM: **1,497**
Volume/Capacity (V/C) Ratio	1.041	1.048	**1.051**
V/C Less ATSAC/ATCS Adjustment	0.941	0.948	**0.951**
Level of Service (LOS)	E	E	E
Change in V/C due to project		0.007	**0.010**
Significant impact?		No	**Yes**
Notes: [1] Reference: : Linscott, Law & Greenspan, *Traffic Impact Study – Ivar Gardens Hotel Project*, December 23, 2015 [2] Modified to reflect 3 additional eastbound left turns; Modified values shown in **bold** font.			

RESPONSE TO COMMENT 1C.3

As discussed in Response No. 2B of Attachment 2, LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016, the intersection calculation worksheets contained in Appendix C of the LLG December 23, 2015 traffic impact study are correct. LLG does not disagree with Commenter that the calculations are quite sensitive and even one additional eastbound left-turn due to the project at the Cahuenga/Sunset intersection would have triggered a significant traffic impact based on the adopted City of Los Angeles significance thresholds. Table 9-1, page 45 of the traffic impact study, presents the summary of the *v/c* ratios and LOS at the six study intersections. LLG acknowledges that based on the impact analysis results, the *v/c* ratio increase for Study Intersection No. 3 (the Cahuenga Boulevard/Sunset Boulevard intersection) is just below the City's adopted significance thresholds, with a reported increase of 0.019 at LOS D, while the significance threshold at LOS D being a project-related increase in the *v/c* ratio of 0.02 or more.

COMMENT 1C.4

The Assumed 50 Percent Pass-by Rate is Inappropriate

Finally, we note that the 50 percent pass-by rate assumed for the retail use in the traffic analysis is apparently based on the assumption that the retail space is a "shopping center less than 50,000 sf," per the LADOT *Traffic Study Policies and Procedures*. On the other hand, if the retail space were assumed to be "specialty retail," the pass-by rate would be 10 percent. Similarly, if it were a bank/savings & loan, the pass-by rate would be 20 percent. Since we assume the specific tenant is unknown at this time, the conservative approach would be to assume a lower pass-by trip rate.

RESPONSE TO COMMENT 1C.4

As discussed in Response No. 2C of Attachment 2, LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016, the pass-by reductions for the various land uses were reviewed and approved by LADOT. Further, while Table 7-1 on page 38 of the traffic impact study does show the "rounded" pass-by reductions, the intersection calculation worksheets are not rounded until the very end and the *v/c* ratio results are reported to three (3) decimal places. The 50% pass-by adjustment percentage is per LADOT policy for retail (shopping center) uses. It is important to note that Commenter also claims that a "Specialty Retail" trip generation rate should have been applied in the traffic analysis. In response, LADOT and LLG reviewed the trip generation rates employed in the traffic analysis in detail as part of the formal MOU process. The specialty retail average trip generation rate was not used for two reasons: 1) No AM peak hour trip generation rate is provided by ITE for the Specialty Retail category (ITE Land Use Code 826), and 2) Given the square footage for the retail component, the ITE Specialty Retail average PM peak hour trip generation rate would have produced fewer (lower) traffic volumes than using the retail (ITE Land Use Code 820 Shopping Center) average PM peak hour trip generation rate. Thus, the traffic analysis is conservative since it employed the higher rate of the two retail land use categories.

COMMENT 1C.5

Trip Generation Summary

The trip generation estimates developed with respect to the proposed Ivar Gardens Hotel project are flawed. The decision to use the "average rate" was wrong, the trip generation approach was not sufficiently conservative, and the treatment of pass-by and diverted trips was erroneous. We have demonstrated that correcting these errors will almost certainly result in significant impacts in both the AM and PM peak hours.

RESPONSE TO COMMENT 1C.5

As discussed in Response No. 2D of Attachment 2, LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016, refer to Response to Comments 1C.2 through 1C.4 above for a summary of the validity of the project trip generation forecast as contained in the LLG December 23, 2015 traffic impact study.

The decision to incorporate ITE "average" weekday daily, AM and PM peak hour trip generation rates versus the ITE trip generation regression "equations" for purposes of forecasting project trip generation

was carefully considered as part of the traffic impact study scoping process. First, ITE does not provide regression equations for the Fast-Food Restaurants with Drive-Through land use category (ITE Land Use Code 934). Second, ITE does not provide regression equations for the weekday daily and PM peak hour time periods for the Hotel land use category (ITE Land Use Code 310). Also, for the hotel land use, the weekday AM peak hour trip generation is essentially the same whether the average rate or provided regression equation is employed. Third, for very small square footages (e.g., less than 2,000 square feet for the retail component) use of the regression equation was not advised by LADOT, as using the equation would result in a gross overstatement of potential trips. In fact, use of the regression equations as suggested in the comment would represent an incorrect use and interpretation of the data provided in the *Trip Generation* Manual.

The trip generation data compiled by ITE, and the resultant regression equations, are derived from traffic counts conducted at stand-alone, suburban centers. The retail component of the project, by substantial contrast, is mainly an ancillary use to the hotel and intended to serve hotel guests as well as the surrounding Hollywood community. Thus, the retail component of the project will benefit from the same type of multiple trip-making that is anticipated at larger retail centers. Instead of utilizing the "suburban-based" regression equations, the traffic study follows the ITE recommendation to consider trip-making by walking, bicycling, and public transportation that would reduce the number of private automobile trips. As noted, the traffic study employs "average" trip rates for the retail component rather than the regression equations and while both are based on the ITE traffic counts collected at suburban retail centers, using the average rates produces a result that is not as severely skewed as the trip forecasts resulting from the use of the regression equations. This is due to the very small amount of floor area which the retail component comprises. No further analysis is required or warranted.

COMMENT 1C.6

3. ***Existing Jack in the Box Traffic*** – The Jack in the Box restaurant that currently occupies the project site will be demolished as part of the project. To account for this, the volume of traffic associated with that land use must be subtracted from the existing traffic volumes. But instead of actually counting how much vehicular traffic occurs at the existing restaurant, that value was estimated using standard trip generation rates from the ITE *Trip Generation Manual.*

   Also, Figures B-1 and B-2 in the LLG report show the geographic distribution used to "un-assign" those trips from the study intersections. It is not clear if these distribution percentages are based on any form of data collection or are simply a guess. Given the fact that the Jack in the Box restaurant currently exists, the appropriate way to handle this is to perform directional traffic counts at the existing driveways. That approach allows the analyst to determine with certainty how much traffic occurs and where it comes from and goes to.

   In short, the approach taken in the IS/MND traffic analysis is speculative and, therefore, questionable. The rationale for estimating the trip generation and distribution when data could be collected to provide a meaningful basis for accounting for the existing use must be explained.

RESPONSE TO COMMENT 1C.6

As discussed in Response No. 3 of Attachment 2, LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016, LADOT did not require site specific traffic counts in order to determine the existing use trip generation credit. If a land use is atypical and not included in the ITE database, or has not been studied extensively by ITE, LADOT may require site-specific surveys. In this case, as fast-food restaurants have been extensively studied by ITE, LADOT did not require the conduct of site-specific trip generation surveys.

The distribution of traffic volumes for the existing fast-food restaurant was based on general observations of driveway activity conducted during the weekday AM and PM commuter peak hours.

COMMENT 1C.7

4. ***Project Driveway Operations*** – The project proposes one full-access (i.e., all turning movements allowed) public driveway on Cahuenga Boulevard plus an inbound-only, gate-controlled service driveway on Ivar Avenue. All traffic (including delivery trucks and service vehicles) must exit at the Cahuenga Boulevard location. Both driveways are located about 100 - 125 feet (i.e., 4 - 5 car lengths) north of Sunset Boulevard.

   However, no analysis of either project driveway intersection is done. Issues to address include:

RESPONSE TO COMMENT 1C.7

As discussed in Response No. 4A of Attachment 2, LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016, Commenter is correct in the general statements regarding the intent of the proposed site access and circulation scheme (i.e., the single service entry driveway off of Ivar Avenue and the commercial driveway off of Cahuenga Boulevard). The commenter also is correct with respect to noting that the future planned driveways (i.e., one each on Cahuenga Boulevard and Ivar Avenue) are approximately 100 to 125 feet north of Sunset Boulevard. It is important to note, while not raised by Commenter, that the project site property frontages along these roadways is only approximately 150 feet. Thus, the proposed project driveways have been located as far away (i.e., north of) Sunset Boulevard as possible. In addition, site access was extensively reviewed by the project applicant team and by LADOT (regarding the overall access scheme). In addition, the elimination of the curb cut driveway on Sunset Boulevard should help alleviate some of the potential conflicts that occur today on Sunset Boulevard between Cahuenga Boulevard and Ivar Avenue.

Truck maneuvering studies were performed to demonstrate the feasibility of the service driveway and design to accommodate service vehicles. The location of the Ivar Avenue gate control and on-site at-grade service/delivery area also was modified to address LADOT's previous concern about the potential for vehicle queuing back out onto the public roadway system. LADOT will require at a later date (as noted in the departmental clearance letter, Section D of the January 6, 2016 letter) the formal clearance of internal circulation and driveway design, should the project gain approval by the City's decision-makers.

COMMENT 1C.8

- Will drivers be able to safely make left turns into and out of the site at the Cahuenga Boulevard driveway? This is a particular issue for exiting trucks.

RESPONSE TO COMMENT 1C.8

As discussed in Response No. 4B of Attachment 2, LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016, truck maneuvering studies were performed to demonstrate the feasibility of the service driveway and design to accommodate service vehicles, and additional maneuvering studies also were prepared for the exiting maneuver. The existing roadway striping on Cahuenga Boulevard does allow for left-turns in and left-turns out. Refer to Response Nos. 4A above and 4C below for additional discussion.

COMMENT 1C.9

- It appears that Cahuenga Boulevard has a "painted median" at the driveway (i.e., "double-double" yellow lines). As described in the *2016 California Driver Handbook*[14], it is illegal to turn left across a barrier/painted median, so this driveway must be limited to right-turns only.

RESPONSE TO COMMENT 1C.9

As discussed in Response No. 4C of Attachment 2, LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016, Commenter's claim that Cahuenga Boulevard is painted with double-double yellow striping in the median area is not consistent with LLG's field review. LLG noted during field visits and observations that a single double yellow with a skip double yellow stripe is present across from the existing Cahuenga Boulevard driveway. Thus, left-turns into and out of the driveway are legal. This striping treatment is expected to be maintained following completion of the proposed project. In addition, LADOT reviewed and cleared the assume project traffic distribution patterns both for the existing site conditions and the proposed project conditions.

COMMENT 1C.10

- How much delay will drivers experience as they enter or exit?

RESPONSE TO COMMENT 1C.10

As discussed in Response No. 4D & 4E of Attachment 2, LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016, based on a review of the forecast driveway traffic volumes, the inbound motorist delay for the planned Cahuenga Boulevard driveway is expected to be nominally increased over existing conditions, when compared with the existing commercial Cahuenga Boulevard driveway operations associated with the Jack-in-the Box fast-food restaurant. Formal delay calculations were not required for the project driveway, but any exiting queuing,

[14] *https://www.dmv.ca.gov/portal/dmv/detail/pubs/hdbk/driver_handbook_toc*

if it occurs, would be internal to the site and would not affect on- street traffic operations. Finally, Commenter's claim that delays will become excessive and lead to potential unsafe motorist behavior is not substantiated with any evidence.

It is noted that LADOT could require "Keep Clear" pavement markings on Cahuenga Boulevard across from the project driveway as part of the detailed site access, internal circulation clearance process. Refer to Response to Comment 1C.7, above, and Response No. 4A in Attachment 2 for further discussion regarding the project driveway location. The process for project driveway review has not yet been initiated and is dependent upon approval of the project by the City's decision-makers. To date, "Keep Clear" pavement markings have not been requested or required.

COMMENT 1C.11

- When delays become excessive, will drivers perform ill-advised and unsafe maneuvers, such as trying to turn into or through inadequate gaps in Cahuenga Boulevard traffic?

RESPONSE TO COMMENT 1C.11

As discussed in Response No. 4D & 4E of Attachment 2, LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016, based on a review of the forecast driveway traffic volumes, the inbound motorist delay for the planned Cahuenga Boulevard driveway is expected to be nominally increased over existing conditions, when compared with the existing commercial Cahuenga Boulevard driveway operations associated with the Jack-in-the Box fast-food restaurant. Formal delay calculations were not required for the project driveway, but any exiting queuing, if it occurs, would be internal to the site and would not affect on- street traffic operations. Finally, Commenter's claim that delays will become excessive and lead to potential unsafe motorist behavior is not substantiated with any evidence.

It is noted that LADOT could require "Keep Clear" pavement markings on Cahuenga Boulevard across from the project driveway as part of the detailed site access, internal circulation clearance process. Refer to Response to Comment 1C.7, above, and Response No. 4A in Attachment 2 for further discussion regarding the project driveway location. The process for project driveway review has not yet been initiated and is dependent upon approval of the project by the City's decision-makers. To date, "Keep Clear" pavement markings have not been requested or required.

COMMENT 1C.12

- As noted above, the driveways are only about 100 - 125 feet north of Sunset Boulevard. How long will the queues be on southbound Cahuenga Boulevard and southbound Ivar Avenue, and what effect will those queues have on the ability to enter or exit the site?

RESPONSE TO COMMENT 1C.12

As discussed in Response No. 4F of Attachment 2, LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016, refer to Response to Comments 1C.7, 1C.10, and 1C.11, above.

COMMENT 1C.13

- How long will the inbound queue of delivery trucks/service vehicles be at the gate-controlled Ivar Avenue driveway? Will the trucks back out onto the public street and block northbound and/or southbound traffic on Ivar Avenue?

RESPONSE TO COMMENT 1C.13

As discussed in Response No. 4G & 4H of Attachment 2, LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016, service and deliveries can be coordinated by the project applicant so as to minimize overlap. The service entry gate arm is located far enough internal to the site such that a truck will be able to fully enter the site and not block or back-out onto Ivar Avenue. In addition, it is LADOT policy that no trucks back out onto City Streets (i.e., head-in/head-out maneuvers are required). The project site design complies with this requirement.

COMMENT 1C.14

- Will trucks waiting on northbound Ivar Avenue to turn left into the site block the northbound traffic flow on Ivar Avenue, potentially causing queues to extend back to Sunset Boulevard?

RESPONSE TO COMMENT 1C.14

As discussed in Response No. 4G & 4H of Attachment 2, LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016, service and deliveries can be coordinated by the project applicant so as to minimize overlap. The service entry gate arm is located far enough internal to the site such that a truck will be able to fully enter the site and not block or back-out onto Ivar Avenue. In addition, it is LADOT policy that no trucks back out onto City Streets (i.e., head-in/head-out maneuvers are required). The project site design complies with this requirement.

COMMENT 1C.15

- The project site plan (IS/MND Figure II-7, p. II-13) shows that the hotel's trash enclosure, which will accommodate three dumpsters, is located on the service driveway. What will happen when a tractor-trailer full of material to be delivered to the hotel arrives while trash is being picked up and the service driveway is blocked by a garbage truck or one or more dumpsters?

RESPONSE TO COMMENT 1C.15

As discussed in Response No. 4I of Attachment 2, LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016, if a waste management truck is on-site to offload a dumpster, an adequate queue area has been designed such that if another hotel-related delivery truck needs to be on-site concurrently, it can be accommodated. Refer to Responses to Comments 1C.13 and 1C.14 for further discussions and the coordination that will occur so as to minimize overlap instances.

COMMENT 1C.16

These issues must be addressed to ensure that the public fully understands the potential impacts of developing the proposed project. A revised traffic analysis is necessary.

RESPONSE TO COMMENT 1C.16

Please refer to Responses to Comments 1C.7 through 1C.15 above, and Response No. 4A through 4I in Attachment 2 for a detailed discussion of the review of the site access and circulation scheme associated with the proposed project and subsequent review by LADOT.

COMMENT 1C.17

5. ***Queuing Analysis*** – Issues related to queuing at the project driveways were addressed in the previous comment. However, those are not the only queuing issues in the study area. We note that the Site Plan presented as Figure II-7 in the IS/MND (p. II-13) illustrates an existing queuing issue that will be exacerbated by construction of the proposed project.

   Sunset Boulevard along the project frontage can only accommodate six vehicles between the crosswalks at Cahuenga Boulevard and Ivar Avenue. Figure II-7 clearly indicates that this is insufficient to accommodate existing demand, as the queue of vehicles on westbound Sunset Boulevard extends around the corner and back onto Ivar Avenue. Other westbound vehicles are trapped within the Ivar Avenue/Sunset Boulevard intersection, while pedestrians occupy the crosswalk in front of them, creating an obvious safety problem. Although we acknowledge that this existing condition is not the responsibility of the proposed project, it is reasonable to expect that the proposed project will exacerbate the problem. An analysis must be performed to determine the extent of the queuing issues so that appropriate mitigation can be identified.

RESPONSE TO COMMENT 1C.17

As discussed in Response No. 5 of Attachment 2, LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016, it is important to note that the elimination of the existing curb cut driveway on Sunset Boulevard associated with the existing Jack-in-the-Box fast-food restaurant should help to alleviate some of the potential conflicts that occur today along Sunset Boulevard between Cahuenga Boulevard and Ivar Avenue. Refer also to Response to Comments 1C.7 and 1C.15, above.

It is important to note that the westbound vehicle queuing noted in the comment has been acknowledged by the City of Los Angeles, given the existing signage at the referenced intersections. As an example, "DO NOT BLOCK INTERSECTION" signs are posted on traffic signal poles facing each of the four approaches at both the Ivar Avenue/Sunset Boulevard and Cahuenga Boulevard/Sunset Boulevard intersections. While no on-street parking is allowed on Sunset Boulevard along the direct project frontage, Sunset Boulevard both east and west of the project site is posted as an "ANTI-GRIDLOCK ZONE" with posted signs indicating "Tow Away No Stopping" between the hours of 7:00 AM and 9:00 AM and between 4:00 PM and 7:00 PM, except Saturday and Sunday. In addition, as stated in Section 22526 (Anti-Gridlock Law) of the State of California Vehicle Code, it is important to note the following with respect to entering an occupied intersection or marked crosswalk (refer specifically to subsections (a) and (b):

Section 22526 of the State of California Vehicle Code

(a) Notwithstanding any official traffic control signal indication to proceed, a driver of a vehicle shall not enter an intersection or marked crosswalk unless there is sufficient space on the other side of the intersection or marked crosswalk to accommodate the vehicle driven without obstructing the through passage of vehicles from either side.

(b) A driver of a vehicle which is making a turn at an intersection who is facing a steady circular yellow or yellow arrow signal shall not enter the intersection or marked crosswalk unless there is sufficient space on the other side of the intersection or marked crosswalk to accommodate the vehicle driven without obstructing the through passage of vehicles from either side.

(c) A driver of a vehicle shall not enter a railroad or rail transit crossing, notwithstanding any official traffic control device or signal indication to proceed, unless there is sufficient undercarriage clearance to cross the intersection without obstructing the through passage of a railway vehicle, including, but not limited to, a train, trolley, or city transit vehicle.

(d) A driver of a vehicle shall not enter a railroad or rail transit crossing, notwithstanding any official traffic control device or signal indication to proceed, unless there is sufficient space on the other side of the railroad or rail transit crossing to accommodate the vehicle driven and any railway vehicle, including, but not limited to, a train, trolley, or city transit vehicle.

(e) A local authority may post appropriate signs at the entrance to intersections indicating the prohibition in subdivisions (a), (b), and (c).

(f) A violation of this section is not a violation of a law relating to the safe operation of vehicles and is the following:

(1) A stopping violation when a notice to appear has been issued by a peace officer described in Section 830.1, 830.2, or 830.33 of the Penal Code.

(2) A parking violation when a notice of parking violation is issued by a person, other than a peace officer described in paragraph (1), who is authorized to enforce parking statutes and regulations.

(g) This section shall be known and may be cited as the Anti-Gridlock Act of 1987.

Thus, the State's Vehicle Code and Rules of the Road expressly prohibit such blocking of intersections as noted by the Commenter and such traffic movements by motorists are violations subject to citation by peace officers.

COMMENT 1C.18

6. ***Project Traffic Assignment*** – Notwithstanding our comments regarding the deficiencies of the trip generation estimates in the IS/MND traffic analysis, we attempted to replicate the PM peak-hour assignment of project traffic at the study area intersections. The process employed in the LLG traffic impact analysis is summarized on page 39 of that document:

> *The general, directional traffic distribution patterns for the existing site use* [Jack in the Box] *and proposed project are presented in* **Appendix B** *(refer to* Appendix Figures B-1 *and* B-2 *for the existing site use and* Appendix Figures B- 3 *and* B-4 *for the proposed project). The forecast net new weekday AM and PM peak hour project traffic volumes at the study intersections associated with the proposed project are presented in* **Figures 7-1** *and* **7-2**, *respectively. The traffic volume assignments presented in* Figures 7-1 *and* 7-2 *reflect the traffic distribution characteristics shown in figures provided in* Appendix B *and the traffic generation forecasts presented in* Table 7-1.

We created an Excel spreadsheet (presented in Attachment A) to perform the following two-step process, which we believe reflects the process used in the LLG analysis:

- The trip distribution percentages documented on Appendix Figure B-2 were used to remove the net trips associated with the existing Jack in the Box restaurant.

- The trip distribution percentages documented on Appendix Figure B-4 were used to add the net new trips associated with the proposed project.

In both cases, the number of "net trips" was taken from IS/MND Table III-29 (p. III-115) and LLG Table 7-1 (p. 38).

With very few exceptions, our analysis reveals higher project-related traffic at each of the study intersections. Table 3 summarizes a comparison of our project traffic assignment to the corresponding values presented on Figure 7-2 in the LLG report (p. 41). Only the movements where project traffic has been added are represented in Table 3; any movements not shown would have no project trips.

Only one movement would have a lower project-related volume under our assignment compared to the LLG assignment (i.e., the westbound through at Cahuenga Boulevard/Hollywood) and one would be the same (i.e., the eastbound left turn at Vine Street/Sunset Boulevard). In every other case, our assignment

indicates higher project traffic. Although the differences may seem minor, as we demonstrated above, differences of as little as one additional project vehicle could determine whether or not a significant impact would occur. In the example we presented above, we found that the addition of one PM peak-hour eastbound left turn at Cahuenga Boulevard/Sunset Boulevard would result in a significant impact.

Our traffic assignment indicates that 13 more project-generated vehicles will occur on that movement than were accounted for in the LLG analysis. With that being the case, a significant impact would occur at Cahuenga Boulevard/Sunset Boulevard not revealed in the IS/MND.

As further verification of the deficiencies of the LLG project traffic assignment, we note that:

- Although Appendix Figure B-2 shows that 10 percent of the outbound traffic from the existing Jack in the Box will occur on the westbound through movement at the intersection of Cahuenga Boulevard/Hollywood Boulevard, no traffic was assigned to this movement in the LLG analysis. LLG Figure 7-2 (p. 41), which illustrates the PM peak-hour "Net New Project Traffic Volumes" shows no traffic on that movement. Further, comparison of LLG Figure 5-2 – "Existing Traffic Volumes" for the PM peak hour (p. 25), and LLG Figure 9-2 – "Existing With Project Traffic Volumes") for the PM peak hour (p. 47) reveals no change in the traffic volume on that movement (the number is 552 in both cases).
- Similarly, Appendix Figure B-2 – "Existing Site Distribution" and Appendix Figure B-4 – "Proposed Project Site Distribution" both indicate that 10 percent of the pertinent traffic volume would be on the northbound through movement at Cahuenga Boulevard/Sunset Boulevard. Again, though, the project traffic assignment on LLG Figure 7-2 shows nothing on that movement and comparison of the "Existing" and "Existing With Project" traffic volume figures shows the same.

Table 3
Project Traffic Assignment Comparison

Intersection		Net Project Traffic Assignment		
Approach	Movement	MRO	LLG	Difference
Cahuenga Blvd./Sunset Blvd.				
Southbound	Right	30	23	7
	Thru	6	2	4
	Left	20	13	7
Westbound	Right	26	21	5
	Thru	-6	-12	6
Northbound	Thru	6	0	6
Eastbound	Left	14	1	13

Notes:
[1] Reference: : Linscott, Law & Greenspan, *Traffic Impact Study – Ivar Gardens Hotel Project*, December 23, 2015

RESPONSE TO COMMENT 1C.18

As discussed in Response No. 5 of Attachment 2, LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016, in double checking the traffic volumes figures with the actual intersection calculation worksheets as contained in Appendix C of the LLG

December 23, 2015 traffic impact study, it is apparent that an inadvertent downloading error occurred in production of the traffic volume figures. Therefore, the differences that the Commenter has pointed out with respect to Figures 7-1 and 7-2 of the LLG traffic impact study and MRO Engineers' figures can be clarified. The corrected traffic volumes figures are included in Attachment 2 as Figures 5-1, 5-2, 6-2, 6-3, 7-1, 7-2, 9-1, 9-2, 9-3, 9-4, 9-5 and 9-6. The net-new project traffic volumes are consistent for 4 of the 6 intersections when compared to the actual intersection calculation worksheets. The other two adjacent intersections are different since LADOT policy does not allow pass-by reductions at adjacent intersections and MRO Engineers is likely not aware of this.

COMMENT 1C.19

CONCLUSION

Our review of the "Transportation and Traffic" section of the Initial Study/Mitigated Negative Declaration for the Hollywood Ivar Gardens Project revealed several substantial issues affecting the validity of the conclusions presented. Our review indicates that a corrected traffic impact analysis will reveal one or more significant impacts that were not documented in the IS/MND. A modified traffic impact analysis must be prepared, and incorporated into a revised environmental document.

RESPONSE TO COMMENT 1C.19

As discussed in Attachment 2, LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016, in conclusion, the traffic impact study analysis remains valid and the findings and conclusions remain as reported and reviewed and approved by LADOT.

APPEAL No. 2A

Coalition for Responsible Equitable Economic Development (CREED LA)
Representation by Adams Broadwell Joseph & Cardozo
c/o Rachael Koss
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
December 16, 2016

COMMENT 2A.1

Dear Honorable Mayor Garcetti and City Council Members:

On behalf of Coalition for Responsible Equitable Economic Development ("CREED LA") we are writing to appeal the City Planning Commission's approvals of a Conditional Use Permit, Zoning Administrator's Adjustment and Site Plan Review for the Hollywood Ivar Gardens Project, CPC-2015-2893-VZC-HD-CUB-ZAA-SPR, ENV-2015-2895-MND ("Project"), including the City Planning Commission's reliance on the Project's Initial Study/Mitigated Negative Declaration ("IS/MND"). The Project is proposed by R.D. Olsen Development ("Applicant") and is located at 6407-6411 West Sunset Boulevard, 1511 North Ivar Avenue and 1512 North Cahuenga Boulevard. The Project involves the demolition of an existing fast food restaurant and surface parking, and the construction of a 21-story, 141,895 square-foot mixed-use building containing 275 hotel guestrooms with kitchenettes and 1,900 square feet of ground floor commercial space. The Project also includes four levels of subterranean parking. Project construction will require the export of approximately 3,882 square feet of demolition material and 56,000 cubic yards of soil.

Pursuant to the City of Los Angeles ("City") appeal procedures, we have attached 8 copies each of this letter with exhibits, the Appeal Application (form CP-7769), and the original Determination Letter. We have also enclosed a check for $89 for the appeal fee.

The reason for this appeal is that the City Planning Commission abused its discretion and violated the California Environmental Quality Act ("CEQA") when it approved the Conditional Use Permit, Zoning Administrator's Adjustment and Site Plan Review for the Project. CEQA requires that the potential impacts of this Project be evaluated in an environmental impact report ("EIR"), not in an MND, because substantial evidence exists that the Project may have significant, unmitigated environmental impacts to air quality and public health, and from greenhouse gas emissions and hazardous materials.

Our July 6, 2016 and September 7, 2016 comment letters on the Project are attached hereto,[15] and the specific reasons for this appeal are set forth in detail in those letters and summarized below. In short,

[15] *See **Exhibit 1:** Letter from Rachael Koss to Jordann Turner re: Comments on the Initial Study/Mitigated Negative Declaration for the Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-SPR), July 6, 2016; and **Exhibit 2:** Letter from Rachael Koss to Jordann Turner re: Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-SPR), September 7, 2016.*

substantial evidence supports a fair argument that that [sic] Project will cause: (1) a significant, unmitigated cancer risk from toxic air contaminant emissions, (2) a potentially significant, unmitigated impact from greenhouse gas emissions, and (3) a significant, unmitigated impact from hazardous materials.

RESPONSE TO COMMENT 2A.1

This comment presents an understanding of the Proposed Project. The Commenter also asserts that CEQA requires the potential impacts of the Proposed Project to be evaluated in an EIR not an MND because substantial evidence exists that the Project may have significant, unmitigated environmental impacts to air quality and public health, and from greenhouse gas emissions and hazardous materials. As discussed in Response to Comment 2.4 in Attachment 3, Response to Comments on Adams Broadwell Joseph & Cardozo, *Comments on the Initial Study / Mitigated Negative Declaration for the Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-SPR),* July 6, 2016, The term "substantial evidence," as defined in Section 15384 of the State CEQA Guidelines, "does not include argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate." As noted in the following responses, the claims and information presented by Adams Broadwell Joseph & Cardozo and SWAPE are clearly erroneous, unsubstantiated, and are not based on facts associated with the Proposed Project. As such, the Commenter's opinion regarding the adequacy of the MND is not supported by substantial evidence. Additionally, as further discussed below, all points of concern raised by the Commenter have been addressed and shown to result in a less than significant impact (as further analyzed in the MND).

COMMENT 2A.2

A. The Project Will Cause a Significant, Unmitigated Cancer Risk from Toxic Air Contaminants Emissions

The MND concludes that the health risk posed to nearby sensitive receptors from exposure toxic air contaminants ("TAC"), including diesel particulate matter ("DPM") emissions, from Project construction and operation would be less than significant. We previously explained that the MND's conclusion is unsupported because the City failed to quantify the risk and compare it to applicable thresholds of significance. We also provided substantial evidence that the Project would result in potentially significant health risks from DPM emissions. To date, the City has failed to adequately address our concerns.

As it stands, substantial evidence supports a fair argument that the Project emissions from DPM will result in significant cancer risks. The City must therefore prepare an EIR that includes a quantitative health risk assessment ("HRA") to disclose and analyze the Project's health risks from air pollutants, and compare the risks to applicable thresholds of significance. Indeed, the South Coast Air Quality Management District ("SCAQMD") recommends that HRAs be prepared for development projects subject to CEQA. The City has not prepared a HRA and, as a result, has failed to disclose and analyze the Project's significant health risks from the Project's DPM emissions from trucks and off-road heavy equipment.

RESPONSE TO COMMENT 2A.2

The Commenter asserts that they have provided substantial evidence that the Proposed Project would result in potentially significant health risks from DPM emissions. The Commenter's concerns have been addressed in Response to Comment 2.12 and Response to Comment 2.17 in Attachment 3, Response to Comments on Adams Broadwell Joseph & Cardozo, *Comments on the Initial Study / Mitigated Negative Declaration for the Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-SPR),* July 6, 2016. As discussed in Response to Comment 2.12 in Attachment 3, the Project's construction emissions were quantified and analyzed in the MND using CARB's recommended CalEEMod modeling program and were compared to the SCAQMD's adopted thresholds for regional and localized air emissions. As noted in the MND, the highest daily peak particulate matter (PM) emissions would occur during the projects grading phase, which is estimated to last approximately three months. As shown in Table III-1, Estimated Peak Daily Construction Emissions, the highest daily peak PM_{10} and $PM_{2.5}$ emissions estimated for the grading phase were 4.8 lbs./day and 2.54 lbs/day, respectively. As compared to the SCAQMD's significance thresholds of 150 lbs/day for PM10 and 55 lbs/day for $PM_{2.5}$, the Project's construction emissions were well below the regional significance thresholds. Additionally, the on-site emissions were assessed for purposes of addressing localized air quality impacts on adjacent land uses. As shown in Table III-4, Localized On-Site Peak Daily Construction Emissions, the localized PM_{10} and $PM_{2.5}$ emissions were estimated to be 0.17 lbs/day, in comparison to significance thresholds of 33 lbs/day for PM_{10} and 10 lbs/day for $PM_{2.5.}$ Diesel particulate matter is a subset of both PM_{10} and $PM_{2.5.}$ The products and equipment to be utilized and operated on-site during construction activities would comply with all applicable SCAQMD rules for their manufacture and use. The Project will be subject to all applicable SCAQMD rules designed to limit exposure to TACs during construction activities. For example, the Project would be required to comply with CARB's Air Toxics Control Measure that limits diesel powered equipment and vehicle idling to no more than 5 minutes at a location, and the CARB In-Use Off-Road Diesel Vehicle Regulation; compliance with these would minimize emissions of TACs during construction. Thus, the Proposed Project would result in a less than significant impact related to health risks from DPM emissions.

Additionally, as discussed in Response to Comment 2.17 in Attachment 3, the substantial evidence the Commenter refers to is a modeling methodology and analysis used by SWAPE based on very broad hypothetical assumptions that are not reflective of the emissions that would be generated by the Project's construction activities. The assumptions and inputs employed in SWAPE's analysis are so fundamentally flawed that they do not represent impacts that would occur from the Proposed Project. Thus, the analysis referred to by the Commenter does not constitute substantial evidence. Please refer to Response to Comment 2.17 in Attachment 3 for a more detailed response regarding the methodology and analysis regarding health risks from DPM emissions.

The Commenter stresses that a quantitative HRA be prepared for the Proposed Project. The comment states the SCAQMD recommends that HRAs be prepared for development projects subject to CEQA. The SCAQMD generally requests an operational HRA be conducted for any warehouse or distribution center that generated 100 heavy diesel truck trips per day or 40 trucks per day with operating transport

refrigeration units. Operations from the proposed hotel project would not generate a major source of diesel emissions and thus would not warrant a detailed site-specific health risk assessment.

COMMENT 2A.3

B. The Project Will Cause a Significant, Unmitigated Impact from Greenhouse Gas Emissions

We previously provided substantial evidence showing that the Project's greenhouse gas ("GHG") emissions would result in a significant, unmitigated impact Specifically, the Project's combined, amortized construction and operation emissions are 3,102 MTCO2e/year, which exceed the SCAQMD's screening threshold of 3,000 MTCO2e/year. This remains a significant, unmitigated impact that the City has failed to disclose.

RESPONSE TO COMMENT 2A.3

The Commenter asserts that they have provided substantial evidence that the Proposed Project's GHG emissions would result in a significant, unmitigated impact. The Commenter's concerns have been addressed in Response to Comment 2.21 in Attachment 3, Response to Comments on Adams Broadwell Joseph & Cardozo, *Comments on the Initial Study / Mitigated Negative Declaration for the Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-SPR),* July 6, 2016. The Commenter incorrectly estimates the Project's combined, amortized construction and operation emissions are 3,102 MTCO2e/year, which exceed the SCAQMD's screening threshold of 3,000 MTCO2e/year, which would exceed the SCAQMD's screening threshold of 3,000 MTCO2e/year. However, as shown in Table III-8 of the MND, the Project's net operational GHG emissions would be 1,921.34 MTCO2e/year. Furthermore, as discussed in Response to Comment 2.21 in Attachment 3, the SCAQMD screening threshold of 3,000 MTCO2e/year referenced in this comment was addressed in the MND on page III-48. As noted in the MND, he SCAQMD Governing Board adopted the staff proposal for an interim GHG significance threshold for stationary source/industrial projects where SCAQMD is lead agency. However, SCAQMD has yet to formally adopt a GHG significance threshold for residential and or commercial projects. Because this threshold was not formally adopted by the SCAQMD it was not utilized as threshold for determining significance in the MND. However, it should be noted that even if the MND were to apply this threshold, the Project's impacts would be below the 3,000 MTCO2e threshold after accounting for the existing land uses that would be displaced. Therefore, the analysis referred to by the Commenter does not constitute substantial evidence.

COMMENT 2A.4

C. The Project May Result in a Significant, Unmitigated Impact from Hazardous Materials

We previously provided substantial evidence showing that the Project may result in a significant, unmitigated impact from on-site contamination. Specifically, the former dry cleaning and gas station uses on the Project site may have caused subsurface contamination that would pose a health risk to construction workers, hotel guests and hotel workers. Chemical contamination commonly associated with dry cleaners includes tetrachloroethylene ("PCE"), a likely carcinogen, and chemical contamination associated with gas stations includes benzene, a known human carcinogen and volatile organic compound ("VOC"). Hotel guests and hotel workers may be exposed to these contaminants through vapor intrusion, and construction workers may be exposed to these contaminants through contact with contaminated soil

or by breathing vapors during excavation, grading and trenching. To date, the City has failed to analyze the Project's potentially significant impacts from on-site contamination.

Rather, the MND and Phase I Environmental Site Assessment prepared for the Project *assume*, without any supporting sampling results or any evidence of investigations conducted for contamination from dry cleaning operations, that the former uses on the site will not result in a significant impact. As we previously explained, the City must include environmental sampling results in an EIR, including results for soil vapor, PCE and benzene. The EIR must compare soil sampling results to construction worker screening levels to determine the Project's potentially significant impacts from contamination. Without sampling results, there is no support for the MND's and Phase I ESA's conclusions. In addition, an investigation targeting contamination from dry cleaning operations must be performed and the results included in an EIR. Without a targeted investigation, there is no support for the MND's and Phase I ESA's conclusions.

RESPONSE TO COMMENT 2A.4

The Commenter asserts previous claims that the Proposed Project may result in a significant, unmitigated impact from on-site contamination and sampling results must be included. As discussed in Response to Comment 2.22 in Attachment 3, Response to Comments on Adams Broadwell Joseph & Cardozo, *Comments on the Initial Study / Mitigated Negative Declaration for the Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-SPR),* July 6, 2016, various subsurface investigations were conducted on the Project Site and received case closure notices from the RWQCB in 1986. The Phase I ESA noted that any contamination from the dry cleaning service would have been present during the gas station subsurface investigation. Although the specific data logs and monitoring surveys that were referenced in the RWQCB's closure report documentation were unavailable, the fact that the case was closed in 1986 and closure reports were issued for the site support the conclusion that the site was remediated to an acceptable level. Nevertheless, the Proposed Project would incorporate Mitigation Measure HAZ-1, which requires approval and sign-off from the Fire Department indicating that all on-site hazardous materials have been remediated. Therefore, the Project Site does not warrant sampling results as any residual impacted soils identified during excavation would be subject to remediation under the review of the LADF.

COMMENT 2A.5

As a result of these errors, the adoption of the MND and approval of the Conditional Use Permit, Zoning Administrator's Adjustment and Site Plan Review violated CEQA and must be overturned. We urge the City Council to grant our appeal and order the preparation of an EIR for the Project. Thank you for your attention to this important matter.

RESPONSE TO COMMENT 2A.5

As discussed in Response to Comments 2A.1 through 2A.4, above, the claims and information presented by the Commenter are unsubstantiated. All points of concern raised by the Commenter have been addressed and shown to result in a less than significant impact in the MND. The Appellants' concerns are noted for the record and will be submitted to the decision makers for their consideration.

APPEAL No. 2B

Adams Broadwell Joseph & Cardozo
Rachael Koss
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080-7037
September 7, 2016

COMMENT 2B.1

Dear Mr. Turner:

We write on behalf of the Coalition for Responsible Equitable Economic Development ("CREED LA"), Luther Medina, John Ferruccio, Jorge L. Aceves, John P Bustos, Gery Kennon, Chris S. Macias and Robert E. Murphy Jr., to respond to the Department of City Planning Recommendation Report ("Staff Report") for the September 8, 2016 City Planning Commission hearing for the Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VXC-HD-CUB-SPR) ("Project") proposed by R.D. Olson Development ("Applicant"). On July 6, 2016, we submitted comments on the Initial Study and Mitigated Negative Declaration ("MND") prepared by the City of Los Angeles ("City") for the Project. The Staff Report contains responses to our comments. However, the Staff Report fails to resolve the issues we raised, as detailed below, and our comments still stand.[16]

RESPONSE TO COMMENT 2B.1

This comment introduces the Commenter and asserts the Staff Report, containing responses to the Commenter's previous comments fail to resolve the issues the Commenter raised. However, as no specific information detailing the inadequacies of the MND and the Staff Report are presented in this comment. No further response is warranted.

COMMENT 2B.2

In short, the MND still fails to comply with the requirements of the California Environmental Quality Act[17] ("CEQA") because it fails to identify the Project's potentially significant impacts to air quality and public health, and from greenhouse gas emissions and hazardous materials, and fails to propose measures that can reduce those impacts to a less than significant level. Therefore, the City may not approve the Vesting Zone Change, Height District Change, Conditional Use Permit, Zoning Administrator's Adjustment or Site Plan Review Findings for the Project until it prepares an environmental impact report ("EIR") that adequately analyzes the Project's potentially significant direct impacts and incorporates all feasible mitigation measures to avoid or minimize these impacts.

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[16] *We incorporated our July 6, 2016 comments herein by reference.*
[17] *Pub. Resources Code §§ 21000 et seq.; 14 Cal. Code Regs. §§ 15000 et. Seq. ("CEQA Guidelines").*

We prepared this response to the Staff Report with the assistance of air quality and hazards experts Matt Hagemann and Jessie Jaeger of Soil/Water/Air Protection Enterprise ("SWAPE"). SWAPE's response to the Staff Report is attached hereto as Attachment A.

RESPONSE TO COMMENT 2B.2

This comment asserts that the MND fails to comply with CEQA on the basis that the MND does not provide an accurate project description and fails to identify potentially significant impacts. The comment also introduces SWAPE as experts in the field of air quality and hazards who provided supporting documentation in favor of CREED LA's arguments. As no specific information detailing the inadequacies of the MND are presented in this comment. No further response is warranted. The specific comments pertaining to the adequacy of air quality impacts, public health, greenhouse gas emissions and hazards, as referenced by CREED and presented in the following paragraphs of their letter are addressed below. SWAPE's comments provided in Attachment 3 to the Adams Broadwell Joseph & Cardozo letter are also addressed separately in response to Appeal No. 2C, below.

COMMENT 2B.3

I. THE CITY MUST PREPARE AN EIR BECAUSE SUBSTANTIAL EVIDENCE SUPPORTS A FAIR ARGUMENT THAT THE PROJECT MAY RESULT IN SIGNIFICANT PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS

We previously explained that CEQA contains a strong presumption in favor of requiring a lead agency to prepare an EIR. This presumption is reflected in the "fair argument" standard. Under that standard, a lead agency "shall" prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.[18] The fair argument standard creates a "low threshold" favoring environmental review through an EIR, rather than through issuance of a negative declaration.[19] An agency's decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.[20] Substantial evidence can be provided by technical experts or members of the public.[21] "If a lead agency is presented with a fair argument that a

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[18] *Pub. Resources Code §§21080(d), 21082.2(d); CEQA Guidelines §§ 15002(k)(3), 15064(f)(1), (h)(1); Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal. (1993) 6 Cal.4th 1112, 1123; No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 75, 82; Stanislaus Audubon Society, Inc. v. County of Stanislaus (1995) 33 Cal.App.4th 144, 150-151; Quail Botanical Gardens Found., Inc. v. City of Encinitas (1994) 29 Cal.App.4th 1597, 1601-1602.*

[19] *Citizens Action to Serve All Students v. Thornley (1990) 222 Cal.App.3d 748, 754.*

[20] *Sierra Club v. County of Sonoma, (1992) 6 Cal.App.4th, 1307, 1318; see also Friends of "B" Street v. City of Hayward (1980) 106 Cal.App.3d 988, 1002 ["If there was substantial evidence that the proposed project might have a significant environmental impact, evidence to the contrary is not sufficient to support a decision to dispense with preparation of an [environmental impact report] and adopt a negative declaration, because it could be 'fairly argued' that the project might have a significant environmental impact"].*

[21] *See, e.g., Citizens for Responsible and Open Government v. City of Grand Terrace (2008) 160 Cal.App.4th 1323, 1340 [substantial evidence regarding noise impacts included public comments at hearings that selected air conditioners are very noisy]; see also Architectural Heritage Ass'n v. County of Monterey, 122 Cal.App.4th 1095, 1117-1118 [substantial evidence regarding impacts to historic resources included fact-based testimony of qualified speakers at the public hearing]; Gabric v. City of Rancho Palos Verdes (1997) 73 Cal.App.3d 183, 199.*

project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect."[22]

Our previous comments showed that there is more than a fair argument supported by substantial evidence that the Project may result in significant impacts on air quality and public health, and from greenhouse gas emissions and hazardous materials. The Staff Report does not change these conclusions. Therefore, the City is required to prepare an EIR to evaluate the Project's impacts and propose all mitigation measures that are necessary to reduce those impacts to a less-than-significant level.

RESPONSE TO COMMENT 2B.3

As previously addressed in Response to Comment 2.4 in Attachment 3, Response to Comments on Adams Broadwell Joseph & Cardozo, *Comments on the Initial Study / Mitigated Negative Declaration for the Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-SPR),* July 6, 2016the above comment provides information from the State CEQA Guidelines with respect to the legal standard of review for EIRs and MNDs. While it is acknowledged that the State CEQA Guidelines and the courts have established a relatively low standard of review based on a "fair argument" standard, the fair argument must be supported by substantial evidence. The term "substantial evidence," as defined in Section 15384 of the State CEQA Guidelines, "does not include argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate." As noted in the following responses, the claims and information presented by Adams Broadwell Joseph & Cardozo and SWAPE are clearly erroneous, unsubstantiated, and are not based on facts associated with the Proposed Project. As such, the Commenter's opinion regarding the adequacy of the MND is not supported by substantial evidence and therefore does not constitute a fair argument that the Proposed Project would result in an adverse environmental impact that could not be mitigated to a less than significant level. The comment asserts there is a fair argument supported by substantial evidence that the Project may result in significant impacts. However, this comment does not specifically raise any such arguments or provide any supporting information and refers to additional information presented in the following paragraphs. As such, the specific concerns presented in later comments are addressed below.

COMMENT 2B.4

A. Substantial Evidence Still Supports a Fair Argument that the Project Will Cause a Significant, Unmitigated Cancer Risk from Toxic Air Contaminants Emissions

The MND concludes that the health risk posed to nearby sensitive receptors from exposure to toxic air contaminants ("TACs"), including diesel particulate matter ("DPM") emissions, from Project construction and operation would be less than significant.[23] We previously explained that the MND's conclusion is unsupported because the City failed to quantify the risk and compare it to applicable thresholds of significance. We also provided substantial evidence that the Project would result in potentially significant health risks from DPM emissions.

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[22] *CEQA Guidelines § 15062(f)*

[23] *MND, p. III-32.*

The Staff Report response to our comments states that:

> The requirement to prepare a construction or operational health risk assessment pursuant to OEHHA Guidelines is not required under CEQA or any required permits or approvals. Based on the relatively low emissions associated with PM10 and PM2.5 during both construction and operation, there is no evidence to suggest that the Proposed Project would generate diesel emissions that are excessive or above acceptable levels that already occur within the environment. Furthermore, as discussed in greater detail below, the screening level analysis presented in Comment 3.3 does not accurately reflect the project's characteristics or exposure pathways to sensitive receptors.[24]

SWAPE reviewed the Staff Report response and found it to be incorrect for several reasons.

First, there is not substantial evidence to support the Staff Report's argument that the Project's "relatively low emissions associated with PM_{10} and $PM_{2.5}$ during both construction and operation" means that the Project would not result in significant public health impacts. On the contrary we previously provided substantial evidence supporting a fair argument that the (even relatively low) Project emissions from DPM *will* result in significant cancer risks. This is precisely why the City should prepare a quantitative health risk assessment ("HRA") – to disclose and analyze the Project's health risks form air pollutants, and compare the risks to applicable thresholds of significance.[25]

Second, the South Coast Air Quality Management District ("SCAQMD") does recommend that HRAs be prepared for development projects subject to CEQA. In fact, the SCAQMD's *Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis* provides guidance for quantifying cancer risks from DPM from truck idling and movement, among other sources.[26] Indeed, SWAPE previously provided evidence that it is the Project's DPM emissions from trucks and off-road heavy equipment that will cause significant health risks. Therefore, the Staff Report is completely unsupported and the MND is inconsistent with the SCAQMD CEQA guidance.

Finally, the Staff Report's argument that SWAPE's screening level analysis "does not accurately reflect the project's characteristics or exposure pathways to sensitive receptors" is entirely incorrect. SWAPE prepared a screening level HRA consistent with the Office of Environmental Health Hazard Assessment *Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments* ("OEHHA Guidelines"). SWAPE also explained that the purpose of conducting the screening level analysis is to determine if a more refined HRA is necessary. Specifically, if screening level HRA results are above applicable thresholds, then a more refined HRA must be conducted for the Project.[27] The City simply refuses to abide by the OEHHA Guidelines, and refuses to adequately analyze the Project's potentially significant cancer risks in an EIR, as required by CEQA.

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[24] *Staff Report, Response to Comments, p. 31.*
[25] *See Attachment A, p. 2.*
[26] *Id., p. 3.*
[27] *Id., p. 4.*

RESPONSE TO COMMENT 2B.4

This comment continues to incorrectly assert that the MND's analysis of Toxic Air Contaminants is inadequate and unsupported because the analysis did not quantify the amount of diesel particulate matter emissions associated with Project's construction and operation activities and is inconsistent with the OEHHA Risk Assessment Guidelines. However, as addressed in greater detail in Response to Comment 2.12 in Attachment 3, Response to Comments on Adams Broadwell Joseph & Cardozo, *Comments on the Initial Study / Mitigated Negative Declaration for the Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-SPR),* July 6, 2016, a Health Risk Assessment was not prepared for the Proposed Project's construction activities because the construction activities that are anticipated are not anticipated to be a major source of PM_{10} or $PM_{2.5}$, and thus would not generate a substantial amount of diesel particulate matter (DPM). The Project's construction emissions were quantified and analyzed in the MND using CARB's recommended CalEEMod modeling program and were compared to the SCAQMD's adopted thresholds for regional and localized air emissions. As noted in the MND, the highest daily peak particulate matter (PM) emissions would occur during the projects grading phase, which is estimated to last approximately three months. As shown in Table III-1, Estimated Peak Daily Construction Emissions, the highest daily peak PM_{10} and $PM_{2.5}$ emissions estimated for the grading phase were 4.8 lbs./day and 2.54 lbs/day, respectively. As compared to the SCAQMD's significance thresholds of 150 lbs/day for PM_{10} and 55 lbs/day for $PM_{2.5}$, the Project's construction emissions were well below the regional significance thresholds. Additionally, the on-site emissions were assessed for purposes of addressing localized air quality impacts on adjacent land uses. As shown in Table III-4, Localized On-Site Peak Daily Construction Emissions, the localized PM_{10} and $PM_{2.5}$ emissions were estimated to be 0.17 lbs/day, in comparison to significance thresholds of 33 lbs/day for PM_{10} and 10 lbs/day for $PM_{2.5}$. Diesel particulate matter is a subset of both PM_{10} and $PM_{2.5}$. The products and equipment to be utilized and operated on-site during construction activities would comply with all applicable SCAQMD rules for their manufacture and use. The Project will be subject to all applicable SCAQMD rules designed to limit exposure to TACs during construction activities. For example, the Project would be required to comply with CARB's Air Toxics Control Measure that limits diesel powered equipment and vehicle idling to no more than 5 minutes at a location, and the CARB In-Use Off-Road Diesel Vehicle Regulation; compliance with these would minimize emissions of TACs during construction.

Furthermore, as discussed in the Response to Comment 2.12 in Attachment 3, the OEHHA Risk Assessment Guidelines were prepared by OEHHA to provide uniform methodologies and air modeling protocols to address toxic air hazards for use in facility health risk assessments conducted pursuant to the Air Toxics Hot Spots Information and Assessment Act of 1987 (Health and Safety Code Section 44300 et seq.). The Health Risk Assessment Guidelines developed by OEHHA were not intended for non-point source operations such as a hotel project, nor were they developed for purposes of assessing short term construction impacts for non-point source projects.

As discussed in greater detail in Response to Comment 3.3 in Attachment 3, Response to Comments on SWAPE, *Comments on the Hollywood Ivar Gardens Project (ENV-2015-2895-MND),* July 5, 2015, a Health Risk Assessment was not prepared for the Project's operational activities because hotel land uses are not permitted facilities subject to the Air Toxics Hot Spots Information Assessment Act (AB2588).

Further, the SCAQMD generally requests an operational HRA be conducted for any warehouse or distribution center that generated 100 heavy diesel truck trips per day or 40 trucks per day with operating transport refrigeration units. Operations from the proposed hotel project would not generate a major source of diesel emissions and thus would not warrant a detailed site-specific health risk assessment.

Secondly, the Commenter states SCAQMD recommends that HRAs be prepared for development projects subject to CEQA and gives examples. However, as discussed in greater detail in Response to Comment 3.3 in Attachment 3, although the OEHHA Risk Assessment Guidelines acknowledge that local air pollution control districts sometimes use the risk assessment guidelines for the Hot Spots program in permitting decisions for short-term projects such as construction or waste site remediation, the SCAQMD does not request HRA's for construction activities for CEQA projects where they serve as a commenting agency but are not the lead agency issuing a facility permit. As acknowledged in the OEHHA Risk Assessment Guidelines (at page 8-17), '[t]here is considerable uncertainty in trying to evaluate the cancer risk from projects that will only last a small fraction of a lifetime. There are some studies indicating that dose rate changes the potency of a given dose of a carcinogenic chemical. In others words, a dose delivered over a short time period may have a different potency than the same dose delivered over a lifetime." Therefore, because the Project is a hotel project, not a facility necessitating the need for a facility permit from the SCAQMD, and the SCAQMD is a commenting agency, not the lead agency, the Staff Report is supported and the MND is consistent with the SCAQMD CEQA guidance.

Finally, the Commenter references the findings of SWAPE's preliminary screening level health risk assessment. As discussed in greater detail in Response to Comment 2.17 in Attachment 3, Response to Comments on Adams Broadwell Joseph & Cardozo, *Comments on the Initial Study / Mitigated Negative Declaration for the Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-SPR),* July 6, 2016, the modeling methodology and analysis used by SWAPE is based on very broad hypothetical assumptions that are not reflective of the emissions that would be generated by the Project's construction activities. The assumptions and inputs employed in SWAPE's analysis are so fundamentally flawed that they do not represent impacts that would occur from the Proposed Project. For example, as discussed in the Staff Report's Response to Comments, SWAPE's estimate that the Project would generate 363 lbs/day of diesel particulate matter (DPM) over the course of 22 months is not based on the MND's calculation of PM_{10} or $PM_{2.5}$ emissions. To illustrate this, the following table, from Response to Comment 2.17 in Attachment 3, summarizes the total particulate matter (in both PM_{10} and $PM_{2.5}$) from on-site exhaust emissions for each phase of construction:

Phase	**Duration**	**Maximum Daily On-Site Emissions (lbs/day)**		**Total Daily On-Site Emissions (lbs)**	
		PM_{10}	$PM_{2.5}$	PM_{10}	$PM_{2.5}$
Demolition	15 days	0.80	0.77	12.06	0.62
Grading	52 days	0.80	0.77	41.80	0.62
Building Construction	280 days	0.94	0.86	263.14	0.81
Paving	20 days	0.60	0.56	12.04	0.34
Architectural Coating	110 days	0.17	0.17	19.06	0.03
Total	**477 days**			**348.10**	**2.41**
Source: MND Appendix A, Air Quality Emissions worksheets.					

As shown in the table above, even under the conservative assumption that all of the Project's PM_{10} and $PM_{2.5}$ PM emissions are diesel particulate matter (DPM), SWAPE has grossly overstated the project's DPM emissions. For one, SWAPE's calculation is based on a 7 day work week, when the Project's construction schedule is based on a 5 day work week. Second, diesel particulate matter (DPM) is a subset of PM_{10} and $PM_{2.5}$, thus the total amount of DPM should be less than the PM estimates provided in this table. Over 90 percent of DPM particles are smaller than 1 micrometer in diameter.[28] Thus, the total DPM emissions from on-site equipment would be closer to 2.65 lbs. over the approximate 22-month construction schedule. Thus SWAPE's analysis is grossly overstated and not representative of the Proposed Project. Furthermore, SWAPE's calculations are based on the following inaccurate exposure assumptions: (1) that the emissions would be consistent and averaged over an annul basis over 30 years, (2) that the residents located over 300 feet away would be exposed to emissions 24 hours a day for a 30 year period without ever leaving their place of residence, and (3) the the resident's exposure to DPM emissions generated outdoors would be the same indoors. Accordingly, the argument that the project would result in a significant lifetime cancer risk in persons residing over 300 feet from the Project Site is erroneous and is not reflective of a real world scenario. Thus, the SWAPE analysis does not constitute substantial evidence and the MND is consistent with CEQA.

COMMENT 2B.5

B. Substantial Evidence Still Supports a Fair Argument that the Project Will Cause a Potentially Significant, Unmitigated Impact from Greenhouse Gas Emissions

SWAPE previously showed that the MND fails to ensure that the Project complies with the greenhouse gas emissions ("GHG") 2030 reduction goals required by Executive Order B-30-15. SWAPE recommended that, to demonstrate compliance with Executive Order B-30-15, the City should scale down the 49% statewide reduction target to a project level goal. This will provide a threshold against which to measure the Project's impacts from GHG emissions.

The Staff Report does not demonstrate the Project's compliance with Executive Order B-30-15. Rather, the Staff Report incorrectly argues that the Project need only comply with 2020 reduction goals.[29] The interim GHG reduction goals for 2020 were superseded by Executive Order B-30-15, which requires emissions reductions above those mandated by AB 32. Thus, the Staff Report is unsupported. Moreover, as we previously explained, even if comparing a project's emission reductions to the AB 32 statewide reduction goal was proper (which it is not), the Project's GHG emissions reduction of 13 percent would not even meet the 15 percent reduction required by AB 32 to reduce statewide emissions to 1990 levels by 2020.

SWAPE previously provided an independent analysis of the Project's GHG emissions using the SCAQMD screening threshold of 3,000 metric tons of carbon dioxide equivalents per year (MTCO2e/year) and found that the Project's GHG emissions would result in a significant impact. Project construction would generate 21 MTCO2e/year. SWAPE found that, when the Project's amortized

[28] *CARB, Report to the Air Resources Board on the Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant, approved April 1998 (at page A-27).*

[29] *Staff Report, Response to Comments, p. 36.*

construction emissions and operation emissions are combined, the emissions are 3,102 MTCO2e/year, which exceed the SCAQMD's screening threshold of 3,000 MTCO2e/year. This remains a significant, unmitigated impact that the City still fails to disclose.

RESPONSE TO COMMENT 2B.5

The Commenter continues to misinterpret and disagree with the methodology used in the GHG emissions analysis in the MND. The Commenter again proceeds with erroneous assertions that the targeted GHG reduction goals should be based on 2030 statewide goals instead of 2020 goals. As documented in the Newhall Ranch case, the Supreme Court ruled that applying the statewide GHG reduction goals to a specific development project was inappropriate without substantiating how the statewide goals relate to a project's GHG emissions. The Supreme Court found that while this approach could be used (if the percent reduction applied to a project was substantiated based on the statewide emission goals), the use of a BAU methodology was not recommended. This Commenter's argument is contradicting by disagreeing with a misinterpreted methodology and then provides values that the MND should have incorporated for that methodology. Nevertheless, as discussed in greater detail in response to Response to Comment 2.18 in Attachment 3, Response to Comments on Adams Broadwell Joseph & Cardozo, *Comments on the Initial Study / Mitigated Negative Declaration for the Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-SPR),* July 6, 2016, the MND did not apply the BAU comparison methodology in the greenhouse gas emissions section, and applying a BAU level was not necessary for the MND analysis.

As discussed in greater detail in Response to Comment 2.21 in Attachment 3, the SCAQMD screening threshold of 3,000 MTCO2e/year referenced in this comment was addressed in the MND on page III-48. As noted in the MND, the SCAQMD Governing Board adopted the staff proposal for an interim GHG significance threshold for stationary source/industrial projects where SCAQMD is lead agency. However, SCAQMD has yet to formally adopt a GHG significance threshold for residential and or commercial projects. Because this threshold was not formally adopted by the SCAQMD it was not utilized as threshold for determining significance in the MND. However, it should be noted that even if the MND were to apply this threshold, the Project's impacts would be below the 3,000 MTCO2e threshold after accounting for the existing land uses that would be displaced. As shown in Table III-8 of the MND, the Project's net operational GHG emissions would be 1,921.34 MTCO2e/year.

COMMENT 2B.6

C. Substantial Evidence Supports a Fair Argument that the Project May Result in Potentially Significant Impacts from Hazardous Materials

SWAPE previously explained that the former dry cleaning and gas station uses on the Project site may have caused subsurface contamination that would pose a health risk to construction workers, hotel guests and hotel workers. Specifically, chemical contamination commonly associated with dry cleaners includes tetrachloroethylene ("PCE"), a likely carcinogen, and chemical contamination associated with gas stations includes benzene, a known human carcinogen and volatile organic compound ("VOC"). SWAPE further explained that hotel guests and hotel workers may be exposed to these contaminants through vapor

intrusion, and construction workers may be exposed to these contaminants by touching contaminated soil or breathing vapors during excavation, grading and trenching.

Rather than analyze the Project's potentially significant impacts from on-site contamination, the MND merely states "there have been various subsurface investigations conducted on the Project Site and it received closure from the Regional Water Quality Control Board" and "the Project Site presumably met the standard at the time, indicating the solvents used for the Hollywood Laundry did not contaminate the groundwater and soil or were remediated."[30] The Phase I Environmental Site Assessment ("Phase I ESA") prepared for the Project states that "the Project site presumably met the commercial/industrial standard" under the 1986 Los Regional Water Quality Control Board closure of the gas station and, therefore, did not "find a recognized environmental condition (REC) in connection with the property in relation to the presence of a Texaco previously occupying the Project site."[31]

We previously explained that the MND's and Phase I ESA's presumptions and conclusions are unsupported because (1) neither contain any supporting sampling results, and (2) investigations conducted for contamination from a gas station are inapplicable to contamination from dry cleaning operations. The Staff Report fails to substantively respond to, or resolve, these issues.[32] Therefore, we reiterate the need for the City to include environmental sampling results in an EIR, including results for soil vapor, PCE and benzene. The EIR must compare soil sampling results to construction worker screening levels to determine the Project's potentially significant impacts from contamination. Without sampling results, there is no support for the MND's and Phase I ESA's conclusions. In addition, an investigation targeting contamination from dry cleaning operations must be performed and the results included in an EIR. Without a targeted investigation, there is no support for the MND's and Phase I ESA's conclusions.

As it stands, substantial evidence supports a fair argument that the Project may result in health impacts to construction workers, hotel guests and hotel workers from on-site contamination. The City must prepare an EIR that quantitatively assesses and mitigates these impacts.

RESPONSE TO COMMENT 2B.6

The Commenter remains concerned that the historical land uses on the Project Site would pose an increased health hazard to upon construction workers and future hotel guests and workers and insists the City must prepare an EIR with environmental soil sampling results. However, as discussed in the Staff Report's Response to Comments and disclosed in the MND, various subsurface investigations were conducted on the Project Site and received case closure notices from the RWQCB in 1986. The Phase I ESA noted that any contamination from the dry cleaning service would have been present during the gas station subsurface investigation. Because the case closed in 1986, there are no recognized environmental conditions (RECs) in connection with the historical uses on the Project Site. The MND analysis concluded that the Project's Phase I ESA did not find any REC's in connection with the Project Site due to case closure from the RWQCB in regards to the previous gas station and the lack of any contamination history or violations from the previous laundry facility. Although the specific data logs and monitoring

30 *MND, p. III-55.*
31 *Id.*
32 *Attachment A, p. 6.*

surveys that were referenced in the RWQCB's closure report documentation were unavailable, the fact that closure reports were issued for the site support the conclusion that the site was remediated to an acceptable level. Nevertheless, the Proposed Project would incorporate Mitigation Measure HAZ-1, which requires approval and sign-off from the Fire Department indicating that all on-site hazardous materials have been remediated. The Proposed Project did not defer an impact to a mitigation measure as it is anticipated that the soils to be excavated are clean and have already been remediated to the satisfaction of the RWQCB. Therefore, the Project Site does not warrant another subsurface investigation as any residual impacted soils identified during excavation would be subject to remediation under the review of the LADF.

COMMENT 2B.7

II. CONCLUSION

The Staff Report fails to resolve the issues we raised in our comments on the MND. There is substantial evidence supporting a fair that the Project may result in significant adverse impacts that were not identified in the MND, and that are not adequately analyzed or mitigated. We, once again, urge the City to fulfill its responsibilities under CEQA by withdrawing the MND and preparing a legally adequate EIR to address the Project's potentially significant impacts. Only by complying with all applicable laws will the City and the public be able to ensure that the Project's significant environmental impacts are mitigated to less than significant levels.

Thank you for your attention to these comments.

RESPONSE TO COMMENT 2B.7

As discussed in Response to Comments 2B.1 through 2B.6 above, the assertions and claims raised by Adams Broadwell Joseph & Cardozo do not present a fair argument that the project would result in a significant impact. The State CEQA Guidelines mandates that the lead agencies decision to prepare an EIR must be based on substantial evidence in the record. Pursuant to CEQA, substantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact. Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment (P.R.C Section 21080(d) and (e)). As the claims and assertions presented by the commentor are erroneous and supported by speculative assumptions, they do not present a fair argument that an EIR is warranted.

APPEAL No. 2C

SWAPE
Matt Hagemann, Jessie Jaeger
2656 29th Street, Suite 201
Santa Monica, CA 90405
September 7, 2016

COMMENT 2C.1

Dear Ms. Koss:

We have reviewed the Recommendation Report ("Staff Report") for the proposed Hollywood Ivar Gardens Project (ENV-2015-2895-MND) ("Project") located in the City of Los Angeles. The Staff Report addresses comments we made on the Initial Study/Mitigated Negative Declaration ("IS/MND") for the proposed Project in a July 5, 2016 letter. After review of the responses provided in the Staff Report, we maintain that the IS/MND still falls well short in describing and mitigating the Project's Air Quality, Greenhouse Gas, and Hazards and Hazardous Waste impacts. A Draft Environmental Impact Report (DEIR) should be prepared to adequately evaluate and mitigate the Project's environmental and health risk impacts.

RESPONSE TO COMMENT 2C.1

This comment letter acknowledges that SWAPE has reviewed the Staff Report that addresses comments previously made regarding the MND. The Commenter asserts that the MND fails to comply with CEQA and expresses concerns with significant impacts regarding air quality, greenhouse gas emissions, and hazardous wastes. The Commenter discusses their concerns in more detail under the proceeding subheadings of their comment letter. As such, detailed responses to each of these concerns are presented below.

COMMENT 2C.2

Air Quality

In our July 5, letter, we concluded that the Project's IS/MND failed to adequately evaluate the Project's Air Quality impacts because the IS/MND failed to prepare a construction and operational health risk assessment. We still maintain that the Staff Report fails to prepare a construction and operational health risk assessment. We still maintain that the Staff Report fails to address our concerns regarding the construction and operational health risk posed by the proposed Project.

Diesel Particulate Matter Health Risk Emissions Inadequately Evaluated

Our July 5 letter found that the IS/MND failed to evaluate the health risk posed to nearby sensitive receptors from exposure to diesel particulate matter (DPM) emissions released during Project

construction and operation (Response to Comments, p. 30). The Staff Report attempts to address our concerns on this matter, stating:

> "The requirement to prepare a construction or operational health risk assessment pursuant to OEHHA Guidelines is not required under CEQA or any required permits or approvals. Based on the relatively low emissions associated with PM10 and PM2.5 during both construction and operation, there is no evidence to suggest that the Proposed Project would generate diesel emissions that are excessive or above acceptable levels that already occur within the environment. Furthermore, as discussed in greater detail below, the screening level analysis presented in Comment 3.3 does not accurately reflect the project's characteristics or exposure pathways to sensitive receptors" (Response to Comments, p. 31).

This justification for failing to prepare a health risk assessment, however, is incorrect for several reasons.

First, the IS/MND relies upon a subjective opinion that has no factual basis rather than a quantitative assessment, to determine the Project's Air Quality impacts. Simply because Project construction and operation would emit "relatively low" PM_{10} and $PM_{2.5}$ emissions does not mean that the Project applicant is not required to conduct a health risk assessment, nor does it mean that the Project would not result in a significant health risk impact. A health risk assessment is required to determine whether or not a Project would expose sensitive receptors to substantial air pollutants. In order to answer this checklist item, the IS/MND should have conducted some sort of quantitative analysis and should have compared the results of this analysis to applicable thresholds. The South Coast Air Quality Management District (SCAQMD) provides a specific numerical threshold of 10 in one million for determining a project's health risk impact.[33] Therefore, the IS/MND should have conducted an assessment that compares the Project's construction and operational health risks to this threshold in order to determine the Project's health risk impact. By failing to prepare a health risk assessment, the IS/MND fails to provide a comprehensive analysis of the sensitive receptor impacts that may occur as a result of exposure to substantial air pollutants.

Second, contrary to what is stated in the Staff Report, the SCAQMD does recommend that health risk assessments be prepared for development projects subject to review under CEQA. According to the SCAQMD,

> "In August 2002, the SCAQMD's Mobile Source Committee approved the 'Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Emissions.' This document provided guidance for analyzing cancer risks from diesel particulate matter from mobile sources at facilities such as truck stops and warehouse distribution centers. Subsequently, SCAQMD staff revised the aforementioned document to expand the analysis to provide technical guidance for analyzing cancer risks from potential diesel particulate emissions impacts from truck idling and movement (such as, but not limited to, truck stops, warehouse and distribution centers, or transit centers), ship hotelling at ports, and train

[33] *http://www.aqmd.gov/docs/default-source/ceqa/handbook/scaqmd-air-quality-significance-thresholds.pdf?sfvrsn=2*

> idling. This revised guidance document titled, 'Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis' was presented to and approved by the SCAQMD's Mobile Source Committee at its March 28, 2003 committee meeting. It is suggested that projects with diesel powered mobile sources use the following guidance document to quantify potential cancer risks from the diesel particulate emissions." [34]

Since the proposed Project will generate on-road heavy-duty truck trips during construction and operation, and will utilize off-road equipment during construction, the IS/MND should have quantified the health risk that would occur as a result of these activities. By failing to prepare a construction or an operational health risk assessment, the IS/MND is inconsistent with SCAQMD CEQA Guidelines.

Third, the omission of a health risk assessment is not only inconsistent with SCAQMD CEQA Guidelines, but is also inconsistent with analyses conducted for other CEQA projects. For example, the 777 Sunnyvale-Saratoga Road project (Project Number 2015-7399) located within the City of Sunnyvale in Santa Clara County, [35] the Sierra Lakes Commerce Center project located in the City of Fontana,[36] and the 24th and Harrison Streets project located in the City of Oakland[37] all conducted screening level health risk assessments to determine whether or not the project would result in significant health risk impacts. This method of determining whether or not a project would expose sensitive receptors to substantial air pollutants is widely used by projects subject to review under CEQA, regardless of the size or land use type proposed. Therefore, to demonstrate consistency with analyses conducted for other development projects within California, the IS/MND should have also prepared a health risk assessment.

Finally, the Staff Report's claim that our screening level analysis "does not accurately reflect the project's characteristics or exposure pathways to sensitive receptors" is entirely incorrect (Response to Comments, p. 31). According to the Staff Report,

> "The cancer potency factor used by SWAPE was based on 1.1(mg/kg-day)-1 and an averaging time of 25,550 days (70 years). This factor assumes a constant exposure to DPM over a 70-year lifetime and does not account for dose or exposure duration. The construction activities of the project would occur for approximately 8 hours a day and 5 days a week. Thus, it is inaccurate to assume that nearby persons would be exposed to any emissions during the evening hours or on weekends. Persons would only be exposed to emissions at times when the emissions are being generated and when the individuals are within a proximate range of exposure to the emissions. Factors such as leaving one's residence to go

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34 *http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/mobile-source-toxics-analysis*

35 *777 Sunnyvale-Saratoga Road Mitigated Negative Declaration (Project Number 2015-7399), Appendix B Health Risk Assessment, available at: Office of the Secretary of the Planning Commission, City Hall, 456 West Olive Avenue, Sunnyvale.*

36 *Sierra Lakes Commerce Center Project, Recirculated Draft Environmental Impact Report, Appendix A, available at: https://www.fontana.org/index.aspx?NID=2590*

37 *24th and Harrison Street Project, CEQA Analysis, Attachment G, available at: http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak059792.pdf*

to work or school are not considered within SWAPEs analysis" (Response to Comments, p. 32).

This justification for why our screening level health risk assessment overestimates the Project's health risk impact is incorrect, and it demonstrates the IS/MND's lack of understanding behind the purpose of a screening-level analysis. The Office of Environmental Health Hazard Assessment (OEHHA), the organization responsible for providing recommendations for health risk assessments in California, recognizes that screening-level analyses are more conservative, and tend to err on the side of health protection.[38] However, the purpose of a screening-level health risk assessment is to determine if a more refined health risk assessment needs to be conducted. If the results of a screening-level health risk assessment are above applicable thresholds, then the Project needs to conduct a more refined health risk assessment that is more representative of site specific concentrations. Screening-level analyses are supposed to represent the most conservative, worst-case scenario, and therefore should be calculated as such.

Consistent with OEHHA guidelines, in order to represent the most conservative, worst-case scenario, the health risk assessment presented in our July 5 letter relies upon the most conservative assumptions, such as continuous exposure to pollutants and increased sensitivity to infants and children. Therefore, the Staff Report's claim that our health risk assessment relies upon incorrect values that overestimate the Project's health risk impacts is incorrect, as our analysis is consistent with health risk procedures set forth by OEHHA.

By failing to prepare a construction or an operational health risk assessment, the IS/MND is inconsistent with SCAQMD CEQA Guidelines, recommendations set forth by OEHHA, and with analyses conducted for other development projects within California. In an effort to demonstrate the potential risk posed by the Project to nearby sensitive receptors, we prepared a simple screening-level health risk assessment. The results of our assessment, which were disclosed in our July 5 letter and are shown in the table below, demonstrate that construction-related and operational DPM emissions may result in a potentially significant health risk impact.

The Maximum Exposed Individual at an Existing Residential Receptor (MEIR)

Activity	Duration (years)	Concentration ($\mu g/m^3$)	Breathing Rate	ASF	Cancer Risk
Construction	2.00	0.36	1090	10	1.2E-04
Infant Exposure Duration	**2.00**			**Infant Exposure**	**1.2E-04**
Construction	0.06	0.36	572	3	5.6E-07
Operation	13.94	0.18	572	3	6.3E-05
Child Exposure Duration	**14.00**			**Child Exposure**	**6.3E-05**
Operation	14.00	0.18	233	1	8.6E-06
Adult Exposure Duration	**14.00**			**Adult Exposure**	**8.6E-06**

[38] *http://oehha.ca.gov/air/hot_spots/2015/2015GuidanceManual.pdf p. 1-5*

Specifically, the excess cancer risk to adults, children, and infants at a sensitive receptor located 105 meters away, over the course of Project construction and operation are 8.6, 63, 120 in one million, respectively. Furthermore, the excess cancer risk over the course of a residential lifetime (30 years) is approximately 190 in one million. Our screening-level analysis demonstrates that the infantile, child, and lifetime cancer risks all exceed the SCAQMD threshold of 10 in one million. As a result, a refined health risk assessment must be prepared to examine air quality impacts generated by Project construction using site-specific meteorology and specific equipment usage schedules. A DEIR must be prepared to adequately evaluate the Project's health risk impact, and should include additional mitigation measures to reduce these impacts to a less-than-significant level.

RESPONSE TO COMMENT 2C.2

This comment reasserts that the results of a screening level analysis supports the need for a health risk assessment to be conducted for the project's construction and operational activities. Pursuant to Section 15204 of the State CEQA Guidelines, "CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR." The requirement to prepare a construction or operational health risk assessment pursuant to OEHHA Guidelines is not required under CEQA or any required permits or approvals. Based on the relatively low emissions associated with PM10 and PM2.5 during both construction and operation, there is no evidence to suggest that the Proposed Project would generate diesel emissions that are excessive or above acceptable levels that already occur within the environment. Furthermore, as discussed in greater detail below, the screening level analysis presented in Comment 2C.2 does not accurately reflect the project's characteristics or exposure pathways to sensitive receptors.

The OEHHA Risk Assessment Guidelines, were prepared by OEHHA to provide uniform methodologies and air modeling protocols to address toxic air hazards for use in facility health risk assessments conducted pursuant to the Air Toxics Hot Spots Information and Assessment Act of 1987 (Health and Safety Code Section 44300 et seq.). The Health Risk Assessment Guidelines developed by OEHHA were not intended for non-point source operations such as a hotel project, nor were they developed for purposes of assessing short term construction impacts for non-point source projects.

A Health Risk Assessment was not prepared for the Project's operational activities because hotel land uses are not permitted facilities subject to the Air Toxics Hot Spots Information Assessment Act (AB2588). Further, the SCAQMD generally requests an operational HRA be conducted for any warehouse or distribution centers that generate 100 heavy diesel truck trips per day or 40 trucks per day with operating transport refrigeration units. The proposed hotel operations would not generate a major source of diesel emissions and thus would not warrant a detailed site-specific health risk assessment.

Furthermore, a Health Risk Assessment was not prepared for the Proposed Project's construction activities because the construction activities that are anticipated are not anticipated to be a major source of PM_{10} or $PM_{2.5}$, and thus would not generate a substantial amount of diesel particulate matter (DPM). The Project's construction emissions were quantified and analyzed in the MND using CARB's recommended CalEEMod modeling program and were compared to the SCAQMD's adopted thresholds for regional and localized air emissions. As noted in the MND, the highest daily peak particulate matter (PM) emissions would occur during the projects grading phase, which is estimated to last approximately three months. As shown in Table III-1, Estimated Peak Daily Construction Emissions, the highest daily peak PM_{10} and $PM_{2.5}$ emissions estimated for the grading phase were 4.8 lbs./day and 2.54 lbs/day, respectively. As compared to the SCAQMD's significance thresholds of 150 lbs/day for PM_{10} and 55 lbs/day for $PM_{2.5}$, the Project's construction emissions were well below the regional significance thresholds. Additionally, the on-site emissions were assessed for purposes of addressing localized air quality impacts on adjacent land uses. As shown in Table III-4, Localized On-Site Peak Daily Construction Emissions, the localized PM_{10} and $PM_{2.5}$ emissions were estimated to be 0.17 lbs/day, in comparison to significance thresholds of 33 lbs/day for PM_{10} and 10 lbs/day for $PM_{2.5}$. Diesel particulate matter is a subset of both PM_{10} and $PM_{2.5}$. The products and equipment to be utilized and operated on-site during construction activities would comply with all applicable SCAQMD rules for their manufacture and use. The Project will be subject to all applicable SCAQMD rules designed to limit exposure to TACs during construction activities. For example, the Project would be required to comply with CARB's Air Toxics Control Measure that limits diesel powered equipment and vehicle idling to no more than 5 minutes at a location, and the CARB In-Use Off-Road Diesel Vehicle Regulation; compliance with these would minimize emissions of TACs during construction. Thus, the analysis provided in the MND adequately evaluates the Proposed Project's DPM emissions and impacts related to health risks from DPM emissions would be less than significant.

Although the OEHHA Risk Assessment Guidelines acknowledge that local air pollution control districts sometimes use the risk assessment guidelines for the Hot Spots program in permitting decisions for short-term projects such as construction or waste site remediation, the SCAQMD does not request HRA's for construction activities for CEQA projects where they serve as a commenting agency but are not the lead agency issuing a facility permit. As acknowledged in the OEHHA Risk Assessment Guidelines (at page 8-17), '[t]here is considerable uncertainty in trying to evaluate the cancer risk from projects that will only last a small fraction of a lifetime. There are some studies indicating that dose rate changes the potency of a given dose of a carcinogenic chemical. In others words, a dose delivered over a short time period may have a different potency than the same dose delivered over a lifetime." The cancer potency factor used by SWAPE was based on 1.1(mg/kg-day)-1 and an averaging time of 25,550 days (70 years). This factor assumes a constant exposure to DPM over a 70-year lifetime and does not account for dose or exposure duration. The construction activities of the project would occur for approximately 8 hours a day and 5 days a week. Thus, it is inaccurate to assume that nearby persons would be exposed to any emissions during the evening hours or on weekends. Persons would only be exposed to emissions at times when the emissions are being generated and when the individuals are within a proximate range of exposure to the emissions. Factors such as leaving one's residence to go to work or school are not considered within SWAPEs analysis.

COMMENT 2C.3

Greenhouse Gas

Failure to Demonstrate Consistency with Executive Order B-30-15

In our July 5 letter, we found that the IS/MND demonstrated compliance with statewide reduction goals for 2020 to determine Project significance, yet failed to take into account, the revised, more ambitious greenhouse gas (GHG) reduction goals set by Governor Brown by Executive Order B-30-15 (Response to Comments, p. 35-36). In response to this concern, the Staff Report states,

> "The Commenter originally misinterprets and disagrees with the methodology used in the GHG emissions analysis in the MND, as discussed in COMMENT 2.19. Here, the Commenter proceeds with erroneous assertions that the targeted GHG reduction goals should be based on 2030 statewide goals instead of 2020 goals. As documented in the Newhall Ranch case, the Supreme Court ruled that applying the statewide GHG reduction goals to a specific development project was inappropriate without substantiating how the statewide goals relate to a project's GHG emissions. The Supreme Court found that while this approach could be used (if the percent reduction applied to a project was substantiated based on the statewide emission goals), the use of a BAU methodology was not recommended. This Commenter's argument is contradictory by disagreeing with a misinterpreted methodology and then provides values that the MND should have incorporated for that methodology. Nevertheless, the MND did not apply the BAU comparison methodology in the greenhouse gas emissions section, and applying a BAU level was not necessary for the MND analysis" (Response to Comments, p. 36).

This justification for failing to comply with Executive Order B-30-15, however, is entirely incorrect. We do not suggest that the IS/MND compare the Project's emissions to statewide reduction goals for 2030, as is erroneously stated in the Staff Report. We explicitly state in our letter that the Project applicant must determine a way of scaling the 49 percent statewide reduction target set forth by Executive Order B-30-15 down to a project level. Our July 5 letter states,

> "This 49 percent reduction target, once adjusted for use at the project-level, should be considered as a threshold of significance against which to measure Project impacts. Because the Project site is unlikely to be redeveloped again prior to 2030, the 2030 goals are applicable to any evaluation of the Project's impacts. A DEIR should be prepared to demonstrate the Project's compliance with these more aggressive measures specified in Executive Order B-30-15. Specifically, the Project should demonstrate, at a minimum, a reduction of 49 percent below BAU levels. It should be noted, however, that this reduction percentage is applicable to statewide emissions, not project-specific emissions. Therefore, this percent reduction may be higher when scaled down to the project-level" (SWAPE, July 5 Letter, p. 8-9).

We explicitly state that this 2030 reduction goal must be scaled down to be comparable at a project-level. Therefore, based on this statement, the IS/MND should have demonstrated compliance with the 2030 reduction goals as scaled down to a project-level using a currently accepted method, such as the methods set forth by the California Supreme Court case *Center for Biological Diversity et al. v. California Department of Fish and Wildlife and the Newhall Land and Farming Company* 2015 Cal. LEXIS 9478 *(Newhall Case)*.[39] By failing to demonstrate consistency with Executive Order B-30-15, the IS/MND is incomplete and should not be relied upon to determine Project significance. A DEIR must be prepared to adequately evaluate the Project's GHG impacts, and should include additional mitigation measures to reduce these impacts to a less-than-significant level.

RESPONSE TO COMMENT 2C.3

The Commenter originally misinterprets and disagrees with the methodology used in the GHG emissions analysis in the MND, as discussed in Response to Comment 2.19 in Attachment 3, Response to Comments on Adams Broadwell Joseph & Cardozo, *Comments on the Initial Study / Mitigated Negative Declaration for the Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-SPR),* July 6, 2016. Here, the Commenter proceeds with erroneous assertions that the targeted GHG reduction goals should be based on 2030 statewide goals instead of 2020 goals. As documented in the Newhall Ranch case, the Supreme Court ruled that applying the statewide GHG reduction goals to a specific development project was inappropriate without substantiating how the statewide goals relate to a project's GHG emissions. The Supreme Court found that while this approach could be used (if the percent reduction applied to a project was substantiated based on the statewide emission goals), the use of a BAU methodology was not recommended.

As stated on page III-49 of the MND, for purposes of the GHG analysis, the threshold of significance was based on a qualitative analysis of the Proposed Project's consistency with the applicable policies and/or regulations outlined in the Scoping Plan, SB 375, SCAG's 2012-2035 RTP/SCS, and the LA Green Building Code. The methodology employed in the MND is consistent with one of several suggested approaches that were outlined by the Supreme Court in the Newhall Ranch case. The Project's GHG emissions were quantified and compared with a scenario of a base project without GHG reduction measures for the purposes of demonstrating the reduction in GHG emissions that would occur as a result of the Project's specific design features. The demonstrated reduction in GHG emissions was not applied to a numeric threshold of significance. The analysis in the MND quantified the reduction in GHG emissions that would occur as a result of the project's consistency with the regional growth strategies outlines by SB 375 and SCAG's 2012-2035 RTP/SCS, and compliance with the LA Green Building Code, which mandates specific efficiency standards for new construction for informational purposes to demonstrate the benefits of the project's consistency with these plans and regulations.

[39] *http://www.courts.ca.gov/opinions/documents/S217763.PDF*

COMMENT 2C.4

Hazards and Hazardous Waste

In our July 5 letter, we concluded that the IS/MND failed to adequately evaluate the Project's Hazards and Hazardous Waste impacts because of the failure to evaluate potential contamination from carcinogenic chemicals typically associated with releases from former land uses, which include a dry cleaners and a gas station. We maintain that the Staff Report, specifically Responses 2.22 through 2.25, fails to substantively address our concerns regarding the construction and operational health risk posed by potential subsurface contaminants at the Project site. As it stands, the Project may result in potentially significant health impacts from hazardous materials present on the Project site.

RESPONSE TO COMMENT 2C.4

The Commenter continues to be concerned that the historical land uses on the Project Site would pose an increased health hazard to upon construction workers and future hotel guests and workers. However, as disclosed in the Staff Report's Response to Comments MND, various subsurface investigations were conducted on the Project Site and received case closure notices from the RWQCB in 1986. The Phase I ESA noted that any contamination from the dry cleaning service would have been present during the gas station subsurface investigation. Because the case closed in 1986, there are no recognized environmental conditions (RECs) in connection with the historical uses on the Project Site. The MND analysis concluded that the Project's Phase I ESA did not find any REC's in connection with the Project Site due to case closure from the RWQCB in regards to the previous gas station and the lack of any contamination history or violations from the previous laundry facility. Although the specific data logs and monitoring surveys that were referenced in the RWQCB's closure report documentation were unavailable, the fact that closure reports were issued for the site support the conclusion that the site was remediated to an acceptable level. Nevertheless, the Proposed Project would incorporate Mitigation Measure HAZ-1, which requires approval and sign-off from the Fire Department indicating that all on-site hazardous materials have been remediated. The Proposed Project did not defer an impact to a mitigation measure as it is anticipated that the soils to be excavated are clean and have already been remediated to the satisfaction of the RWQCB. Therefore, the Project Site does not warrant another subsurface investigation as any residual impacted soils identified during excavation would be subject to remediation under the review of the LADF.

APPEAL No. 3

Los Angeles Film School; 6363 Partners, LLLP
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December 19, 2016

COMMENT 3.1:

I. BACKGROUND INFORMATION

1. Introductory Note. The Appellants and the Developer have met in good faith to discuss the Project and its impacts on the Appellants. At the Developer's request, the Appellants have limited the scope of their objections while the parties continue their efforts to amicably resolve the Appellants' outstanding concerns. However, in the event that the Appellants' concerns are not resolved, the Appellants reserve the right to supplement this appeal with additional claims and supporting evidence, including expert analyses and technical studies.

2. Appellants. The Los Angeles Film School ("L.A. Film School") and 6363 Partners, LLLP[40] (collectively, "Appellants"), hereby appeal the City Planning Commission's actions on Case No. CPC-2015-2893-VZC-HD-CUB-ZAA-SPR and ENV-2015-2895-MND, as set forth in the *Letter of Determination* dated December 5, 2016, submitted herewith.

The L.A. Film School offers both bachelor's degree and associate's degree programs and trains industry professionals for careers throughout the entertainment industry, including filmmaking and production, video game production and design, computer animation, visual effects, music production and recording arts. The L.A. Film School, an accredited private institution, is a long-term Hollywood stakeholder that for nearly two decades has been a significant contributor to the Los Angeles economy, creating a vital pipeline of film professionals for Hollywood's major studios and production houses. Its campus includes the former RCA Building at 6363 Sunset Boulevard, which has undergone extensive renovations to facilitate the school's educational mission, and the adjacent building and City block. In addition, the L.A. Film School operates the Ivar Theater at 1605 Ivar Avenue and the Los Angeles Recording School at 6690 Sunset Boulevard.

3. Project. R.D. Olson Development ("Developer") proposes to construct a 21-story, 232-foot high

[40] *6363 Partners, LLLP is an affiliate of the L.A. Film School and is the legal entity that owns the property where the L.A. Film School is located.*

hotel and retail project (the "Project") at 6407 W. Sunset Boulevard (the "Project Site") pursuant to the above-referenced cases. The Project could not be constructed and operated "by-right" under the applicable development and use standards for the Site and therefore requires the following discretionary entitlements:

- Vesting Zone Change and Height District Change to allow an increase in the maximum allowable floor area ratio, doubling from 3:1 to 6:1;
- Zoning Administrator's Adjustment to permit a zero foot rear yard in lieu of the required 20 feet setback;
- Site Plan Review;
- Conditional Use Permit to allow the sale and dispensing of a full line of alcoholic beverages for on-site consumption; and
- Mitigated Negative Declaration.

RESPONSE TO COMMENT 3.1:

Comment 3.1 provides an introductory description of the Appellants (The Los Angeles Film School ("L.A. Film School") and 6363 Partners, LLLP) and the Hollywood Ivar Gardens Project ("Proposed Project"). The Comment 3.1 is noted for the record, and no further discussion is required.

COMMENT 3.2:

II. REASONS FOR APPEAL / HOW APPELLANTS ARE AGGRIEVED BY THE CPC DECISION

The L.A. Film School's unique learning environment and status as a sensitive receptor makes it particularly susceptible to external impacts from the construction of this Project, which requires a major up-zoning to allow the proposed high-rise hotel. Without appropriate protections, two years of construction will create significant noise, traffic, air quality, and other impacts to the L.A. Film School.

The proposed Project would be constructed approximately 50 feet directly west (just across a narrow, two-lane street) of the L.A. Film School's main campus at 6363 W. Sunset Boulevard, which contains, among other essential facilities, soundstages, a dubbing stage, media editing labs, sound design labs, and instructional and theater spaces that are central to the L.A. Film School's educational mission. These uses are particularly sensitive to noise and vibration impacts that will result from construction of the Project. Additionally, the Appellants are concerned that dust, debris and emissions, particularly during demolition, hauling, and project construction, could cause significant air quality and health-related impacts that will go unmitigated. Thus, the impacts of the proposed Project's construction alone would be extremely disruptive to the L.A. Film School's core operations if not properly analyzed and mitigated in accordance with the requirements of the California Environmental Quality Act ("CEQA"). Unfortunately, such

analysis has not been undertaken. In addition, the Appellants are concerned that the Project's long-term operations will cause impacts that are incompatible with the L.A. Film School.

RESPONSE TO COMMENT 3.2:

The first paragraph of this comment provides a general introduction to the Appellants' concerns and claims, which are further discussed in succeeding paragraphs. This paragraph is noted for the record and will be forwarded to decision makers.

With regards to the Appellants' assertions with regard to noise impacts, refer to Response to Comment 3.5, below.

With regards to dust, debris, and emissions during the construction phase of the Proposed Project, as discussed in Section III, Air Quality (in Section III, Environmental Impact Analysis), the Proposed Project was found to produce construction emissions well below SCAQMD thresholds of significance (refer to Table III1-1). Further the Proposed Project would be required to comply with regulatory compliance measures, including SCAQMD Rule 403, which limits fugitive dust, California Code of Regulations Title 13 Section 2485, which limits the idling of commercial vehicles, among others. Refer to Section III, Air Quality, for further discussion on air quality during construction. With adherence to regulatory compliance measures, the Proposed Project would result in a less than significant impact. This comment is noted for the record.

COMMENT 3.3:

III. POINTS AT ISSUE

1. An Environmental Impact Report is Required for the Project. The Project will cause significant adverse impacts on the L.A. Film School and the surrounding Hollywood community, and therefore requires the preparation of a full Environmental Impact Report ("EIR") for the Project, rather than a Mitigated Negative Declaration ("MND"). CEQA demands transparency with respect to environmental impacts and, consistent with this purpose, there is a low threshold for preparation of an EIR. *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Ca1.3d 376, 390-391 [an EIR is required whenever a public agency proposes to approve or carry out a project that may have a significant effect on the environment]. The Appellants simply want to ensure that CEQA's mandates are followed, and that the public and decisionmakers [sic] are adequately apprised of the Project's impacts so that they can make a fully-informed decision. As discussed below, an EIR must be prepared to fully assess the Project's potential impacts not just to the L.A. Film School, but the broader Hollywood community.

RESPONSE TO COMMENT 3.3:

As further discussed below, all points of concern raised by the Commenter have been addressed and shown to result in a less than significant impact (as further analyzed in the IS/MND). Pursuant to CEQA Section 15384, the Commenter does not produce substantial evidence to support a fair argument that the

Proposed Project may result in a significant impact. Further, pursuant to P.R.C. Section §21082.2 (b), "the existence of public controversy over the environmental effects of a project shall not require preparation of an environmental impact report if there is no substantial evidence in light of the whole record before the lead agency that the project may have a significant effect on the environment." Therefore, the IS/MND adequately analyzes the construction and operation of the Proposed Project, and the preparation of an EIR is not required.

COMMENT 3.4:

a. Project Description. The Appellants are concerned that the MND prepared for the Project does not fully describe all elements of the Project, thereby providing insufficient information for the City and the public to meaningfully evaluate the potential impacts of the Project, especially on the L.A. Film School's sensitive operations.

RESPONSE TO COMMENT 3.4:

Section II, Project Description, of the IS/MND prepared for the Proposed Project provides a detailed description of the Proposed Project's location, existing conditions on-site and in the surrounding area, existing zoning and land use designations, the Proposed Project's characteristics (including descriptions and graphics depicting the proposed building), related projects information, and the Proposed Project's discretionary requests. As discussed in Section I, Introduction, the purpose of the Section II, Project Description, "is to present the environmental setting, project characteristics, related project information, and environmental clearance requirements." Section II, Project Description, provides an informational foundation for the analyses provided in Section III, Environmental Impact Analysis. To this extent, the Section II, Project Description, adequately and accurately presents the Proposed Project.

The Commenter states that "all elements of the Project" were not fully described. The Commenter does not elaborate on this claim nor does the Commenter provide examples within this comment. As discussed above, Section II, Project Description, adequately describes the Proposed Project. This comment is noted for the record and will be submitted to the decision maker.

COMMENT 3.5:

b. Noise. As a school that offers programs that would be significantly and adversely impacted by increases in noise and vibration, the Appellants have reason to worry that construction and operational noise generated by construction of this Project will significantly impair the ability of students to meet their educational goals. The L.A. Film School includes a number of uses and programs critical to its educational mission that would be impacted by noise and vibration from the Project, including sound stages, a dubbing stage, theatres, recording studios, and classrooms. In addition, the L.A. Film School has substantial classroom spaces on the western side of its building that would be disrupted by Project noise, and will likely require relocation to ensure that construction noise impacts do not impede students' classroom learning experience. The L.A. Film School is, therefore, a sensitive receptor (as acknowledged by the MND); however, potential impacts to the L.A. Film School's operations are not adequately addressed by the Developer. Moreover, the Appellants are concerned that the mitigation measures

included in the MND will not mitigate impacts on the L.A. Film School and its students and faculty because of the L.A. Film School's close proximity to the Project site.

RESPONSE TO COMMENT 3.5:

As outlined in Section III, Environmental Impact Analysis, Section XII, Noise, the analyses acknowledges and lists the Los Angeles Film School as a sensitive receptor for noise (refer to page III-84 of the IS/MND). Two noise monitoring locations (Location #3 and Location #4, refer to Figure III-17) are taken along Ivar Avenue adjacent to the Project Site and across the street from the Los Angeles Film School to document existing noise levels.

The Section XII, Noise, provides a detailed discussion on construction noise (starting on page III-82 of the IS/MND). The IS/MND acknowledges that the Proposed Project's construction may generate noise levels in excess of 5 dBA in the interior of the LA Film School building. For this reason, several noise reducing mitigation measures were adopted to reduce the Project's noise impacts during construction, such as avoiding the operation of several pieces of equipment simultaneously and incorporating noise shielding and muffling devices. (Mitigation Measures N-1 through N-7). The IS/MND further states:

> *In accordance with LAMC Section 112.05, construction noise levels are exempt from the 75 dBA noise threshold if all technically feasible noise attenuation measures are implemented. The Project Site is not within 500 feet of a residential zone. Therefore, the estimated construction-related noise levels associated with the Proposed Project would not exceed the numerical noise threshold of 75 dBA at 50 feet from the noise source within 500 feet of a residential zone as outlined in the City Noise Ordinance. Additionally, implementation of the following mitigation measures would further reduce the noise levels associated with construction of the Proposed Project on adjacent businesses to the maximum extent that is technically feasible. Thus, based on the provisions set forth in LAMC 112.05, implementation of Mitigation Measures N-1 through N-6 would ensure impacts associated with construction-related noise levels are mitigated to the maximum extent feasible and temporary construction-related noise impacts would be considered less than significant in accordance with City requirements and standards. (page III-87)*

Notwithstanding the less than significant impact determination substantiated in the IS/MND, the Applicant hired Veneklasen Associates to further evaluate the construction noise impacts and develop a construction noise mitigation plan in consultation with the Applicant and the Los Angeles Film School to specifically address the potential for impacts upon the LAFS's operations. Based on an initial consultation with the Applicant and representatives from LAFS on February 22, 2017, Veneklasen Associates (Veneklasen) prepared a supplemental noise assessment and has proposed additional mitigation measures to reduce the project's construction-related noise impacts (See Attachment 4). The Veneklasen noise study included a detailed noise assessment of the construction equipment fleet identified in the MND. The Veneklasen study confirms that the predicted construction noise levels would be similar to the noise impacts disclosed in the MND, and further reduced to below significance with additional mitigation measures. In summary, the Applicant is proposing the following voluntary mitigation measures to be implemented during the construction period.

Additional Voluntary Construction Mitigation Measures

1. The project contractor shall erect a minimum 16-foot high temporary noise barrier around the perimeter of the north and eastern site boundary for the purpose of attenuating construction noise impacts. The temporary noise barrier may be constructed of a solid plywood wall or draped sound blankets, and will have an operable gate for entry/exit to the site, which will remain closed at all feasible times.

2. The Project Applicant shall retain a licensed acoustical engineer to install on-site noise and vibration monitors to be located on the northeast corner of the Project Site for the duration of the construction activity. These monitors will continuously measure on-site noise and vibration levels, and can be calibrated to provide an alert to contractors if noise or vibration levels exceed applicable standards.

3. No hauling activity should be permitted along Ivar Avenue.

4. An information sign shall be posted at each entrance to the construction site that identifies the permitted construction hours and provides a telephone number of the site superintendent to call and receive information about the construction activities or to report complaints regarding excessive noise levels. Any reasonable complaints shall be rectified within 24 hours of their receipt.

As noted in the Veneklasen study (attached) the installation of a 16-foot temporary noise barrier along the north and east perimeter of the site, in conjunction with a temporary 10-foot noise barrier that could be moved and positioned close to construction equipment as necessary would reduce construction noise impacts to 3 dBA over ambient noise levels. The Veneklasen study concluded that without any sound walls, noise levels at the adjacent LAFS would be 79 dBA L_{eq}. With a 16-foot sound wall constructed along the northern and eastern property boundary, construction noise levels would be reduced by 8 dBA, resulting in a sound level of 71 dBA at the ground level. For the upper classroom floors, where the line of sight between the construction equipment and the classroom windows would not be blocked, the resulting noise levels would still be up to 79 dBA. With the added use of a 10-foot temporary sound wall positioned in close proximity to construction equipment, noise levels at the upper classroom levels would be 3 dBA above the existing ambient noise levels, which is below the 5 dBA threshold of significance.

With regards to construction related vibration impacts during the construction phase of the Proposed Project, the analyses states that the sensitive receptors would be exposed to increased vibration levels on a temporary and intermittent basis during the construction period, which could contribute to human annoyance. Since the Proposed Project would implement all technically feasible noise attenuation measures, construction vibration levels would be considered exempt from the noise threshold pursuant to LAMC Section 112.05. As such, human annoyance impacts with respect to construction-generated vibration would be less than significant. The additional mitigation measures to install on-site noise and vibration monitors during the construction period would further ensure compliance with the LAMC.

With regards to operational noise, the Proposed Project would produce operational noise from the use of stationary equipment (e.g. HVAC systems) and outdoor open space areas. The Proposed Project's operational noise would not exceed existing ambient noise levels in the vicinity of the Project Site. Further, operation of the Proposed Project would be required to comply with the City of Los Angeles General Plan Noise Element and Noise Ordinance, which would ensure that the Proposed Project's operational noise would be less than significant. With regards to operational noise, no further discussion is necessary.

With regards to operational vibration, the Proposed Project would be limited to typical vibration sources that presently exist in the Project Site vicinity, such as refuse trucks for the removal of on-site solid waste. The Proposed Project would not be expected to significant increase vibration at the Project Site or in the Project Site vicinity. As such, the Proposed Project would produce a less than significant impact, and no further discussion is warranted.

COMMENT 3.6:

c. Greenhouse Gas Emissions. The Appellants are concerned that the MND's methodology for analyzing greenhouse gas emissions is internally inconsistent and may not accurately evaluate the Project's potential greenhouse gas impacts.

RESPONSE TO COMMENT 3.6:

Greenhouse gas emissions were extensively analyzed in Section III, Environmental Impact Analysis, Section VII, Greenhouse Gas Emissions. It is not clear from Comment 3.6 what the Appellants' specific concerns are relating to greenhouse gases, since no further discussion is provided. Response to Comment 2C.3, above, and Response to Comment 2.18 through 2.22 in Attachment 3, Response to Comments on Adams Broadwell Joseph & Cardozo, *Comments on the Initial Study / Mitigated Negative Declaration for the Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-SPR),* July 6, 2016, provide additional information regarding the MND's methodology for analyzing greenhouse gas emissions and show the MND accurately evaluates the Proposed Project's greenhouse gas impacts as less than significant with mitigation measures incorporated. This comment is noted for the record and will be forwarded to decision makers.

COMMENT 3.7

d. Traffic. Because it is located adjacent to the Project, the L.A. Film School has a particular interest in ensuring that all traffic impacts associated with the Project are correctly analyzed and mitigated. In particular, the Appellants are concerned that both construction and long-term traffic from this Project will significantly impair the ability of students, faculty and staff to access its campus, especially given the existing, extremely congested conditions. The Appellants are also concerned that the Project will cause traffic impacts associated with queuing of cars and trucks at the Project site, and that future street closures at or near the intersection of Cahuenga Boulevard and Sunset Boulevard, associated with construction activities, has the potential to impact the L.A. Film School by blocking access.

RESPONSE TO COMMENT 3.7

Refer to Response to Comment No. 1A.6 for a full discussion of the analysis of the peak construction traffic expected to be generated by the proposed project and general traffic congestion. Refer also to the detailed responses to the September 1, 2016 and December 13, 2016 MRO Engineers comment letters (Appeal No. 1B and 1C, above, and Attachment 2) for a full discussion of the project's operational site access and circulation scheme, service and delivery operations and general traffic impact.

Additionally, Section III, Environmental Impact Analysis, Section XVI. Transportation and Traffic, of the MND provides a detailed discussion of the Proposed Project's traffic impacts, which summarizes and incorporates by reference the information provided in Appendix G, *Draft Traffic Impact Study, Ivar Gardens Hotel Project, City of Los Angeles, California,* prepared by Linscott, Law & Greenspan, Engineers, dated December 23, 2015, and related correspondence from the Los Angeles Department of Transportation (LADOT) to the MND. Section XVI. Transportation and Traffic concludes the Proposed Project's impacts would be less than significant and implementation of mitigation measures would further ensure traffic impacts are less than significant. The Commenter particularly expresses concern regarding the construction and long-term traffic impacts from the Proposed Project. As discussed on page III-119 of the MND, parking spaces for construction workers would be provided offsite at public parking lots in the vicinity of the Project Site, which would be reserved by the contractor. A final parking plan for construction workers would be determined at the time of construction and outlined in the Construction Management Plan. For the use of haul trips during the Proposed Project's construction, the Proposed Project could utilize two potential haul routes to the Hollywood Freeway (US-101). The haul trips would occur outside of the peak hours and during the permissible hauling hours identified in the haul route to be approved by the Department of Building and Safety. The addition of these vehicles onto the street system would contribute to increased traffic in the Project vicinity. However, the Proposed Project's construction trip traffic would be a fraction of the operational traffic that would not cause any significant impacts at the studied intersections. Therefore, it is not anticipated that they would contribute to a significant increase in the overall congestion in the Project vicinity. In addition, any truck trips would be limited to the length of time required for the Project's construction. Thus, due to the temporary nature of the traffic, construction impacts would be less than significant with the incorporation of Mitigation Measures TRAFFIC-2 through TRAFFIC-5 on page III-120 of the MND.

For long term, operational traffic impacts from the Proposed Project, Section XVI. Transportation and Traffic of the MND concludes the Proposed Project's operational traffic would not create significant impacts to any of the six study intersections. The Proposed Project would not cause permanent alterations to vehicular circulation routes and patterns, impede public access or travel upon public rights-of-way. Therefore, the Proposed Project would not cause any significant traffic impacts. The Proposed Project would also implement Mitigation Measure TRAFFIC-1, which would further ensure traffic impacts are less than significant and would require the applicant to comply with any applicable conditions and recommendations from the Department of Transportation.

The Commenter also expresses concern regarding the potential traffic impacts associated with queuing of cars and trucks at the Project Site and the potential for future street closures at or near the intersection of Cahuenga and Sunset Boulevard associated with construction activities. Vehicular access to the Project

Site will be provided via one main ingress/egress driveway on N. Cahuenga Boulevard to the west as well as a restricted one-way inbound service driveway on Ivar Avenue to the east. As discussed on page 9 of the Traffic Study (see Appendix G to the MND), the porte cohere for the Proposed Project will be located along the north side of the building, internal to the site. Two service lanes along with a drop-off area (i.e., essentially a by-pass lane) will be provided within the porte cochere. With provision of two service lanes along with the drop-off area/by-pass lane, more than sufficient queuing area is provided as part of the Proposed Project in order to preclude the potential for site-related traffic to extend into public right-of-way. Thus, there would be sufficient queuing provided on the Project Site and, therefore, queuing would not block access to the L.A. Film School.

Regarding the potential impacts related to future street closures associated with construction activities, as discussed on page III-123 of the MND, development of the Project Site may require temporary and/or partial street closures due to construction activities. However, any such closures would be temporary in nature and would be coordinated with the Departments of Transportation, Building and Safety, and Public Works. In addition, if any partial street closures are required, flagmen would be used to facilitate the traffic flow until construction is complete. Thus, with coordination with the Departments of Transportation, Building and Safety, and Public Works, flagmen to facilitate traffic flow, and incorporation of Mitigation Measures TRAFFIC-2 through TRAFFIC-5 on page III-120 of the MND, potential impacts related to future street closures associated with the Proposed Project's construction activities would be less than significant. Therefore, the Proposed Project would not block access to the L.A. Film School.

COMMENT 3.8

e. Hazards and Hazardous Materials. The Project site previously contained a Texaco gas station and a laundry facility, both uses that are commonly associated with the release of hazardous substances and long-term pollution impacts. Understandably, the Appellants are concerned that ground disturbance activities at the Project Site would result in the release of hazardous substances what would impact the health of L.A. Film School students and faculty.

RESPONSE TO COMMENT 3.8

As discussed in Section VIII, Hazards and Hazardous Materials, the Project Site was formerly occupied by a laundry mat and gas station. As disclosed in the MND, various subsurface investigations were conducted on the Project Site and received case closure notices from the RWQCB in 1986. The Phase I ESA noted that any contamination from the dry cleaning service would have been present during the gas station subsurface investigation. Because the case closed in 1986, there are no recognized environmental conditions (RECs) in connection with the historical uses on the Project Site. The MND analysis concluded that the Project's Phase I ESA did not find any REC's in connection with the Project Site due to case closure from the RWQCB in regards to the previous gas station and the lack of any contamination history or violations from the previous laundry facility. Although the specific data logs and monitoring surveys that were referenced in the RWQCB's closure report documentation were unavailable, the fact that closure reports were issued for the site support the conclusion that the site was remediated to an acceptable level. Nevertheless, the Proposed Project would implement Mitigation Measure HAZ-1, which

requires a sign-off from the Los Angeles Fire Department indicating that all on-site-hazardous materials including contamination of the soil and groundwater, have been suitably remediated, or that the Proposed Project will not impede proposed or on-going remediation measures prior to the issuance of any use of land, grading, or building permit. Moreover, the Proposed Project would be required to comply with regulatory compliance measures relating to the handling of potentially hazardous materials. As such, the Proposed Project would create a less than significant impact relating to the accidental release of hazardous materials with mitigation. The Proposed Project would not subject the L.A. Film School to hazardous conditions.

COMMENT 3.9

2. Streetscape Design. Whereas Sunset Boulevard and Cahuenga Boulevard are the formal entrances to the Project, the design of the Ivar Avenue streetscape, which is the rear service area, is a mere afterthought. These Ivar-facing elements, which are closest to the L.A. Film School, are the weakest streetscape components of the Project and fail to complement or activate the neighboring properties on the eastern side of the Project Site.

RESPONSE TO COMMENT 3.9

The Proposed Project includes a full access driveway along Cahuenga Boulevard and a service entrance on Ivar Avenue. Pedestrian access would be provided along Sunset Boulevard. The Proposed Project does not include any vehicle entrances along Sunset Boulevard. The Proposed Project's architectural design and materials are maintained throughout the proposed building for a cohesive design, including the eastern façade of the proposed building that faces the L.A. Film School. Refer to Figures II-11 and II-12 for building elevations and Figure II-14 for architectural renderings.

Proposed Project includes ten street trees on the public right-of-way along Ivar Avenue, Sunset Boulevard and Cahuenga Boulevard. Along Ivar Avenue near the L.A. Film School, the Proposed Project includes four street trees similar to the public right of way along Cahuenga Boulevard. The Proposed Project would increase street trees around the Project Site, where there currently only exists one tree. Refer to Figure II-15, Landscape Plan. The Proposed Project's placement of street trees is consistent with surrounding street trees, including the street trees along Cahuenga Boulevard and the east side of Ivar Avenue.

This comment is noted for the record and will be forwarded to decision makers.

COMMENT 3.10

3. Zoning Administrator's Adjustment. The Project does not comply with the City's requirement to provide a 20-foot rear setback, therefore necessitating relief in the form of a Zoning Administrator's Adjustment to allow development of the Project within the mandatory 20-foot rear yard. However, the City Planning Commission's findings granting the Zoning Administrator's Adjustment are not sufficiently supported. Specifically, Los Angeles Municipal Code ("LAMC") Section 12.28 C.4 requires a finding that "site characteristics or existing improvements make strict adherence to the zoning

regulations impractical or infeasible....". In this case, that required finding is simply not made or supported. Instead, the *Letter of Determination* solely asserts that the reduction in buildable area that would result from compliance with the City's setback requirements "makes it a hardship to build a hotel development in a Regional Commercial Center area [in] which properties generally have no building setbacks." However, there is no support for this assertion and no evidence that adherence to the setback is "impractical or infeasible". Moreover, the fact that other buildings do not have similar setbacks is purely a product of the proposed Project – a hotel (extended stay) – which the LAMC considers a residential use. The City Planning Commission's findings for the Zoning Administrator's Adjustment therefore lack sufficient evidentiary support.

RESPONSE TO COMMENT 3.10

The commenter indicates that in making its findings for approval of the rear yard setback Zoning Administrator's Adjustment, the City in its *"Letter of Determination* solely asserts that the reduction in buildable area that would result from compliance with the City's setback requirements 'makes it a hardship to build a hotel development in a Regional Commercial Center area [in] which properties generally have no building setbacks." The commenter omits reference to the substantive findings made by the City and as detailed on pages F-20 through F-28 of the City Planning Commission's Letter of Determination (LOD).

The City accurately notes that properties in this Commercial zone and in Regional Center Commercially designated lots generally do not have to provide yard setbacks, including rear yard setbacks. This is further evidenced and noted by the City in the LOD in their analysis that a majority of the surrounding commercial properties and development have zero-foot yard setbacks as is consistent with the development pattern of Regional Center Commercially designated lots in this area and throughout the City. An office building of a similar size and footprint on this site could provide a zero-foot rear yard setback by right. However, because the Code considers hotel guest rooms to be dwelling units for purposes of specific development standards, guest rooms located along this rear yard line must provide a rear yard setback per LAMC Sec. 12.11 C.

As described in said LOD pages, the City accurately notes that based on community input, including from City design advisory groups, the guestrooms which were previously limited to the "tower" portion of the building along Sunset Blvd. were extended to "wrap" around the building to face Cahuenga Boulevard and Ivar Avenue to further activate these two commercial side streets. The result is that there are approximately three guestrooms located on Level 2 which encroach within the rear yard setback in the northeast and northwest corners of the Site. The yard requirements are built into the Code to provide light and air for residential uses. The proposed second floor guestrooms, particularly those within the rear yard setback area, receive ample natural light from the windows on their easterly and westerly outward facing walls. The LOD also accurately notes that above this second level, the "tower" portion of the building is set back significantly, approximately 87 ft. from the subject northerly property line.

COMMENT 3.11

4. Conditional Use Permit. The City Planning Commission approved the Developer's request for a conditional use permit ("CUP") to permit the sale of alcoholic beverages at the Project. The Appellants are concerned that the City Planning Commission's approval did not sufficiently consider the potential adverse impacts on adjacent properties, the surrounding neighborhood, or the public health, welfare and safety, as is required by the LAMC. See LAMC §§ 12.24 E, 12.24 W. The sale and consumption of

alcoholic beverages may sometimes be associated with increased crime and increases in service calls to the Los Angeles Police Department and Los Angeles Fire Department. The City Planning Commission's approval unjustifiably minimizes the risks of alcoholic beverage sales at the Project, merely stating that "[a]lcohol will not be a focal point of the Proposed Project" and will only complement other hotel amenities. This description understates the potential significance of alcoholic beverage sales at the Project, which could adversely affect adjacent properties (such as the L.A. Film School), the surrounding Hollywood community, and the public health, welfare and safety.

RESPONSE TO COMMENT 3.11

The commenter indicates that the City in making its findings for the approval of the Conditional Use permit for the on-site sale of alcoholic beverages (CUB) "merely stat[ed] that 'alcohol will not be a focal point of the Proposed Project' and will only complement other hotel amenities." Again, the commenter omits reference to the substantive findings on pages F-9 through F-20.

The purpose of the CUB request is to allow for on-site consumption of alcoholic beverages within the ground floor hotel lobby and restaurant, the second floor meeting rooms and for "mini bars" located within each hotel room in conjunction with the operation of the hotel; all of these are fairly standard amenities for hotels, particularly those with on-site restaurants and meeting spaces, and thus the granting of the CUB will enable the proposed hotel to be competitive with other Hollywood hotels.

Although there is a church and a few multi-family residential buildings a couple of blocks away and a public library located approximately 600 ft. away, the majority of the surrounding uses are office commercial, retail and restaurants, with many serving alcohol as part of their food service.
The General Plan and Hollywood Community Plan specifically detail objectives and policies (see aforementioned LOD sections) that call for Sunset Blvd to be a commercial center and entertainment center for Hollywood and the entire region and to accommodate a diversity of uses for businesses and visitors. The project will contribute toward and facilitate the City's long-term fiscal and economic viability by adding 275 hotel rooms (offering standard and extended stay rooms) within Hollywood's commercial and entertainment core for visitors, business travelers, and tourists. By attracting and retaining business guests and tourists in the area, the hotel will enhance revitalization efforts and further activate the pedestrian experience.

Availability of alcoholic beverages is a typical hotel characteristic expected by discerning travelers and a necessity for a hotel to compete with others in the area. The conditional use would allow for alcohol in a carefully controlled hotel setting, including common areas, small meeting rooms, and guest rooms (through mini-bars and room service). Alcohol will not be a focal point of the proposed project. Instead, it will be an amenity that complements other food and beverage options provided to hotel guests and visitors. The City Planning Commission has imposed numerous conditions to address potential adverse impacts to the surrounding community. These are specified in the LOD as Condition Numbers 12 through 27.

COMMENT 3.12

5. Site Plan Review. The Project is not compatible with neighboring properties and uses, which is required for Site Plan Review approval pursuant to LAMC Section 16.05 F.2. As detailed above, the Project proposes an excessively tall and large development envelope, built all the way to the rear property line, that would adversely impact the L.A. Film School's ability to educate its students. In approving the Site Plan Review, the City Planning Commission did not adequately consider all of the external impacts created by the Project on the L.A. Film School and other nearby sensitive receptors. In addition, the City Planning Commission did not ensure that the Project's design incorporated streetscape elements that were complementary to, and compatible with, all adjacent and neighboring properties.

RESPONSE TO COMMENT 3.12

The Proposed Project would have a 1' – 6" setback on the northerly property line and would include a variable 0-to-4-foot setback from the southerly, easterly, and westerly property lines. These setbacks will be compatible with surrounding buildings, which are zoned for commercial use and generally occupy entire parcels with little to no setbacks. With the approval of entitlement requests, the Proposed Project would be allowed on-site. The construction of the proposed building would be limited to the Project Site and would not impact the L.A. Film School property located across Ivar Avenue to the east. Further, the Proposed Project includes 10 street trees on the public right-of-way along Ivar Avenue, Sunset Boulevard and Cahuenga Boulevard. The Proposed Project would increase street trees around the Project Site, where there currently only exists one tree. The Proposed Project's placement of street trees is consistent with surrounding street trees, including the street trees along Cahuenga Boulevard and the east side of Ivar Avenue. This comment is noted for the record and will be forwarded to decision makers.

COMMENT 3.13

IV. CONCLUSION

The Appellants do not oppose the continued evolution and revitalization of the Hollywood community in which it is proudly located. In fact, the Appellants welcome responsible development and look forward to working with community stakeholders on the continued improvement of Hollywood. However, the significant up-zoning for the high-rise hotel Project, in a highly congested area of Hollywood, and immediately adjacent to sensitive receptors, needs to be comprehensively analyzed, and its impacts fully mitigated. Given the sheer magnitude of the Project, the MND provides a wholly insufficient level of CEQA review; much smaller projects – including zoning compliant projects – in Hollywood have required EIRs. The MND does not appropriately and adequately analyze the Project's significant environmental impacts. Instead, an EIR must be prepared to provide decision-makers and the public with sufficient information to fully consider all environmental impacts associated with the Project. Accordingly, any action taken by the City Council approving the Project and adopting the MND will be legally defective.

RESPONSE TO COMMENT 3.13

As previously discussed, all points of concern raised by the Commenter have been addressed and shown to result in a less than significant impact (as further analyzed in the MND). Pursuant to CEQA Section 15384 and P.R.C. Section §21082.2 (b), the Commenter does not produce substantial evidence to support a fair argument that the Proposed Project may result in a significant impact. Therefore, the MND adequately analyzes the construction and operation of the Proposed Project, and the preparation of an EIR is not required.

Attachments:
Attachment 1: Copies of Bracketed Appeal Letters

Attachment 2: LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016.

Attachment 3: Response to Comments on:
Adams Broadwell Joseph & Cardozo, *Comments on the Initial Study / Mitigated Negative Declaration for the Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-SPR),* July 6, 2016.
SWAPE, *Comments on the Hollywood Ivar Gardens Project (ENV-2015-2895-MND),* July 5, 2016.

Attachment 4: Veneklasen Associates, *Technical Memorandum on Hollywood Ivar Gardens Initial Predictions of Construction Noise*, April 14, 2017

Attachment 1: Copies of Bracketed Appeal Letters

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VIA HAND DELIVERED

December 16, 2016

Development Services Center
Department of City Planning
6262 Van Nuys Blvd., Room 251
Van Nuys, CA 91401

Re: Appeal Application for Hollywood Ivar Gardens Project (CPC 2015-2893-VZC-HD-CUB-ZAA-SPR; ENV-2015-2895-MND) – Letter of Determination Mailed 12/5/16 Regarding City Planning Commission Project Approvals on 9/8/16 Item No. 7

To Whom It May Concern:

On behalf of Roberto Mazariegos ("Appellant"), this Office seeks to appeal the City of Los Angeles ("City") City Planning Commission ("Commission")'s decision on September 8, 2016 approval of R.D. Olson Development ("Applicant")'s Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-ZAA-SPR) ("Project"), which became effective on December 5, 2016 with the mailing of the Letter of Determination ("LOD"). As discussed in the appeal package, the Commission approved the Project's Conditional Use Permit, Zoning Administrator's Adjustment, and Site Plan Review (collectively "Approvals"), and recommended for City Council ("Council")'s approval the Projects Vested Zone Chance and Height District Change. Although these other entitlements are part and parcel of the Project as a whole, only the Project Approvals are appealable at this time in accordance with the instructions provided in the LOD. 1A.1

In short, Appellant challenges the Project Approvals on grounds that the Commission erred when relying on an inadequate environmental review of the Project impacts, and the Commission abused its discretion by failing to make the necessary findings to support granting these discretionary entitlements. Therefore, Appellant submits this appeal application requesting Council to reverse the Commission's decision and deny the Project Approvals until a proper environmental analysis is prepared and circulated to the public.

This appeal application includes the entire administrative record of the Approvals and all previously provided materials in connection with the Project including but not limited to Neal Liddicoat, P.E. expert comment letter dated September 1, 2016, Appellant's lawyer's letter dated September 5, 2016 and oral testimony during the Project hearing on September 8, 2016. These materials have already been provided to the City; if not in its

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possession, let Appellant's lawyer know at once. Also included in this appeal and specifically attached are eight sets (one original and 7 duplicates) of the Appeal Application form CP-7769, Attachment: Justifications/Reason for Appeal, copies of the LOD, and Mr. Liddicoat's comment letter dated December 13, 2016 in response to the LOD. When Council serves as an appellate body to Commission's approval of a Site Plan Review, as in is here, Council must base its decision "upon evidence in the record, including testimony and documents produced at the hearing before [it]." See LAMC § 16.05-H.4.

1A.1 cont.

All said documents, including this cover letter and attachments hereto, are incorporated by this reference in their entirety. Please ensure that all of these documents are included in the record for the Project and any future action taken by the City.

Finally, this Office is requesting, on behalf of the Appellant, all notices required under the California Environmental Quality Act ("CEQA") and any approvals, Project CEQA determinations, or Project public hearings under any provision of Title 7 of the California Government Code (California Planning and Zoning Law). This request is filed pursuant to Pub. Res. Code §§ 21092.2 and 21167(f), and Government Code § 65092, and Municipal Code §§ 12.28.C.3, 12.32.D.2 and 16.05.G.3.b, that collectively require local agencies to mail such notices to any person who has filed a written request for them. Please send notice by electronic and regular mail to: Gideon Kracov, Esq., 801 S. Grand Avenue, 11th Fl., Los Angeles, CA 90017, gk@gideonlaw.net.

1A.2

Thank you for considering this appeal application. We again ask that they be placed in the Administrative Record for the Project.

Sincerely,

Gideon Kracov
Law Office of Gideon Kracov
Lawyer for Appellant, Roberto Mazariegos

Encl.:

Appeal Application Form CP-7769
Attachment: Justification/Reason for Appeal
Original Letter of Determination mailed December 5, 2016
MRO Engineer Letter dated December 13, 2016

2017 apl 55

ATTACHMENT: JUSTIFICATION/REASON FOR APPEAL

Roberto Mazariegos ("Appellant") appeals the City of Los Angeles ("City") City Planning Commission ("Commission")'s approvals for R.D. Olson Development ("Applicant")'s Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-ZAA-SPR) ("Project"). While the Commission made its decision during the Project's public hearing on September 8, 2016, its actions did not become effective until the mailing of the Letter of Determination ("LOD") on December 5, 2016. Currently, only the Project's Conditional Use Permit ("CUB"), Zoning Administrator's Adjustment ("ZAA"), and Site Plan Review ("SPR") has been approved (collectively "Approvals"). The Approvals are part and parcel of the Project as a whole including its other entitlements (i.e. Vested Zone Chance and Height District Change), which have been recommended for approval by the City Council ("Council") who has yet to take any action on these specific entitlements. Nevertheless, Appellant wishes to appeal the Project Approvals at this time in accordance with the timeline stated in the LOD and on the reasons and justifications discussed below. 1A.3

To begin, Appellant's appeal includes the entire administrative record of the Approvals and all previously provided materials in connection with the Project including, but not limited to, Neal Liddicoat, P.E. expert comment letter dated September 1, 2016, Appellant's lawyer's letter dated September 5, 2016 and his oral testimony on this Project provided to the Commission for Item 7 on September 8, 2016. Also included in this appeal and specifically attached is Mr. Liddicoat's letter dated December 13, 2016 responding to the LOD. Because this appeal involves review of the Commissions SPR approval, Council acting as an appellate body may base its decisions on new "testimony and documents produced at the hearing before [it]." See LAMC § 16.05-H.4.

All said documents are incorporated by this reference in their entirety. These materials have already been provided to the City; if not in its possession, let Appellant's lawyer know at once. Please ensure that all of this is included in the record for the Project and any future action taken by the City.

I. REASONS FOR THIS APPEAL

This Project is at 6407-6411 W. Sunset Boulevard, 1512 N. Cahuenga Boulevard, and 1511 N. Ivar Avenue in the Hollywood Community Plan and Hollywood Redevelopment Plan areas of the City. The Project involves the demolition of an existing fast food restaurant and surface parking, and the construction of a 21-story, 141,895 square-foot mixed use building at 6:1 FAR containing 275 hotel guestrooms with kitchenettes and 1,900 square feet of ground floor commercial space. The Project also includes four levels of subterranean parking. Project construction will require the export of 3,882 square feet of demolition material and 56,000 cubic yards of soil – approximately 4,000 heavy duty, diesel hauling-trips. Vehicular access for Project is proposed by way of two driveways: 1) a full-access driveway on Cahuenga Boulevard that would serve entering and exiting guests, visitors, and employees, as well as exiting service and delivery vehicles; and 2) a gate-controlled service driveway on Ivar Avenue; those vehicles would exit by way of the main driveway on Cahuenga Boulevard. 1A.4

3 of 17

Appellant challenges this Project chiefly on two grounds; (1) the City failed to properly assess the Project's environmental impacts, and (2) the City cannot make the necessary findings to support the Project Approvals and other requested discretionary entitlements. The City prepared a Mitigated Negative Declaration/Initial Study("*MND*") to assess the Project's impact on the surrounding environment rather than a comprehensive Environmental Impact Report ("*EIR*"), pursuant to the California Environmental Quality Act ("*CEQA*"), As explained in greater detail below, the MND failed to adequately assess various environmental impacts -particularly traffic impacts in this heavily congested part of Hollywood. Additionally, the Project Approvals and other requested entitlements are discretionary under the LAMC and require certain findings to be made by the City, including those under Redevelopment Plan § 506.2.3 demanding traffic impacts to be overridden by other social, economic or physical considerations. Here, no attempt was made to make these findings for a project that includes virtually zero community benefits and threatens Los Angeles' prosperity. 1A.5

For these reasons, Appellant requests that the Council reverse the Commission's Project Approvals and require the City to prepare an EIR compliant with CEQA.

II. APPELLANT IS AGGRIEVED

Appellant is a resident of the City of Los Angeles and lives with his family approximately 1.5 miles from the Project location. Given this proximity, Appellant and his family risk a host of environmental impacts if the Commission's decision is not reverse and the Project is allowed to be built without further environmental review. Among this risks include more traffic congestion, greater noise from 3,000+ heavy-duty truck trips and poorer air quality caused by diesel emissionsBecause of these Project impacts, Appellant is considered "aggrieved" under LAMC §§ 12.24.1-E and 12.24-I.2. 1A.6

Furthermore, Appellant filled out a speaker card and testified before the Commission during the Project hearing on September 8, 2016. Those comments and this appeal are made to exhaust remedies under *Pub. Res. Code* § 21177 concerning the Project, and incorporates by this reference all written and oral comments submitted on the Project by any commenting party or agency. It is well established that any party, as Appellant did here, who participates in the administrative process can assert all factual and legal issues raised by anyone. *Citizens for Open Government v. City of Lodi* (2006) 144 Cal.App.4th 865, 875.

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III. THE COMMISSION ERRED & ABUSED ITS DISCRETION

When making the Project Approvals, the Commission (A) erred in relying on an inadequate MND and problematic LOD, and (B) abused its discretion by failing to make the necessary findings.

A. Under CEQA, The Commission Erred By Relying On An Inadequate MND And LOD.

A MND was prepared for this 21-story high rise project, not a more comprehensive EIR pursuant to CEQA law. This means that the less deferential "fair argument" standard applies. The "fair argument" standard creates a "low threshold" favoring environmental review through an EIR rather than through issuance of a negative declaration, even if other substantial evidence supports the opposite conclusion. *Mejia v. Los Angeles* (2005) 130 Cal.App.4th 322; *Pocket Protectors v. Sacramento* (2005) 124 Cal.App.4th 903. "Substantial evidence includes ... expert opinion." Pub. Res. Code § 21080(e)(1); 14 Cal. Code Regs. § 15064(f)(5). An agency's decision not to require an EIR can be upheld only when there is no credible evidence to the contrary. *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th, 1307, 1318. 1A.7

When making its decision on September 8, 2016 , the Commission knew there was a *"fair argument" that the Project may cause traffic impacts in this congested part of Hollywood and that, as matter of law, the City needed to prepare an EIR. As indicated in* traffic engineer Neal Liddicoat's letter dated September 1, 2016, there were several substantial issues affecting the validity of the MND's conclusions and that a corrected traffic impact analysis would reveal one or more significant impacts not documented in the MND. Not only was it suggested to prepare a modified traffic impact analysis into a revised environmental document, but Appellant's attorney's letter dated September 5, 2016 explicit stated it was required as a matter of law.

The newly released LOD fails to cure these errors. This appeal incorporates by this reference Mr. Liddicoat's review of the LOD dated December 13, 2016. As noted on page 1, the LOD repeatedly states that comment letters critical of the Project's MND was received, and that formal responses were prepared. However, none of these responses addressed the issues raised in Mr. Liddicoat's September 1 letter. Furthermore, the LOD contains additional inaccuracies and contradictions. First, several of the approval conditions raise truck traffic issues such as blocking traffic flow due to insufficient 20-foot reservoir space between the security gate and property line (Condition of Approval 4a), blocking access to the site during trash pickup due to the location of containers (Condition of Approval 5b), and lack of information discussing how restrictions on truck activity will be enforced (Condition of Approval 34c, 34e, and 34f). Second, the LOD make numerous inaccurate references to "reduction of traffic congestions" associated with the Project when it will in fact increases traffic congestions – adding a net total of 1,285 daily trips, 77 AM peak hour trips, and 113 PM peak hour trips. Finally, the LOD completely contradicts itself when it states on p. F-38 that the Project "does not have any residential component," but repeatedly treats it like one in order to meet certain goals, objectives, and policies. 1A.8

Because the MND and LOD were deficient under CEQA, the Commission erred when granting the Project Approvals without proper analysis to environmental impacts.

5-4-17

B. *The Commission Abused Its Discretion by Failing to Make the Necessary Finding Required Under the LAMC.*

This Project is discretionary, not by right. The Project Approvals and other entitlements are discretionary approvals under the City's Municipal Code. As such, the Commission must make express findings under the Municipal Code, Hollywood Community Plan and Hollywood Redevelopment Plan. *The Commission has clear legal authority to disapprove the Project if these findings cannot be made. Kavanau v. Santa Monica Rent Control* (1997) 16 Cal.4th 761.

More specifically, Redevelopment Plan § 506.2.3 requires findings that the Project's impacts upon the transportation and circulation system of the area are overridden by other social, economic or physical considerations. *They are not.* in exchange for a host of discretionary development favors, the City requires close to nothing in return. First, the required Owner Participation Agreement ("OPA") or Hollywood Redevelopment Plan § 506.2.3 and Ordinance No. 165,660 "D" Limitation Development and Disposition Agreement ("DDA") are nowhere to be found. It has not been explained why those documents on a separate track. Second, there are virtually zero community benefits for the Project, other than required enhancements to mitigate direct transportation impacts – R.D. Olson offers one $1,000 scholarship, a "[c]ommitment to coordinate" a job fair and two internships. 1A.9

In reality, the proposed findings make no attempt to determine the required "social, economic or physical considerations" of the Project required by Hollywood Redevelopment Plan § 506.2.3. For example, there is no disclosure of the kind of jobs created by the Project, in either the construction or operational phase, what the likely salary and wage ranges of these jobs will be, and whether employees will have the right to collectively bargain. Without this information, the City lacks substantial evidence to make any statement of overriding considerations.

Inequality threatens Los Angeles' prosperity by frustrating the goal of making our City a place of opportunity for all – a place where its members can work and afford to live. This Project does nothing to help either concern, and fails to satisfy the City's required zoning findings and General Plan goals and policies in this regard. The Commission, on the record before it, cannot find that the economic and social benefits of the Project outweigh the environmental costs.

Because the necessary findings could not be made on the record before it, the Commission abused its discretion when granting the Project Approvals.

6-4-17

IV. SPECIFIC POINTS AT ISSUE

Due to the specific issues discussed below, Council should (A) reject the MND and require an EIR, and (B) deny the Project Approval on grounds that the required land use findings cannot be made. 1A.10

A. Council Should Reject the MND and Require an EIR.

Multiple impacts are inadequately analyzed under the Project's MND, which is not cured by the LOD that raises additional concerns, specifically the following:

1. Traffic and Transportation Impacts: CEQA requires analysis of traffic impacts related to a project. *Kings County Farm Bureau v. Hanford* (1990) 221 Cal.App.3d 692, 727. *Expert traffic engineer Neal Liddecoat P.E.'s September 1, 2016 comment on the IS/MND reveals significant deficiencies and a "fair argument" of significant traffic impacts that must be addressed prior to approval of the Project and its related environmental documentation.* Expert Liddecoat concludes in his September 1, 2016 letter, the entirety of which is incorporated in this appeal, that:

> "The trip generation estimates developed with respect to the proposed Ivar Gardens Hotel project are flawed. The decision to use the "average rate" was wrong, the trip generation approach was not sufficiently conservative, and the treatment of pass-by and diverted trips was erroneous. We have demonstrated that correcting these errors will almost certainly result in significant impacts in both the AM and PM peak hours.
>
> With very few exceptions, our analysis reveals higher project-related traffic at each of the study intersections. Table 3 summarizes a comparison of our project traffic assignment to the corresponding values presented on Figure 7-2 in the LLG report (p. 41). Only the movements where project traffic has been added are represented in Table 3; any movements not shown would have no project trips. 1A.11
>
> Only one movement would have a lower project-related volume under our assignment compared to the LLG assignment (i.e., the westbound through at Cahuenga Boulevard/Hollywood) and one would be the same (i.e., the eastbound left turn at Vine Street/Sunset Boulevard). In every other case, our assignment indicates higher project traffic. Although the differences may seem minor, as we demonstrated above, differences of as little as one additional project vehicle could determine whether or not a significant impact would occur. In the example we presented above, we found that the addition of one PM peak-hour eastbound left turn at Cahuenga Boulevard/Sunset Boulevard would result in a significant impact.
>
> Our traffic assignment indicates that 13 more project-generated vehicles will occur on that movement than were accounted for in the LLG analysis. With that being the case, a significant impact would occur at Cahuenga Boulevard/Sunset Boulevard not revealed in the IS/MND . . .

7-6-17 PM

Table 3: Project Traffic Assignment Comparison				
Intersection		Net Project Traffic Assignment		
Approach	Movement	MRO	LLG[1]	Difference
Cahuenga Blvd./Sunset Blvd.				
Southbound	Right	30	23	7
	Thru	6	2	4
	Left	20	13	7
Westbound	Right	26	21	5
	Thru	-6	-12	6
Northbound	Thru	6	0	6
Eastbound	Left	14	1	13
Notes: [1] Reference: Linscott, Law & Greenspan, *Traffic Impact Study – Ivar Gardens Hotel Project,* December 23, 2015				

1A.11 cont.

Our review of the "Transportation and Traffic" section of the Initial Study/Mitigated Negative Declaration for the Hollywood Ivar Gardens Project revealed several substantial issues affecting the validity of the conclusions presented. Our review indicates that a corrected traffic impact analysis will reveal one or more significant impacts that were not documented in the IS/MND. A modified traffic impact analysis must be prepared, and incorporated into a revised environmental document."

Also, expert traffic engineer Liddecoat's letter comments on a lack of information and potential safety concerns given the Project driveway configuration in this heavily trafficked area in Hollywood:

"Project Driveway Operations – The project proposes one full-access (i.e., all turning movements allowed) public driveway on Cahuenga Boulevard plus an inbound-only, gate-controlled service driveway on Ivar Avenue. All traffic (including delivery trucks and service vehicles) must exit at the Cahuenga Boulevard location. Both driveways are located about 100 - 125 feet (i.e., 4 - 5 car lengths) north of Sunset Boulevard.

1A.12

However, no analysis of either project driveway intersection is done. Issues to address include:

- Will drivers be able to safely make left turns into and out of the site at the Cahuenga Boulevard driveway? This is a particular issue for exiting trucks.

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- It appears that Cahuenga Boulevard has a "painted median" at the driveway (i.e., "double-double" yellow lines). As described in the 2016 California Driver Handbook , it is illegal to turn left across a barrier/painted median, so this driveway must be limited to right-turns only.

- How much delay will drivers experience as they enter or exit?

- When delays become excessive, will drivers perform ill-advised and unsafe maneuvers, such as trying to turn into or through inadequate gaps in Cahuenga Boulevard traffic?

- As noted above, the driveways are only about 100 - 125 feet north of Sunset Boulevard. How long will the queues be on southbound Cahuenga Boulevard and southbound Ivar Avenue, and what effect will those queues have on the ability to enter or exit the site?

- How long will the inbound queue of delivery trucks/service vehicles be at the gate-controlled Ivar Avenue driveway? Will the trucks back out onto the public street and block northbound and/or southbound traffic on Ivar Avenue?

- Will trucks waiting on northbound Ivar Avenue to turn left into the site block the northbound traffic flow on Ivar Avenue, potentially causing queues to extend back to Sunset Boulevard?

1A.12 cont.

. . .

These issues must be addressed to ensure that the public fully understands the potential impacts of developing the proposed project. A revised traffic analysis is necessary."

All of these potential "fair argument" transportation impacts require the preparation of an EIR for the Project, <u>*as a matter of law*</u>, and raise unidentified and unanalyzed General Plan and Community Plan inconsistency with regard to transportation and circulation issues. *See City of Los Angeles General Plan Mobility Plan 2035* Objective 1.1 "Roadway User Vulnerability: Design, plan, and operate streets to prioritize the safety of the most vulnerable roadway user"; Objective 2.3 "Pedestrian Infrastructure: Recognize walking as a component of every trip, and ensure high quality pedestrian access in all site planning and public right-of-way modifications to provide a safe and comfortable walking environment"; Chapter 2 Policies "Achieve established performance levels on 100% of the streets within the Neighborhood Enhanced Network by 2035 . . ." and "Increase vehicular travel time reliability on all segments of the Vehicle Enhanced Network by 2035"; Policy L.U.1.22 "Keep existing streets open for public use. Protect existing streets from closure to prevent the creation of "superblocks", improve circulation, keep streets publicly accessible, and support walkable and bikeable neighborhoods"; *Hollywood Community Plan* Objective 6 "[t]o make provision of a circulation system coordinated with land uses and densities and adequate to accommodate traffic"; and Circulation Standards and Criteria "[n]o increase in density shall be effected by zone change or subdivision unless it is determined that the

1A.13

9.17 mm

local streets . . . available in the area of the property involved, are adequate to serve the traffic generated."[1]

1A.13 cont.

2. Land Use Inconsistency: A DEIR must discuss any inconsistencies between the proposed Project and applicable General Plan. 14 Cal. Code Regs. "*CEQA Guidelines*" § 15125(d). This inconsistency is particularly acute here when it comes to taking away land zoned for housing, including affordable housing – a topic that the Project DEIR ignores.

The Project's 275-guestroom hotel will take away the ability to develop housing on the site, especially affordable housing that would be allowed under the site's C4 zoning designation. This is a great concern. According to the UCLA Ziman Center, Los Angeles housing prices have grown about four times faster than incomes since 2000 and "affordable housing production and preservation needs to accelerate."[2] Los Angeles is the least affordable rental market in the country, according to Harvard University's Joint Center for Housing Studies, and has been ranked the second-least affordable region for middle-class people seeking to buy a home.[3] The City of Los Angeles' Housing Needs Assessment indicates that through September 30, 2021, 20,426 additional housing units are needed in the City for very low-income, 12,435 for low-income, and 13,728 are for moderate income.[4]

1A.14

The City's General Plan reflects this urgent need for affordable housing. *See City of Los Angeles General Plan Housing Element* Goal 1 "A City where housing production and preservation result in an adequate supply of ownership and rental housing that is safe, healthy and affordable to people of all income levels, races, ages, and suitable for their various needs"; Policy 1.1.1 "Expand affordable home ownership opportunities and support current homeowners in retaining their homeowner status"; Policy 1.1.2 Expand affordable rental housing; Objective 2.5 "Promote a more equitable distribution of affordable housing opportunities throughout the City"; Policy 2.5.1 "Target housing resources, policies and incentives to include affordable housing in residential development, particularly in mixed use development, Transit Oriented Districts and designated Centers"; and Policy 2.5.2 "Foster the development of new affordable housing units citywide and within each Community Plan area."[5]

The same affordability concerns must be addressed under the governing Hollywood Community Plan and Redevelopment Plan. *See City of Los Angeles Hollywood Community Plan* Objective 3 "To make provision for the housing required to satisfy the varying needs and desires of all economic segments of the Community . . . [a]dditional low and moderate-income housing is needed in all parts of this Community"; *Hollywood Redevelopment Plan* Goal 300.9 "Provide housing choices and increase the supply and improve the quality of housing for all income and age groups, especially for persons with low and moderate incomes; and to provide home ownership opportunities and other housing choices which meet the needs of the resident population"; Goal 410.4 "At least fifteen percent (15%) of all

1A.15

[1] See http://planning.lacity.org/documents/policy/mobilityplnmemo.PDF; see also http://cityplanning.lacity.org/cpu/hollywood/text/HwdCommunityPlan.pdf .
[2] See http://www.anderson.ucla.edu/Documents/areas/ctr/ziman/2014-08WPrev.pdf.
[3] See http://www.latimes.com/opinion/editorials/la-ed-affordable-housing-part-1-20150111-story.html.
[4] See http://planning.lacity.org/HousingInitiatives/HousingElement/Text/Ch1.pdf.
[5] See http://planning.lacity.org/HousingInitiatives/HousingElement/Text/Ch6.pdf.

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new or rehabilitated units developed within the Project Area by public or private entities or persons other than the Agency shall be for persons and families of low or moderate income; and of such fifteen percent, not less than forty percent (40%) thereof shall be for very low income households"; and Goal 412 "The social needs of the community include but are not limited to the need for day care facilities, housing for very low and low income persons including the elderly, the homeless, and runaways, educational and job training facilities, counseling programs and facilities."[6]

1A.15 cont.

By taking away the ability to build housing on site, this Project likely is General, Community and Redevelopment Plan inconsistent, not in the "general welfare," and the City may be paying mere lip service to the mandates of its governing Plans. *If the City is going to bless this zero housing Project, real community benefits should be required*.

3. Hazardous Substances Analysis: The potential existence of toxic contamination on a Project site is a significant impact requiring CEQA review. *McQueen v. Board of Directors* (1988) 202 Cal.App.3d 1136. As set forth in the SWAPE July 5, 2016 comment letter incorporated in its entirety by this reference, the potential presence of dry cleaning volatile organic compound ("*VOC*") releases onsite has not been properly investigated. The Hollywood Laundry existed on the site for over two decades. This is a major red flag. Yet, the Texaco UST cleanup from the mid-1980s, when cleanup technology was less sophisticated and regulatory sampling standards less thorough than today, *never* sampled for dry cleaner chemicals such as perchloroethylene ("*PCE*"). The Geotracker database, and the IS/MND Appendix C "SOILS INVESTIGATION REPORT Geo-Etka, Inc., Foundation Soils Investigation and Pavement Design Recommendations at the Northwest Corner of Sunset Boulevard and Cahuenga Boulevard Hollywood" confirm this omission to sample – at all – for VOCs or PCE. A site investigation study and sampling should be conducted to do so. A lead agency is precluded from making the required CEQA findings unless the record shows that all uncertainties regarding the mitigation of impacts have been resolved; an agency may not rely on mitigation measures of uncertain efficacy or feasibility. *Kings County Farm Bureau v. Hanford* (1990) 221 Cal.App.3d 692, 727 (finding groundwater purchase agreement inadequate mitigation because there was no evidence that replacement water was available). This approach helps "insure the integrity of the process of decisionmaking by precluding stubborn problems or serious criticism from being swept under the rug." *Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935.

1A.16

[6] See http://planning.lacity.org/complan/pdf/HwdCpTxt.pdf; http://www.crala.org/internetsite/Projects/Hollywood/upload/HollywoodRedevelopmentPlan.pdf.

4. Noise Impacts: The Project as designed will create noise impacts during construction on the adjacent residents on Ivar Avenue and Cahuenga and Sunset Boulevards. It is unclear in the MND what significance threshold the City is applying for construction noise in Table III-13. Vibration noise from the 3,000+ heavy-duty haul truck trips is undisclosed. The fact that construction noise is "temporary" does not mean it is not significant, and there is a "fair argument" or significant noise impacts. Further, the construction noise mitigation in the MND for mufflers (N-3) lacks appropriate performance standards. *Mount Shasta Bioregional Ecology Center v. County of Siskiyou* (2012) 210 Cal.App.4th 184, 207. So too, there is no discussion in the IS/MND of hours of operation for open space noise. 1A.17

5. Air Quality/Health Risk Assessment: Air quality impacts, and their concomitant impacts on human health, must be studied in the CEQA document. *Bakersfield Citizens*, 124 Cal.App.4th at 1220. Here, as set forth in the July 5, 2016 SWAPE comment letter incorporated herein in its entirety by this reference, the MND does not adequately analyze through a health risk assessment whether the Project will expose sensitive receptors including the nearby residential uses to substantial pollutant concentrations during Project construction, including diesel particulate matter through the use of diesel-fueled construction equipment on-site. 1A.18

6. Cultural Resources: CEQA requires analysis of the Project's impact on cultural resources. In particular, Appellant respectfully insists on compliance with AB 52, set forth in Pub. Res. Code §§ 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 5097.94. Yet, the MND does not mention AB 52. Under AB 52, a project that may cause a substantial adverse change in the significance of a tribal cultural resource is defined as a project that may have a significant effect on the environment under CEQA.[7] AB 52 requires the City to provide notice to tribes that are traditionally and culturally affiliated with the geographic area of Project. If the tribe requests consultation within 30 days upon receipt of the notice, the City of Los Angeles must consult with the tribe. Mitigation measures agreed upon during consultation must be recommended for inclusion in the environmental document. 1A.19

7. Failure to Cure: The LOD fails to address the abovementioned issues that were raised in traffic expert Neal Liddicoat's letter dated September 1, 2016. Therein, Mr. Liddicoat highlighted several substantial issues affecting the validity of the conclusions presented in the MND. He indicated that a corrected traffic impact analysis would reveal one or more significant impacts that were not documented in the MND, and that a modified traffic impact analysis needed to be prepared, and incorporated into a revised environmental document. Rather than addressing these issues, the LOD states (at pp. F-7, F-17, F-28, F-35, and F-38) that three comment letters were received in connection with the Project's MND and that formal responses were prepared for all three comments. However, these responses do not address the issues raised in the September 1 letter. 1A.20

[7] See https://www.opr.ca.gov/s_ab52.php.

12.6.17

8. Conditions of Approval: The conditions imposed raise additional traffic issues not adequately addressed in the LOD.

- Condition of Approval 4a. (p. C-1) calls for a minimum 20-foot reservoir space between any security gate and the property line. The project proposes a gated service entrance on Ivar Avenue. The required 20-foot reservoir space will not accommodate the trucks that will use this entrance, however, as those vehicles could be 60 - 70 feet long. Consequently, trucks will extend over the sidewalk and into Ivar Avenue, potentially blocking traffic flow on the public street and creating a safety hazard.

- Condition of Approval 5b. (p. C-2) states that, "Trash/recycling containers shall not be placed in or block access to required parking." According to the project site plan presented as Figure II-7 in the IS/MND (p. II-13), the proposed trash enclosures are located along the Ivar Avenue service entrance and, therefore, will block access to the site when trash is being picked up. This issue was raised on p. 6 of the September 1 letter.

- Conditions of Approval 34. (p. C-7) is supposed to impose restrictions on truck activity at the project site, such as restrict where truck loading and unloading can occur (Condition 34c); limit the number of trucks to no more than two at a time (Condition 34e); and prohibit staging of trucks on public streets (Condition 34f). However, truck activity at the site will change often through the course of a day. Nowhere does the LOD address how these limits on trucks are to be enforced.

1A.21

9. LOD Contradictions: First, the LOD contains numerous inaccurate references to "reduction of traffic congestion" associated with the Project. Very simply, the project does not reduce traffic congestion. In fact, the MND Table III-26 (p. III-115) shows that it will add to the road network a net total of 1,285 daily trips, 77 AM peak hour trips, and 113 PM peak hour trips. Further, MND Tables III-27 through III-30 (MND pp. III-117 - III-119) show that the volume/capacity (V/C) ratios at the study intersections increase when project traffic is added to the street system (with limited exceptions), representing increases in traffic congestion. Second, in order to meet certain goals, objectives, and policies, the Project is repeatedly treated as being residential, although on p. F-38 (under item 14) the document states that, the proposed Project "does not have any residential component."

1A.22

B. Council Should Deny the Project Approval Because the Required Land Use Findings Cannot be Made.

The CEQA, land use and other concerns addressed in this appeal must be adequately addressed in order to make the required City Zoning Code, Community Plan, and Redevelopment Plan findings. *The entitlements are discretionary, not by right*. Absent compliance with the issues addressed herein, the Commission could not make the necessary findings and therefore should have rejected Applicant's requested discretionary entitlements. *Los Angeles Municipal Code* § 12.32.F.1 (requiring for zone change "that the public necessity, convenience, general welfare or good zoning practice so require"); § 12.24.E (conditional use permit for alcohol requires that Project "will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding

1A.23

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neighborhood . . ." and "substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan . . ."); § 12.28.C.4 (zoning administrator adjustment for zero-foot rear yard must show Project " will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety" and "is in substantial conformance with the purpose, intent and provisions of the General Plan, the applicable community plan . . ."); § 16.05.F (site plan review findings must show "that the project is in substantial conformance with the purposes, intent and provisions of the General Plan, applicable community plan . . ." and "that the project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, that is or will be compatible with existing and future development on adjacent properties and neighboring properties"); and *Hollywood Redevelopment Plan* § 506.2.3 (in order to grant up to 6:1 FAR Project must be designed "to concentrate high intensity and/or density development in areas with reasonable proximity or direct access to high capacity transportation facilities or which effectively utilize transportation demand management programs" and "[a]ny adverse environmental effects especially impacts upon the transportation and circulation system of the area caused by proposed development shall be mitigated or are overridden by other social, economic or physical considerations, and statements of findings are made").

1A.23 cont.

In particular, Appellant wants to call attention to the purported Redevelopment Plan § 506.2.3 required findings that impacts to transportation and circulation caused by the Project are overridden by other social, economic or physical considerations. This required statement of overriding considerations must be supported by substantial evidence in the record and the agency must present an explanation to supply the logical steps between the ultimate finding and the facts in the record. *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515. It has not.

Here, in exchange for giving this Project a host of discretionary development favors, the City is requiring close to nothing. First, the OPA[8] or required Hollywood Redevelopment Plan § 506.2.3 and Ordinance No. 165,660 "D" Limitation DDA or "binding written agreement with the Agency . . . providing for, among other things, Agency review and approval of all plans and specifications, the compliance with all conditions applicable to development in excess of a 4:5:1 site FAR and the provision of adequate assurances and considerations for the purpose of effectuating the objectives of the Plan" are nowhere to be found. Why are those documents on a separate track? The most that is said is buried in the MND note 49 that suggests "Applicant expects to enter" into an OPA. Second, there are

[8] In light of CRA/LA dissolution, the appropriate action in order to remove the limitation requiring the OPA or otherwise divest the CRA/LA of its responsibility to enter into OPAs would be to: i) transfer the powers of the former CRA to the City, or ii) amend the Hollywood Redevelopment Plan. Neither has yet occurred. The City is in the process of considering an ordinance to take control from the former CRA's responsibilities. https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=13-1482-S1; https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=11-0086-S4; https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=12-0014-S4. Once the City transfers authority, then it will have the ability to assume the role of the former CRA/LA. In the absence of a successor agency to administer redevelopment activities, the Applicant cannot cherry pick portions of Hollywood Redevelopment Plan that it likes (the FAR increase) while ignoring others (the OPA/DDA requirement).

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virtually zero community benefits for the Project, other than required enhancements to mitigate direct transportation impacts. Applicant offers one $1,000 scholarship, a "[c]ommitment to coordinate" a job fair and two internships. Is this really appropriate for a Project of this magnitude?

In reality, the proposed findings make no attempt to determine the required "social, economic or physical considerations" of the Project. For example, identifying new jobs created by the Project, in either the construction phase or the operational phase, the likely salary and wage ranges, and whether employees will have the right to collectively bargain. Without this information, the City lacks substantial evidence to make any statement of overriding considerations. The City cannot find that the economic and social benefits of the Project outweigh the environmental costs. 1A.23 cont.

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December 13, 2016

Mr. Gideon Kracov
Attorney at Law
801 S. Grand Ave., 11th Floor
Los Angeles, CA 90017

Subject: ***Letter of Determination – Los Angeles City Planning Commission***
Ivar Gardens Hotel Project, 6409 Sunset Blvd., Los Angeles, California

Dear Mr. Kracov:

On September 1, 2016, MRO Engineers, Inc., (MRO) prepared a letter documenting our review of the "Transportation and Traffic" section of the Initial Study/Mitigated Negative Declaration (IS/MND) for the Hollywood Ivar Gardens Project (Parker Environmental Consultants, June 9, 2016). The "Transportation and Traffic" section of the IS/MND was based on a traffic impact analysis prepared by Linscott, Law & Greenspan (LLG). (Reference: Linscott, Law & Greenspan, *Traffic Impact Study – Ivar Gardens Hotel Project*, December 23, 2015.)

Our review revealed several substantial issues affecting the validity of the conclusions presented in the IS/MND. We also determined that a corrected traffic impact analysis would reveal one or more significant impacts that were not documented in the IS/MND, and that a modified traffic impact analysis must be prepared, and incorporated into a revised environmental document. 1B.1

We have now received a copy of the December 5, 2016 "Letter of Determination" from the Los Angeles City Planning Commission with respect to the proposed Ivar Gardens Hotel Project. That letter documents the approval of the project by the Planning Commission as well as the Conditions of Approval that apply to the project. This letter documents the results of our review of the Letter of Determination. 1B.2

First, we note that the Letter of Determination states (at pp. F-7, F-17, F-28, F-35, and F-38) that three comment letters were received in connection with the Ivar Gardens Hotel IS/MND, and that formal responses were prepared for all three comments. It does not appear, however, that any response has been prepared to address the issues raised in our September 1 letter.

In addition, we have the following comments:

1. Conditions of Approval

   a. Condition of Approval 4a. (p. C-1) calls for a minimum 20-foot reservoir space between any security gate and the property line. The project proposes a gated service entrance on Ivar Avenue. The required 20-foot reservoir space will not accommodate the trucks that will use this entrance, however, as those vehicles could be 60 - 70 feet long. Consequently, trucks will extend over the sidewalk and into Ivar Avenue, potentially blocking traffic flow on the public street and creating a safety hazard. 1B.3

   b. Condition of Approval 5b. (p. C-2) states that, "Trash/recycling containers shall not be placed in or block access to required parking." According to the project site plan presented as Figure II-7 in the IS/MND (p. II-13), the proposed trash enclosures are located along the

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Ivar Avenue service entrance and, therefore, will block access to the site when trash is being picked up. This issue was addressed on p. 6 of our September 1 letter.

c. Conditions of Approval 34c., 34e., and 34f. (p. C-7) are intended to impose restrictions on truck activity at the project site.

   i. Condition 34c. restricts where truck loading and unloading can occur.

   ii. Condition 34e. limits the number of trucks to no more than two at a time.

   iii. Condition 34f. prohibits staging of trucks on public streets.

   Truck activity at the site will change often through the course of a day. Nowhere does the Letter of Determination address how these limits on trucks are to be enforced.

1B.3 cont.

2. The Letter of Determination contains numerous inaccurate references to "reduction of traffic congestion" associated with the Ivar Gardens Hotel project. Very simply, the project does not reduce traffic congestion. In fact, IS/MND Table III-26 (p. III-115) shows that it will add to the road network a net total of 1,285 daily trips, 77 AM peak hour trips, and 113 PM peak hour trips. Further, IS/MND Tables III-27 through III-30 (MND pp. III-117 - III-119) show that the volume/capacity (V/C) ratios at the study intersections increase when project traffic is added to the street system (with limited exceptions), representing increases in traffic congestion.

1B.4

3. Finally, we note that, in order to meet certain goals, objectives, and policies, the project is repeatedly treated as being residential, although on p. F-38 (under item 14) the document states that, "The Proposed Project does not have any residential component."

1B.5

We hope this information is useful. If you have questions concerning anything presented here, please feel free to contact me at (916) 783-3838.

1B.6

Sincerely,

MRO ENGINEERS, INC.

Neal K. Liddicoat, P.E.
Traffic Engineering Manager

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APPEAL LETTER No. 2A

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December 16, 2016

VIA HAND DELIVERY

City Council
City of Los Angeles
C/o Appeals Clerk
Marvin Braude San Fernando Valley Constituent Service Center
6262 Van Nuys Blvd., Room 251
Van Nuys, CA 91401

Re: Appeal to the Los Angeles City Council of the December 5, 2016 City Planning Commission Determination in Case No. CPC-2015-2893-VZC-HD-CUB-ZAA-SPR, ENV-2015-2895-MND

Dear Honorable Mayor Garcetti and City Council Members:

On behalf of Coalition for Responsible Equitable Economic Development ("CREED LA") we are writing to appeal the City Planning Commission's approvals of a Conditional Use Permit, Zoning Administrator's Adjustment and Site Plan Review for the Hollywood Ivar Gardens Project, CPC-2015-2893-VZC-HD-CUB-ZAA-SPR, ENV-2015-2895-MND ("Project"), including the City Planning Commission's reliance on the Project's Initial Study/Mitigated Negative Declaration ("IS/MND"). The Project is proposed by R.D. Olsen Development ("Applicant") and is located at 6407-6411 West Sunset Boulevard, 1511 North Ivar Avenue and 1512 North Cahuenga Boulevard. The Project involves the demolition of an existing fast food restaurant and surface parking, and the construction of a 21-story, 141,895 square-foot mixed-use building containing 275 hotel guestrooms with kitchenettes and 1,900 square feet of ground floor commercial space. The Project also includes four levels of subterranean parking. Project construction will require the export of approximately 3,882 square feet of demolition material and 56,000 cubic yards of soil.

Pursuant to the City of Los Angeles ("City") appeal procedures, we have attached 8 copies each of this letter with exhibits, the Appeal Application (form CP-

2A.1

APPEAL LETTER No. 2A

7769), and the original Determination Letter. We have also enclosed a check for $89 for the appeal fee.

The reason for this appeal is that the City Planning Commission abused its discretion and violated the California Environmental Quality Act ("CEQA") when it approved the Conditional Use Permit, Zoning Administrator's Adjustment and Site Plan Review for the Project. CEQA requires that the potential impacts of this Project be evaluated in an environmental impact report ("EIR"), not in an MND, because substantial evidence exists that the Project may have significant, unmitigated environmental impacts to air quality and public health, and from greenhouse gas emissions and hazardous materials.

2A.1 cont.

Our July 6, 2016 and September 7, 2016 comment letters on the Project are attached hereto,[1] and the specific reasons for this appeal are set forth in detail in those letters and summarized below. In short, substantial evidence supports a fair argument that that Project will cause: (1) a significant, unmitigated cancer risk from toxic air contaminant emissions, (2) a potentially significant, unmitigated impact from greenhouse gas emissions, and (3) a significant, unmitigated impact from hazardous materials.

A. The Project Will Cause a Significant, Unmitigated Cancer Risk from Toxic Air Contaminants Emissions

The MND concludes that the health risk posed to nearby sensitive receptors from exposure toxic air contaminants ("TAC"), including diesel particulate matter ("DPM") emissions, from Project construction and operation would be less than significant. We previously explained that the MND's conclusion is unsupported because the City failed to quantify the risk and compare it to applicable thresholds of significance. We also provided substantial evidence that the Project would result in potentially significant health risks from DPM emissions. To date, the City has failed to adequately address our concerns.

2A.2

As it stands, substantial evidence supports a fair argument that the Project emissions from DPM will result in significant cancer risks. The City must therefore

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[1] *See* **Exhibit 1:** Letter from Rachael Koss to Jordann Turner re: Comments on the Initial Study/Mitigated Negative Declaration for the Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-SPR), July 6, 2016; and **Exhibit 2:** Letter from Rachael Koss to Jordann Turner re: Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-SPR), September 7, 2016.

prepare an EIR that includes a quantitative health risk assessment ("HRA") to disclose and analyze the Project's health risks from air pollutants, and compare the risks to applicable thresholds of significance. Indeed, the South Coast Air Quality Management District ("SCAQMD") recommends that HRAs be prepared for development projects subject to CEQA. The City has not prepared a HRA and, as a result, has failed to disclose and analyze the Project's significant health risks from the Project's DPM emissions from trucks and off-road heavy equipment.

2A.2 cont.

B. The Project Will Cause a Significant, Unmitigated Impact from Greenhouse Gas Emissions

We previously provided substantial evidence showing that the Project's greenhouse gas ("GHG") emissions would result in a significant, unmitigated impact Specifically, the Project's combined, amortized construction and operation emissions are 3,102 MTCO2e/year, which exceed the SCAQMD's screening threshold of 3,000 MTCO2e/year. This remains a significant, unmitigated impact that the City has failed to disclose.

2A.3

C. The Project May Result in a Significant, Unmitigated Impact from Hazardous Materials

We previously provided substantial evidence showing that the Project may result in a significant, unmitigated impact from on-site contamination. Specifically, the former dry cleaning and gas station uses on the Project site may have caused subsurface contamination that would pose a health risk to construction workers, hotel guests and hotel workers. Chemical contamination commonly associated with dry cleaners includes tetrachloroethylene ("PCE"), a likely carcinogen, and chemical contamination associated with gas stations includes benzene, a known human carcinogen and volatile organic compound ("VOC"). Hotel guests and hotel workers may be exposed to these contaminants through vapor intrusion, and construction workers may be exposed to these contaminants through contact with contaminated soil or by breathing vapors during excavation, grading and trenching. To date, the City has failed to analyze the Project's potentially significant impacts from on-site contamination.

2A.4

Rather, the MND and Phase I Environmental Site Assessment prepared for the Project *assume*, without any supporting sampling results or any evidence of investigations conducted for contamination from dry cleaning operations, that the former uses on the site will not result in a significant impact. As we previously

APPEAL LETTER No. 2A

explained, the City must include environmental sampling results in an EIR, including results for soil vapor, PCE and benzene. The EIR must compare soil sampling results to construction worker screening levels to determine the Project's potentially significant impacts from contamination. Without sampling results, there is no support for the MND's and Phase I ESA's conclusions. In addition, an investigation targeting contamination from dry cleaning operations must be performed and the results included in an EIR. Without a targeted investigation, there is no support for the MND's and Phase I ESA's conclusions.

2A.4 cont.

As a result of these errors, the adoption of the MND and approval of the Conditional Use Permit, Zoning Administrator's Adjustment and Site Plan Review violated CEQA and must be overturned. We urge the City Council to grant our appeal and order the preparation of an EIR for the Project. Thank you for your attention to this important matter.

2A.5

Sincerely,

Rachael E. Koss

Rachael Koss

REK:acp

APPEAL LETTER No. 2B

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September 7, 2016

VIA EMAIL AND OVERNIGHT MAIL

Mr. Jordann Turner, City Planner
Department of City Planning
City of Los Angeles
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Los Angeles, CA 90012
Email: jordann.turner@lacity.org

Re: Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-SPR)

Dear Mr. Turner:

We write on behalf of the Coalition for Responsible Equitable Economic Development("CREED LA"), Luther Medina, John Ferruccio, Jorge L. Aceves, John P. Bustos, Gery Kennon, Chris S. Macias and Robert E. Murphy Jr., to respond to the Department of City Planning Recommendation Report ("Staff Report") for the September 8, 2016 City Planning Commission hearing for the Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VXC-HD-CUB-SPR) ("Project") proposed by R.D. Olson Development ("Applicant"). On July 6, 2016, we submitted comments on the Initial Study and Mitigated Negative Declaration ("MND") prepared by the City of Los Angeles ("City") for the Project. The Staff Report contains responses to our comments. However, the Staff Report fails to resolve the issues we raised, as detailed below, and our comments still stand.[1] **2B.1**

In short, the MND still fails to comply with the requirements of the California Environmental Quality Act[2] ("CEQA") because it fails to identify the Project's potentially significant impacts to air quality and public health, and from **2B.2**

[1] We incorporate our July 6, 2016 comments herein by reference.
[2] Pub. Resources Code §§ 21000 et seq.; 14 Cal. Code Regs. §§ 15000 et seq. ("CEQA Guidelines").

greenhouse gas emissions and hazardous materials, and fails to propose measures that can reduce those impacts to a less than significant level. Therefore, the City may not approve the Vesting Zone Change, Height District Change, Conditional Use Permit, Zoning Administrator's Adjustment or Site Plan Review Findings for the Project until it prepares an environmental impact report ("EIR") that adequately analyzes the Project's potentially significant direct impacts and incorporates all feasible mitigation measures to avoid or minimize these impacts.

2B.2 cont.

We prepared this response to the Staff Report with the assistance of air quality and hazards experts Matt Hagemann and Jessie Jaeger of Soil/Water/Air Protection Enterprise ("SWAPE"). SWAPE's response to the Staff Report is attached hereto as **Attachment A**.

I. THE CITY MUST PREPARE AN EIR BECAUSE SUBSTANTIAL EVIDENCE SUPPORTS A FAIR ARGUMENT THAT THE PROJECT MAY RESULT IN SIGNIFICANT PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS

2B.3

We previously explained that CEQA contains a strong presumption in favor of requiring a lead agency to prepare an EIR. This presumption is reflected in the "fair argument" standard. Under that standard, a lead agency "shall" prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.[3] The fair argument standard creates a "low threshold" favoring environmental review through an EIR, rather than through issuance of a negative declaration.[4] An agency's decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.[5] Substantial evidence can be provided by technical

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[3] Pub. Resources Code §§21080(d), 21082.2(d); CEQA Guidelines §§ 15002(k)(3), 15064(f)(1), (h)(1); *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1601-1602.

[4] *Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.

[5] *Sierra Club v. County of Sonoma*, (1992) 6 Cal.App.4th, 1307, 1318; *see also Friends of "B" Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1002 ["If there was substantial evidence that the proposed project might have a significant environmental impact, evidence to the contrary is not sufficient to support a decision to dispense with preparation of an [environmental impact report] and adopt a negative declaration, because it could be 'fairly argued' that the project might have a significant environmental impact"].

experts or members of the public.[6] "If a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect."[7]

Our previous comments showed that there is more than a fair argument supported by substantial evidence that the Project may result in significant impacts on air quality and public health, and from greenhouse gas emissions and hazardous materials. The Staff Report does not change these conclusions. Therefore, the City is required to prepare an EIR to evaluate the Project's impacts and propose all mitigation measures that are necessary to reduce those impacts to a less-than-significant level. **2B.3 cont.**

A. Substantial Evidence Still Supports a Fair Argument that the Project Will Cause a Significant, Unmitigated Cancer Risk from Toxic Air Contaminants Emissions

The MND concludes that the health risk posed to nearby sensitive receptors from exposure to toxic air contaminants ("TACs"), including diesel particulate matter ("DPM") emissions, from Project construction and operation would be less than significant.[8] We previously explained that the MND's conclusion is unsupported because the City failed to quantify the risk and compare it to applicable thresholds of significance. We also provided substantial evidence that the Project would result in potentially significant health risks from DPM emissions. **2B.4**

The Staff Report response to our comments states that:

> The requirement to prepare a construction or operational health risk assessment pursuant to OEHHA Guidelines is not required under CEQA or any required permits or approvals. Based on the relatively low emissions

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[6]See, e.g., *Citizens for Responsible and Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1340 [substantial evidence regarding noise impacts included public comments at hearings that selected air conditioners are very noisy]; *see also Architectural Heritage Ass'n v. County of Monterey*, 122 Cal.App.4th 1095, 1117-1118 [substantial evidence regarding impacts to historic resource included fact-based testimony of qualified speakers at the public hearing]; *Gabric v. City of Rancho Palos Verdes* (1977) 73 Cal.App.3d 183, 199.

[7] CEQA Guidelines § 15062(f).

[8] MND, p. III-32.

> associated with PM_{10} and $PM_{2.5}$ during both construction and operation, there is no evidence to suggest that the Proposed Project would generate diesel emissions that are excessive or above acceptable levels that already occur within the environment. Furthermore, as discussed in greater detail below, the screening level analysis presented in Comment 3.3 does not accurately reflect the project's characteristics or exposure pathways to sensitive receptors.[9]

SWAPE reviewed the Staff Report response and found it to be incorrect for several reasons.

First, there is not substantial evidence to support the Staff Report's argument that the Project's "relatively low emissions associated with PM_{10} and $PM_{2.5}$ during both construction and operation" means that the Project would not result in significant public health impacts. On the contrary, we previously provided substantial evidence supporting a fair argument that the (even relatively low) Project emissions from DPM *will* result in significant cancer risks. This is precisely why the City should prepare a quantitative health risk assessment ("HRA") – to disclose and analyze the Project's health risks from air pollutants, and compare the risks to applicable thresholds of significance.[10]

2B.4 cont.

Second, the South Coast Air Quality Management District ("SCAQMD") *does* recommend that HRAs be prepared for development projects subject to CEQA. In fact, the SCAQMD's *Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis* provides guidance for quantifying cancer risks from DPM from truck idling and movement, among other sources.[11] Indeed, SWAPE previously provided evidence that it is the Project's DPM emissions from trucks and off-road heavy equipment that will cause significant health risks. Therefore, the Staff Report is completely unsupported and the MND is inconsistent with SCAQMD CEQA guidance.

Finally, the Staff Report's argument that SWAPE's screening level analysis "does not accurately reflect the project's characteristics or exposure pathways to sensitive receptors" is entirely incorrect. SWAPE prepared a screening level HRA

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[9] Staff Report, Response to Comments, p. 31.
[10] *See* **Attachment A**, p. 2.
[11] *Id.*, p. 3.

consistent with the Office of Environmental Health Hazard Assessment *Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments* ("OEHHA Guidelines"). SWAPE also explained that the purpose of conducting the screening level analysis is to determine if a more refined HRA is necessary. Specifically, if screening level HRA results are above applicable thresholds, then a more refined HRA that is tailored to site-specific meteorology and equipment usage schedules must be conducted. Accordingly, SWAPE conducted a screening level analysis, found that the results exceeded applicable thresholds, and advised the City that a more refined HRA must be conducted for the Project.[12] The City simply refuses to abide by the OEHHA Guidelines, and refuses to adequately analyze the Project's potentially significant cancer risks in an EIR, as required by CEQA.

2B.4 cont.

B. Substantial Evidence Still Supports a Fair Argument that the Project Will Cause a Potentially Significant, Unmitigated Impact from Greenhouse Gas Emissions

SWAPE previously showed that the MND fails to ensure that the Project complies with the greenhouse gas emissions ("GHG") 2030 reduction goals required by Executive Order B-30-15. SWAPE recommended that, to demonstrate compliance with Executive Order B-30-15, the City should scale down the 49% statewide reduction target to a project level goal. This will provide a threshold against which to measure the Project's impacts from GHG emissions.

2B.5

The Staff Report does not demonstrate the Project's compliance with Executive Order B-30-15. Rather, the Staff Report incorrectly argues that the Project need only comply with 2020 reduction goals.[13] The interim GHG reduction goals for 2020 were superseded by Executive Order B-30-15, which requires emissions reductions above those mandated by AB 32. Thus, the Staff Report is unsupported. Moreover, as we previously explained, even if comparing a project's emission reductions to the AB 32 statewide reduction goal was proper (which it is not), the Project's GHG emissions reduction of 13 percent would not even meet the 15 percent reduction required by AB 32 to reduce statewide emissions to 1990 levels by 2020.

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[12] *Id.*, p. 4.
[13] Staff Report, Response to Comments, p. 36.

SWAPE previously provided an independent analysis of the Project's GHG emissions using the SCAQMD screening threshold of 3,000 metric tons of carbon dioxide equivalents per year (MTCO2e/year) and found that the Project's GHG emissions would result in a significant impact. Project construction would generate 21 MTCO2e/year (when amortized over 30 years) and Project operation would generate 3,081 MTCO2e/year. SWAPE found that, when the Project's amortized construction emissions and operation emissions are combined, the emissions are 3,102 MTCO2e/year, which exceed the SCAQMD's screening threshold of 3,000 MTCO2e/year. This remains a significant, unmitigated impact that the City still fails to disclose.

2B.5 cont.

C. Substantial Evidence Supports a Fair Argument that the Project May Result in a Significant, Unmitigated Impact from Hazardous Materials

SWAPE previously explained that the former dry cleaning and gas station uses on the Project site may have caused subsurface contamination that would pose a health risk to construction workers, hotel guests and hotel workers. Specifically, chemical contamination commonly associated with dry cleaners includes tetrachloroethylene ("PCE"), a likely carcinogen, and chemical contamination associated with gas stations includes benzene, a known human carcinogen and volatile organic compound ("VOC"). SWAPE further explained that hotel guests and hotel workers may be exposed to these contaminants through vapor intrusion, and construction workers may be exposed to these contaminants by touching contaminated soil or breathing vapors during excavation, grading and trenching.

2B.6

Rather than analyze the Project's potentially significant impacts from on-site contamination, the MND merely states "there have been various subsurface investigations conducted on the Project Site and it received closure from the Regional Water Quality Control Board" and "the Project Site presumably met the standard at the time, indicating the solvents used for the Hollywood Laundry did not contaminate the groundwater and soil or were remediated."[14] The Phase I Environmental Site Assessment ("Phase I ESA") prepared for the Project states that "the Project site presumably met the commercial/industrial standard" under the 1986 Los Regional Water Quality Control Board closure of the gas station and, therefore, did not "find a recognized environmental condition (REC) in connection

[14] MND, p. III-55.

with the property in relation to the presence of a Texaco previously occupying the Project site."[15]

We previously explained that the MND's and Phase I ESA's presumptions and conclusions are unsupported because (1) neither contain any supporting sampling results, and (2) investigations conducted for contamination from a gas station are inapplicable to contamination from dry cleaning operations. The Staff Report fails to substantively respond to, or resolve, these issues.[16] Therefore, we reiterate the need for the City to include environmental sampling results in an EIR, including results for soil vapor, PCE and benzene. The EIR must compare soil sampling results to construction worker screening levels to determine the Project's potentially significant impacts from contamination. Without sampling results, there is no support for the MND's and Phase I ESA's conclusions. In addition, an investigation targeting contamination from dry cleaning operations must be performed and the results included in an EIR. Without a targeted investigation, there is no support for the MND's and Phase I ESA's conclusions. **2B.6 cont.**

As it stands, substantial evidence supports a fair argument that the Project may result in health impacts to construction workers, hotel guests and hotel workers from on-site contamination. The City must prepare an EIR that quantitatively assesses and mitigates these impacts.

II. CONCLUSION

The Staff Report fails to resolve the issues we raised in our comments on the MND. There is substantial evidence supporting a fair that the Project may result in significant adverse impacts that were not identified in the MND, and that are not adequately analyzed or mitigated. We, once again, urge the City to fulfill its responsibilities under CEQA by withdrawing the MND and preparing a legally adequate EIR to address the Project's potentially significant impacts. Only by complying with all applicable laws will the City and the public be able to ensure that the Project's significant environmental impacts are mitigated to less than significant levels. **2B.7**

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[15] *Id.*
[16] **Attachment A**, p. 6.

Thank you for your attention to these comments.

2B.7 cont.

Sincerely,

Rachael E. Koss

REK:ieh

Attachment

APPEAL LETTER No. 2C

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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September 7, 2016

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Subject: Response to Comments on the Hollywood Ivar Gardens Project (ENV-2015-2895-MND)

Dear Ms. Koss:

We have reviewed the Recommendation Report ("Staff Report") for the proposed Hollywood Ivar Gardens Project (ENV-2015-2895-MND) ("Project") located in the City of Los Angeles. The Staff Report addresses comments we made on the Initial Study/Mitigated Negative Declaration ("IS/MND") for the proposed Project in a July 5, 2016 letter. After review of the responses provided in the Staff Report, we maintain that the IS/MND still falls well short in describing and mitigating the Project's Air Quality, Greenhouse Gas, and Hazards and Hazardous Waste impacts. A Draft Environmental Impact Report (DEIR) should be prepared to adequately evaluate and mitigate the Project's environmental and health risk impacts. **2C.1**

Air Quality

In our July 5 letter, we concluded that the Project's IS/MND failed to adequately evaluate the Project's Air Quality impacts because the IS/MND failed to prepare a construction and operational health risk assessment. We still maintain that the Staff Report fails to address our concern regarding the construction and operational health risk posed by the proposed Project.

Diesel Particulate Matter Health Risk Emissions Inadequately Evaluated

Our July 5 letter found that the IS/MND failed to evaluate the health risk posed to nearby sensitive receptors from exposure to diesel particulate matter (DPM) emissions released during Project construction and operation (Response to Comments, p. 30). The Staff Report attempts to address our concerns on this matter, stating: **2C.2**

> "The requirement to prepare a construction or operational health risk assessment pursuant to OEHHA Guidelines is not required under CEQA or any required permits or approvals. Based on

> the relatively low emissions associated with PM_{10} and $PM_{2.5}$ during both construction and operation, there is no evidence to suggest that the Proposed Project would generate diesel emissions that are excessive or above acceptable levels that already occur within the environment. Furthermore, as discussed in greater detail below, the screening level analysis presented in Comment 3.3 does not accurately reflect the project's characteristics or exposure pathways to sensitive receptors" (Response to Comments, p. 31).

This justification for failing to prepare a health risk assessment, however, is incorrect for several reasons.

First, the IS/MND relies upon a subjective opinion that has no factual basis, rather than a quantitative assessment, to determine the Project's Air Quality impacts. Simply because Project construction and operation would emit "relatively low" PM_{10} and $PM_{2.5}$ emissions does not mean that the Project applicant is not required to conduct a health risk assessment, nor does it mean that the Project would not result in a significant health risk impact. A health risk assessment is required to determine whether or not a Project would expose sensitive receptors to substantial air pollutants. In order to answer this checklist item, the IS/MND should have conducted some sort of quantitative analysis and should have compared the results of this analysis to applicable thresholds. The South Coast Air Quality Management District (SCAQMD) provides a specific numerical threshold of 10 in one million for determining a project's health risk impact.[1] Therefore, the IS/MND should have conducted an assessment that compares the Project's construction and operational health risks to this threshold in order to determine the Project's health risk impact. By failing to prepare a health risk assessment, the IS/MND fails to provide a comprehensive analysis of the sensitive receptor impacts that may occur as a result of exposure to substantial air pollutants.

2C.2 cont.

Second, contrary to what is stated in the Staff Report, the SCAQMD does recommend that health risk assessments be prepared for development projects subject to review under CEQA. According to the SCAQMD,

> "In August 2002, the SCAQMD's Mobile Source Committee approved the 'Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Emissions.' This document provided guidance for analyzing cancer risks from diesel particulate matter from mobile sources at facilities such as truck stops and warehouse distribution centers. Subsequently, SCAQMD staff revised the aforementioned document to expand the analysis to provide technical guidance for analyzing cancer risks from potential diesel particulate emissions impacts from truck idling and movement (such as, but not limited to, truck stops, warehouse and distribution centers, or transit centers), ship hotelling at ports, and train idling. This revised guidance document titled, 'Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis' was presented to and

[1] http://www.aqmd.gov/docs/default-source/ceqa/handbook/scaqmd-air-quality-significance-thresholds.pdf?sfvrsn=2

> approved by the SCAQMD's Mobile Source Committee at its March 28, 2003 committee meeting. It is suggested that projects with diesel powered mobile sources use the following guidance document to quantify potential cancer risks from the diesel particulate emissions."[2]

Since the proposed Project will generate on-road heavy-duty truck trips during construction and operation, and will utilize off-road equipment during construction, the IS/MND should have quantified the health risk that would occur as a result of these activities. By failing to prepare a construction or an operational health risk assessment, the IS/MND is inconsistent with SCAQMD CEQA Guidelines.

Third, the omission of a health risk assessment is not only inconsistent with SCAQMD CEQA Guidelines, but is also inconsistent with analyses conducted for other CEQA projects. For example, the 777 Sunnyvale-Saratoga Road project (Project Number 2015-7399) located within the City of Sunnyvale in Santa Clara County,[3] the Sierra Lakes Commerce Center project located in the City of Fontana,[4] and the 24th and Harrison Streets project located in the City of Oakland[5] all conducted screening level health risk assessments to determine whether or not the project would result in significant health risk impacts. This method of determining whether or not a project would expose sensitive receptors to substantial air pollutants is widely used by projects subject to review under CEQA, regardless of the size or land use type proposed. Therefore, to demonstrate consistency with analyses conducted for other development projects within California, the IS/MND should have also prepared a health risk assessment.

2C.2 cont.

Finally, the Staff Report's claim that our screening level analysis "does not accurately reflect the project's characteristics or exposure pathways to sensitive receptors" is entirely incorrect (Response to Comments, p. 31). According to the Staff Report,

> "The cancer potency factor used by SWAPE was based on 1.1(mg/kg-day)-1 and an averaging time of 25,550 days (70 years). This factor assumes a constant exposure to DPM over a 70-year lifetime and does not account for dose or exposure duration. The construction activities of the project would occur for approximately 8 hours a day and 5 days a week. Thus, it is inaccurate to assume that nearby persons would be exposed to any emissions during the evening hours or on weekends. Persons would only be exposed to emissions at times when the emissions are being generated and when the individuals are within a proximate range of exposure to the emissions. Factors such as leaving one's residence to go to work or school are not considered within SWAPEs analysis" (Response to Comments, p. 32).

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[2] http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/mobile-source-toxics-analysis

[3] 777 Sunnyvale-Saratoga Road Mitigated Negative Declaration (Project Number 2015-7399), Appendix B Health Risk Assessment, *available at:* Office of the Secretary of the Planning Commission, City Hall, 456 West Olive Avenue, Sunnyvale.

[4] Sierra Lakes Commerce Center Project, Recirculated Draft Environmental Impact Report, Appendix A, *available at:* https://www.fontana.org/index.aspx?NID=2590

[5] 24th and Harrison Streets Project, CEQA Analysis, Attachment G, *available at:* http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak059792.pdf

This justification for why our screening level health risk assessment overestimates the Project's health risk impact is incorrect, and it demonstrates the IS/MND's lack of understanding behind the purpose of a screening-level analysis. The Office of Environmental Health Hazard Assessment (OEHHA), the organization responsible for providing recommendations for health risk assessments in California, recognizes that screening-level analyses are more conservative, and tend to err on the side of health protection.[6] However, the purpose of a screening-level health risk assessment is to determine if a more refined health risk assessment needs to be conducted. If the results of a screening-level health risk assessment are above applicable thresholds, then the Project needs to conduct a more refined health risk assessment that is more representative of site specific concentrations. Screening-level analyses are supposed to represent the most conservative, worst-case scenario, and therefore should be calculated as such.

Consistent with OEHHA guidelines, in order to represent the most conservative, worst-case scenario, the health risk assessment presented in our July 5 letter relies upon the most conservative assumptions, such as continuous exposure to pollutants and increased sensitivity to infants and children. Therefore, the Staff Report's claim that our health risk assessment relies upon incorrect values that overestimate the Project's health risk impacts is incorrect, as our analysis is consistent with health risk procedures set forth by OEHHA.

2C.2 cont.

By failing to prepare a construction or an operational health risk assessment, the IS/MND is inconsistent with SCAQMD CEQA Guidelines, recommendations set forth by OEHHA, and with analyses conducted for other development projects within California. In an effort to demonstrate the potential risk posed by the Project to nearby sensitive receptors, we prepared a simple screening-level health risk assessment. The results of our assessment, which were disclosed in our July 5 letter and are shown in the table below, demonstrate that construction-related and operational DPM emissions may result in a potentially significant health risk impact.

The Maximum Exposed Individual at an Existing Residential Receptor (MEIR)

Activity	Duration (years)	Concentration ($\mu g/m^3$)	Breathing Rate (L/kg-day)	ASF	Cancer Risk
Construction	2.00	0.36	1090	10	1.2E-04
Infant Exposure Duration	***2.00***			***Infant Exposure***	***1.2E-04***
Construction	0.06	0.36	572	3	5.6E-07
Operation	13.94	0.18	572	3	6.3E-05
Child Exposure Duration	***14.00***			***Child Exposure***	***6.3E-05***
Operation	14.00	0.18	233	1	8.6E-06
Adult Exposure Duration	***14.00***			***Adult Exposure***	***8.6E-06***
Lifetime Exposure Duration	**30.00**			**Lifetime Exposure**	**1.9E-04**

[6] http://oehha.ca.gov/air/hot_spots/2015/2015GuidanceManual.pdf p. 1-5

Specifically, the excess cancer risk to adults, children, and infants at a sensitive receptor located 105 meters away, over the course of Project construction and operation are 8.6, 63, and 120 in one million, respectively. Furthermore, the excess cancer risk over the course of a residential lifetime (30 years) is approximately 190 in one million. Our screening-level analysis demonstrates that the infantile, child, and lifetime cancer risks all exceed the SCAQMD threshold of 10 in one million. As a result, a refined health risk assessment must be prepared to examine air quality impacts generated by Project construction using site-specific meteorology and specific equipment usage schedules. A DEIR must be prepared to adequately evaluate the Project's health risk impact, and should include additional mitigation measures to reduce these impacts to a less-than-significant level.

2C.2 cont.

Greenhouse Gas

Failure to Demonstrate Consistency with Executive Order B-30-15

In our July 5 letter, we found that the IS/MND demonstrated compliance with statewide reduction goals for 2020 to determine Project significance, yet failed to take into account, the revised, more ambitious greenhouse gas (GHG) reduction goals set by Governor Brown by Executive Order B-30-15 (Response to Comments, p. 35-36). In response to this concern, the Staff Report states,

> "The Commenter originally misinterprets and disagrees with the methodology used in the GHG emissions analysis in the MND, as discussed in COMMENT 2.19. Here, the Commenter proceeds with erroneous assertions that the targeted GHG reduction goals should be based on 2030 statewide goals instead of 2020 goals. As documented in the Newhall Ranch case, the Supreme Court ruled that applying the statewide GHG reduction goals to a specific development project was inappropriate without substantiating how the statewide goals relate to a project's GHG emissions. The Supreme Court found that while this approach could be used (if the percent reduction applied to a project was substantiated based on the statewide emission goals), the use of a BAU methodology was not recommended. This Commenter's argument is contradictory by disagreeing with a misinterpreted methodology and then provides values that the MND should have incorporated for that methodology. Nevertheless, the MND did not apply the BAU comparison methodology in the greenhouse gas emissions section, and applying a BAU level was not necessary for the MND analysis" (Response to Comments, p. 36).

2C.3

This justification for failing to comply with Executive Order B-30-15, however, is entirely incorrect. We do not suggest that the IS/MND compare the Project's emissions to statewide reduction goals for 2030, as is erroneously stated in the Staff Report. We explicitly state in our letter that the Project applicant must determine a way of scaling the 49 percent statewide reduction target set forth by Executive Order B-30-15 down to a project level. Our July 5 letter states,

> "This 49 percent reduction target, once adjusted for use at the project-level, should be considered as a threshold of significance against which to measure Project impacts. Because the Project site is unlikely to be redeveloped again prior to 2030, the 2030 goals are applicable to any evaluation of the Project's impacts. A DEIR should be prepared to demonstrate the Project's compliance with these more aggressive measures specified in Executive Order B-30-15.

> Specifically, the Project should demonstrate, at a minimum, a reduction of 49 percent below BAU levels. It should be noted, however, that this reduction percentage is applicable to statewide emissions, not project-specific emissions. Therefore, this percent reduction may be higher when scaled down to the project-level" (SWAPE, July 5 Letter, p. 8-9).

We explicitly state that this 2030 reduction goal must be scaled down to be comparable at a project-level. Therefore, based on this statement, the IS/MND should have demonstrated compliance with the 2030 reduction goals as scaled down to a project-level using a currently accepted method, such as the methods set forth by the California Supreme Court case *Center for Biological Diversity et al. v. California Department of Fish and Wildlife and the Newhall Land and Farming Company* 2015 Cal. LEXIS 9478 (*Newhall* Case).[7] By failing to demonstrate consistency with Executive Order B-30-15, the IS/MND is incomplete and should not be relied upon to determine Project significance. A DEIR must be prepared to adequately evaluate the Project's GHG impacts, and should include additional mitigation measures to reduce these impacts to a less-than-significant level.

2C.3 cont.

Hazards and Hazardous Waste

In our July 5 letter, we concluded that the IS/MND failed to adequately evaluate the Project's Hazards and Hazardous Waste impacts because of the failure to evaluate potential contamination from carcinogenic chemicals typically associated with releases from former land uses, which include a dry cleaners and a gas station. We maintain that the Staff Report, specifically Responses 2.22 through 2.25, fails to substantively address our concerns regarding the construction and operational health risk posed by potential subsurface contaminants at the Project site. As it stands, the Project may result in potentially significant health impacts from hazardous materials present on the Project site.

2C.4

Sincerely,

Matt Hagemann, P.G., C.Hg.

Jessie Jaeger

[7] http://www.courts.ca.gov/opinions/documents/S217763.PDF

APPEAL LETTER No. 3

ATTACHMENT TO APPEAL
CPC-2015-2893-VZC-HD-CUB-ZAA-SPR/ENV-2015-2895-MND

I. BACKGROUND INFORMATION

1. **Introductory Note**. The Appellants and the Developer have met in good faith to discuss the Project and its impacts on the Appellants. At the Developer's request, the Appellants have limited the scope of their objections while the parties continue their efforts to amicably resolve the Appellants' outstanding concerns. However, in the event that the Appellants' concerns are not resolved, the Appellants reserve the right to supplement this appeal with additional claims and supporting evidence, including expert analyses and technical studies.

2. **Appellants**. The Los Angeles Film School ("L.A. Film School") and 6363 Partners, LLLP[1] (collectively, "Appellants"), hereby appeal the City Planning Commission's actions on Case No. CPC-2015-2893-VZC-HD-CUB-ZAA-SPR and ENV-2015-2895-MND, as set forth in the *Letter of Determination* dated December 5, 2016, submitted herewith.

The L.A. Film School offers both bachelor's degree and associate's degree programs and trains industry professionals for careers throughout the entertainment industry, including filmmaking and production, video game production and design, computer animation, visual effects, music production and recording arts. The L.A. Film School, an accredited private institution, is a long-term Hollywood stakeholder that for nearly two decades has been a significant contributor to the Los Angeles economy, creating a vital pipeline of film professionals for Hollywood's major studios and production houses. Its campus includes the former RCA Building at 6363 Sunset Boulevard, which has undergone extensive renovations to facilitate the school's educational mission, and the adjacent building and City block. In addition, the L.A. Film School operates the Ivar Theater at 1605 Ivar Avenue and the Los Angeles Recording School at 6690 Sunset Boulevard. **3.1**

3. **Project**. R.D. Olson Development ("Developer") proposes to construct a 21-story, 232-foot high hotel and retail project (the "Project") at 6407 W. Sunset Boulevard (the "Project Site") pursuant to the above-referenced cases. The Project could not be constructed and operated "by-right" under the applicable development and use standards for the Site and therefore requires the following discretionary entitlements:

- Vesting Zone Change and Height District Change to allow an increase in the maximum allowable floor area ratio, doubling from 3:1 to 6:1;
- Zoning Administrator's Adjustment to permit a zero foot rear yard in lieu of the required 20 feet setback;
- Site Plan Review;
- Conditional Use Permit to allow the sale and dispensing of a full line of alcoholic beverages for on-site consumption; and
- Mitigated Negative Declaration.

[1] 6363 Partners, LLLP is an affiliate of the L.A. Film School and is the legal entity that owns the property where the L.A. Film School is located.

II. REASONS FOR APPEAL/ HOW APPELLANTS ARE AGGRIEVED BY THE CPC DECISION

The L.A. Film School's unique learning environment and status as a sensitive receptor makes it particularly susceptible to external impacts from the construction of this Project, which requires a major up-zoning to allow the proposed high-rise hotel. Without appropriate protections, two years of construction will create significant noise, traffic, air quality, and other impacts to the L.A. Film School.

The proposed Project would be constructed approximately 50 feet directly west (just across a narrow, two-lane street) of the L.A. Film School's main campus at 6363 W. Sunset Boulevard, which contains, among other essential facilities, soundstages, a dubbing stage, media editing labs, sound design labs, and instructional and theater spaces that are central to the L.A. Film School's educational mission. These uses are particularly sensitive to noise and vibration impacts that will result from construction of the Project. Additionally, the Appellants are concerned that dust, debris and emissions, particularly during demolition, hauling, and project construction, could cause significant air quality and health-related impacts that will go unmitigated. Thus, the impacts of the proposed Project's construction alone would be extremely disruptive to the L.A. Film School's core operations if not properly analyzed and mitigated in accordance with the requirements of the California Environmental Quality Act ("CEQA"). Unfortunately, such analysis has not been undertaken. In addition, the Appellants are concerned that the Project's long-term operations will cause impacts that are incompatible with the L.A. Film School. **3.2**

III. POINTS AT ISSUE

1. An Environmental Impact Report is Required for the Project. The Project will cause significant adverse impacts on the L.A. Film School and the surrounding Hollywood community, and therefore requires the preparation of a full Environmental Impact Report ("EIR") for the Project, rather than a Mitigated Negative Declaration ("MND"). CEQA demands transparency with respect to environmental impacts and, consistent with this purpose, there is a low threshold for preparation of an EIR. *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 390-391 [an EIR is required whenever a public agency proposes to approve or carry out a project that may have a significant effect on the environment]. The Appellants simply want to ensure that CEQA's mandates are followed, and that the public and decisionmakers are adequately apprised of the Project's impacts so that they can make a fully-informed decision. As discussed below, an EIR must be prepared to fully assess the Project's potential impacts not just to the L.A. Film School, but the broader Hollywood community. **3.3**

a. Project Description. The Appellants are concerned that the MND prepared for the Project does not fully describe all elements of the Project, thereby providing insufficient information for the City and the public to meaningfully evaluate the potential impacts of the Project, especially on the L.A. Film School's sensitive operations. **3.4**

b. Noise. As a school that offers programs that would be significantly and adversely impacted by increases in noise and vibration, the Appellants have reason to worry that **3.5**

construction and operational noise generated by construction of this Project will significantly impair the ability of students to meet their educational goals. The L.A. Film School includes a number of uses and programs critical to its educational mission that would be impacted by noise and vibration from the Project, including sound stages, a dubbing stage, theatres, recording studios, and classrooms. In addition, the L.A. Film School has substantial classroom spaces on the western side of its building that would be disrupted by Project noise, and will likely require relocation to ensure that construction noise impacts do not impede students' classroom learning experience. The L.A. Film School is, therefore, a sensitive receptor (as acknowledged by the MND); however, potential impacts to the L.A. Film School's operations are not adequately addressed by the Developer. Moreover, the Appellants are concerned that the mitigation measures included in the MND will not mitigate impacts on the L.A. Film School and its students and faculty because of the L.A. Film School's close proximity to the Project site. **3.5 cont.**

c. Greenhouse Gas Emissions. The Appellants are concerned that the MND's methodology for analyzing greenhouse gas emissions is internally inconsistent and may not accurately evaluate the Project's potential greenhouse gas impacts. **3.6**

d. Traffic. Because it is located adjacent to the Project, the L.A. Film School has a particular interest in ensuring that all traffic impacts associated with the Project are correctly analyzed and mitigated. In particular, the Appellants are concerned that both construction and long-term traffic from this Project will significantly impair the ability of students, faculty and staff to access its campus, especially given the existing, extremely congested conditions. The Appellants are also concerned that the Project will cause traffic impacts associated with queuing of cars and trucks at the Project site, and that future street closures at or near the intersection of Cahuenga Boulevard and Sunset Boulevard, associated with construction activities, has the potential to impact the L.A. Film School by blocking access. **3.7**

e. Hazards and Hazardous Materials. The Project site previously contained a Texaco gas station and a laundry facility, both uses that are commonly associated with the release of hazardous substances and long-term pollution impacts. Understandably, the Appellants are concerned that ground disturbance activities at the Project Site would result in the release of hazardous substances that would impact the health of L.A. Film School students and faculty. **3.8**

2. Streetscape Design. Whereas Sunset Boulevard and Cahuenga Boulevard are the formal entrances to the Project, the design of the Ivar Avenue streetscape, which is the rear service area, is a mere afterthought. These Ivar-facing elements, which are closest to the L.A. Film School, are the weakest streetscape components of the Project and fail to complement or activate the neighboring properties on the eastern side of the Project Site. **3.9**

3. Zoning Administrator's Adjustment. The Project does not comply with the City's requirement to provide a 20-foot rear setback, therefore necessitating relief in the form of a Zoning Administrator's Adjustment to allow development of the Project within the mandatory 20-foot rear yard. However, the City Planning Commission's findings granting the Zoning Administrator's Adjustment are not sufficiently supported. Specifically, Los Angeles Municipal Code ("LAMC") Section 12.28 C.4 requires a finding that "site characteristics or existing improvements make strict adherence to the zoning regulations impractical or infeasible....". In **3.10**

this case, that required finding is simply not made or supported. Instead, the *Letter of Determination* solely asserts that the reduction in buildable area that would result from compliance with the City's setback requirements "makes it a hardship to build a hotel development in a Regional Commercial Center area [in] which properties generally have no building setbacks." However, there is no support for this assertion and no evidence that adherence to the setback is "impractical or infeasible". Moreover, the fact that other buildings do not have similar setbacks is purely a product of the proposed Project – a hotel (extended stay) – which the LAMC considers a residential use. The City Planning Commission's findings for the Zoning Administrator's Adjustment therefore lack sufficient evidentiary support. **3.10 cont.**

4. Conditional Use Permit. The City Planning Commission approved the Developer's request for a conditional use permit ("CUP") to permit the sale of alcoholic beverages at the Project. The Appellants are concerned that the City Planning Commission's approval did not sufficiently consider the potential adverse impacts on adjacent properties, the surrounding neighborhood, or the public health, welfare and safety, as is required by the LAMC. See LAMC §§ 12.24 E, 12.24 W. The sale and consumption of alcoholic beverages may sometimes be associated with increased crime and increases in service calls to the Los Angeles Police Department and Los Angeles Fire Department. The City Planning Commission's approval unjustifiably minimizes the risks of alcoholic beverage sales at the Project, merely stating that "[a]lcohol will not be a focal point of the Proposed Project" and will only complement other hotel amenities. This description understates the potential significance of alcoholic beverage sales at the Project, which could adversely affect adjacent properties (such as the L.A. Film School), the surrounding Hollywood community, and the public health, welfare and safety. **3.11**

5. Site Plan Review. The Project is not compatible with neighboring properties and uses, which is required for Site Plan Review approval pursuant to LAMC Section 16.05 F.2. As detailed above, the Project proposes an excessively tall and large development envelope, built all the way to the rear property line, that would adversely impact the L.A. Film School's ability to educate its students. In approving the Site Plan Review, the City Planning Commission did not adequately consider all of the external impacts created by the Project on the L.A. Film School and other nearby sensitive receptors. In addition, the City Planning Commission did not ensure that the Project's design incorporated streetscape elements that were complementary to, and compatible with, all adjacent and neighboring properties. **3.12**

IV. CONCLUSION

The Appellants do not oppose the continued evolution and revitalization of the Hollywood community in which it is proudly located. In fact, the Appellants welcome responsible development and look forward to working with community stakeholders on the continued improvement of Hollywood. However, the significant up-zoning for the high-rise hotel Project, in a highly congested area of Hollywood, and immediately adjacent to sensitive receptors, needs to be comprehensively analyzed, and its impacts fully mitigated. Given the sheer magnitude of the Project, the MND provides a wholly insufficient level of CEQA review; much smaller projects – including zoning compliant projects – in Hollywood have required EIRs. The MND does not appropriately and adequately analyze the Project's significant environmental impacts. Instead, an EIR must be prepared to provide decision-makers and the public with sufficient information to fully consider all environmental impacts associated with the Project. Accordingly, any action taken by the City Council approving the Project and adopting the MND will be legally defective.

3.13

Attachment 2: LLG's Response to Public Comment – Ivar Gardens Hotel Project Traffic Impact Study, dated September 26, 2016.

MEMORANDUM

To:	Jordann Turner, City Planner Department of City Planning	Date:	September 26, 2016
From:	Clare M. Look-Jaeger, P.E. LLG Engineers	LLG Ref:	1-14-4108-2
Subject:	Response to Public Comments – Ivar Gardens Hotel Project Traffic Impact Study		

This memorandum has been prepared in response to the public comments received just prior to the September 8th, 2016 City Planning Commission (CPC) hearing and, more specifically, the MRO Engineers comment letter dated September 1, 2016 regarding the review of Linscott, Law & Greenspan, Engineers (LLG) December 23, 2015 traffic impact study that was prepared for the proposed Ivar Gardens Hotel project.

As you are aware, the traffic impact study was prepared in accordance with the City of Los Angeles traffic study policies and procedures. A total of six (6) intersections were required for review of potential traffic impacts due to the completion and operation of the proposed project. The traffic study follows the City of Los Angeles Department of Transportation (LADOT) intersection analysis methodology (Critical Movement Analysis [CMA] method) in determining existing and future (year 2018) intersection Volume-to-Capacity (*v*/c) ratios and corresponding Levels of Service (LOS). In addition, the City's significant impact criteria, which is based on a sliding scale method, was employed in the analysis. The sliding scale method requires mitigation of project-related traffic impacts whenever traffic generated by a proposed development causes an increase in the analyzed intersection *v*/c ratio by an amount equal to or greater than the threshold values. The worse the intersection LOS is (e.g., LOS E or F), the less traffic can be added (i.e., a smaller incremental change in an intersection's *v*/c ratio) before a significant traffic impact is triggered. No significant traffic impacts were forecast due to the proposed project and LADOT has concurred with the traffic analysis findings.

The following paragraphs respond to the MRO Engineers' comments received on the project's traffic impact study. For ease of reference purposes, the MRO Engineers' comment letter is attached and bracketed with the responses summarized below according to that bracketing /numbering system.

Response No. 1 - Traffic Volume Data: The commentor's quoting of the LADOT *Traffic Study Policies and Procedures* document as it relates to the conduct of baseline existing traffic counts is acknowledged. The commentor calls into question the validity of the two intersection manual peak hour traffic counts that were conducted on Wednesday, April 8th, 2015 (i.e., the Wednesday after Easter Sunday, 2015) as part of the traffic study. These two locations correspond to the Ivar Avenue/Sunset Boulevard and Vine Street/Sunset Boulevard intersections, Study Intersection Nos. 5 and 6, respectively. It should be noted that these two intersections were required to be recounted since LLG's prior approved traffic impact study and

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corresponding manual traffic counts for these two locations became outdated (i.e., were more than two years old when the revised project description was received and a revised traffic impact study was required for entitlement processing). LADOT policy is that traffic count data should be no more than two years old.

While Easter Sunday was April 5th, LLG verified with LADOT that it would be acceptable to conduct traffic counts later the following week, since it was verified that all schools were back in full Spring session. UCLA, USC, and LAUSD schools including Hollywood High School and the nearby Armenian High School all were in regular session. LADOT approved the conduct of the manual peak hour traffic counts for this reason. LLG and LADOT concurred in the assessment that the traffic counts were not influenced by vacations and schools being out of session, since the Spring break session occurred before Easter that year.

Response No. 2A - Project Trip Generation: LLG acknowledges the various types of trips generated by most development projects (primary, pass-by and diverted link trips). The traffic impact study was prepared in accordance with LADOT policy regarding pass-by trips and an executed Memorandum of Understanding (MOU) between LADOT and LLG as the traffic consultant was obtained (i.e., signed approval) prior to commencement of the analysis. Having stated this, the main point of this response is that LADOT policy is that pass-by trip reductions are not allowed for consideration at project-adjacent intersections. As such, LADOT does not require separate assignments of each individual trip type since these adjustments are not taken at adjacent intersections. The intersection worksheets appropriately reflect that pass-by trip reductions were not applied at both the Cahuenga Boulevard/Sunset Boulevard and Ivar/Sunset Boulevard intersections, Study Intersection Nos. 3 and 5, respectively. The commentor is likely not aware of this local LADOT policy.

LLG concurs with the commentor that the total volume of traffic generated by the proposed project will occur at the project's driveways, regardless of the pass-by percentage. Finally, for purposes of assessing project-related traffic impacts and pass-by trip reductions at non-adjacent intersections, LADOT traffic study guidelines do allow the incorporation of existing-use trip generation credits (i.e., the existing trip generation credit for the Jack-in-the-Box fast-food restaurant which will be demolished for this project). Therefore, the traffic impact study conclusions remain valid.

Response No. 2B - Intersection LOS Calculation Worksheets: The intersection calculation worksheets contained in Appendix C of the LLG December 23, 2015 traffic impact study are correct. LLG does not disagree with the commentor that the calculations are quite sensitive and even one additional eastbound left-turn due to the project at the Cahuenga/Sunset intersection would have triggered a significant traffic impact based on the adopted City of Los Angeles significance thresholds. Table 9-1, page 45 of the traffic impact study, presents the summary of the *v/c* ratios and LOS at

the six study intersections. LLG acknowledges that based on the impact analysis results, the *v/c* ratio increase for Study Intersection No. 3 (the Cahuenga Boulevard/Sunset Boulevard intersection) is just below the City's adopted significance thresholds, with a reported increase of 0.019 at LOS D, while the significance threshold at LOS D being a project-related increase in the *v/c* ratio of 0.02 or more.

Response No. 2C - Pass-By Rate: The pass-by reductions for the various land uses were reviewed and approved by LADOT. Further, while Table 7-1 on page 38 of the traffic impact study does show the "rounded" pass-by reductions, the intersection calculation worksheets are not rounded until the very end and the *v/c* ratio results are reported to three (3) decimal places. The 50% pass-by adjustment percentage is per LADOT policy for retail (shopping center) uses. It is important to note that the commentor also claims that a "Specialty Retail" trip generation rate should have been applied in the traffic analysis. In response, LADOT and LLG reviewed the trip generation rates employed in the traffic analysis in detail as part of the formal MOU process. The specialty retail average trip generation rate was not used for two reasons: 1) No AM peak hour trip generation rate is provided by ITE for the Specialty Retail category (ITE Land Use Code 826), and 2) Given the square footage for the retail component, the ITE Specialty Retail average PM peak hour trip generation rate would have produced fewer (lower) traffic volumes than using the retail (ITE Land Use Code 820 Shopping Center) average PM peak hour trip generation rate. Thus, the traffic analysis is conservative since it employed the higher rate of the two retail land use categories.

Response No. 2D - Overall Trip Generation Summary: Refer to Responses 2A through 2C above for a summary of the validity of the project trip generation forecast as contained in the LLG December 23, 2015 traffic impact study. No further analysis is required or warranted.

Response No. 3 - Existing Jack-in-the Box Restaurant Traffic: LADOT did not require site specific traffic counts in order to determine the existing use trip generation credit. If a land use is atypical and not included in the ITE database, or has not been studied extensively by ITE, LADOT may require site-specific surveys. In this case, as fast-food restaurants have been extensively studied by ITE, LADOT did not require the conduct of site-specific trip generation surveys. The distribution of traffic volumes for the existing fast-food use were based on general observations of driveway activity.

Response No. 4A - Project Driveway Operations: The commentor is correct in the general statements regarding the intent of the proposed site access and circulation scheme (i.e., the single service entry driveway off of Ivar Avenue and the commercial driveway off of Cahuenga Boulevard). The commentor also is correct with respect to noting that the future planned driveways (i.e., one each on Cahuenga Boulevard and

Ivar Avenue) are approximately 100 to 125 feet north of Sunset Boulevard. It is important to note, while not raised by the commentor, that the project site property frontages along these roadways is only approximately 150 feet. Thus, the proposed project driveways have been located as far away (i.e., north of) Sunset Boulevard as possible. In addition, site access was extensively reviewed by the project applicant team and by LADOT (regarding the overall access scheme). In addition, the elimination of the curb cut driveway on Sunset Boulevard should help alleviate some of the potential conflicts that occur today on Sunset Boulevard between Cahuenga Boulevard and Ivar Avenue.

Truck maneuvering studies were performed to demonstrate the feasibility of the service driveway and design to accommodate service vehicles. The location of the Ivar Avenue gate control and on-site at-grade service/delivery area also was modified to address LADOT's previous concern about the potential for vehicle queuing back out onto the public roadway system. LADOT will require at a later date (as noted in the departmental clearance letter, Section D of the January 6, 2016 letter) the formal clearance of internal circulation and driveway design, should the project gain approval by the City's decision-makers.

Response No. 4B – Exiting Left-turns at the Cahuenga Boulevard Driveway
Truck maneuvering studies were performed to demonstrate the feasibility of the service driveway and design to accommodate service vehicles, and additional maneuvering studies also were prepared for the exiting maneuver. The existing roadway striping on Cahuenga Boulevard does allow for left-turns in and left-turns out. Refer to Response Nos. 4A above and 4C below for additional discussion.

Response No. 4C - Double Yellow Striping: The commentor's claim that Cahuenga Boulevard is painted with double-double yellow striping in the median area is not consistent with LLG's field review. LLG noted during field visits and observations that a single double yellow with a skip double yellow stripe is present across from the existing Cahuenga Boulevard driveway. Thus, left-turns into and out of the driveway are legal. This striping treatment is expected to be maintained following completion of the proposed project. In addition, LADOT reviewed and cleared the assume project traffic distribution patterns both for the existing site conditions and the proposed project conditions.

Response Nos. 4D & 4E – Delay Entering or Exiting the Project Site: Based on a review of the forecast driveway traffic volumes, the inbound motorist delay for the planned Cahuenga Boulevard driveway is expected to be nominally increased over existing conditions, when compared with the existing commercial Cahuenga Boulevard driveway operations associated with the Jack-in-the Box fast-food restaurant. Formal delay calculations were not required for the project driveway, but any exiting queuing, if it occurs, would be internal to the site and would not affect on-street traffic operations. Finally, the commentor's claim that delays will become

excessive and lead to potential unsafe motorist behavior is not substantiated with any evidence.

It is noted that LADOT could require "Keep Clear" pavement markings on Cahuenga Boulevard across from the project driveway as part of the detailed site access, internal circulation clearance process. Refer to Response No. 4A above for further discussion regarding the project driveway location. The process for project driveway review has not yet been initiated and is dependent upon approval of the project by the City's decision-makers. To date, "Keep Clear" pavement markings have not been requested or required.

Response No. 4F – Vehicle Queuing: Refer to Response Nos. 4A, 4D, and 4E above.

Response Nos. 4G & 4H - Service Vehicle Operations and Queuing: Service and deliveries can be coordinated by the project applicant so as to minimize overlap. The service entry gate arm is located far enough internal to the site such that a truck will be able to fully enter the site and not block or back-out onto Ivar Avenue. In addition, it is LADOT policy that no trucks back out onto City Streets (i.e., head-in/head-out maneuvers are required). The project site design complies with this requirement.

Response No. 4I – Waste Management Truck Overlap With a Hotel Delivery Truck
If a waste management truck is on-site to offload a dumpster, an adequate queue area has been designed such that if another hotel-related delivery truck needs to be on-site concurrently, it can be accommodated. Refer to Response Nos. 4G and 4H for further discussions and the coordination that will occur so as to minimize overlap instances.

Response No. 5 – Queuing: It is important to note that the elimination of the existing curb cut driveway on Sunset Boulevard associated with the existing Jack-in-the-Box fast-food restaurant should help to alleviate some of the potential conflicts that occur today along Sunset Boulevard between Cahuenga Boulevard and Ivar Avenue. Refer also to Response Nos. 4A and 4I above.

Response No. 6 - Project Traffic Assignment: In double checking the traffic volumes figures with the actual intersection calculation worksheets as contained in Appendix C of the LLG December 23, 2015 traffic impact study, it is apparent that an inadvertent downloading error occurred in production of the traffic volume figures. Therefore, the differences that the commentor has pointed out with respect to Figures 7-1 and 7-2 of the LLG traffic impact study and MRO Engineers' figures can be clarified. The corrected traffic volumes figures are attached to this response letter: refer to attached Figures 5-1, 5-2, 6-2, 6-3, 7-1, 7-2, 9-1, 9-2, 9-3, 9-4, 9-5 and 9-6. The net-new project traffic volumes are consistent for 4 of the 6 intersections when compared to the actual intersection calculation worksheets. The other two adjacent

LINSCOTT LAW & GREENSPAN engineers

intersections are different since LADOT policy does not allow pass-by reductions at adjacent intersections and MRO Engineers is likely not aware of this.

In conclusion, the traffic impact study analysis remains valid and the findings and conclusions remain as reported and reviewed and approved by LADOT.

Please feel free to call us at 626-796-2322, with any questions or comments.

c: Donna Shen Tripp, Craig Lawson & Co., LLC
Shane Parker, Parker Environmental Consultants
K.C. Jaeger, LLG Engineers
File

M R O
ENGINEERS
660 Auburn Folsom Rd.

September 1, 2016

Subject: ***Review of Transportation and Traffic Analysis – CPC-2015-2893 - Initial Study/Mitigated Negative Declaration & Staff Report Ivar Gardens Hotel Project, 6409 Sunset Blvd., Los Angeles, California***

MRO Engineers, Inc., (MRO) has reviewed the Planning Commission Staff Report that incorporates the "Transportation and Traffic" section of the Initial Study/Mitigated Negative Declaration (IS/MND) for the Hollywood Ivar Gardens Project at 6409 Sunset Boulevard, Los Angeles, California (Parker Environmental Consultants, June 9, 2016). . The "Transportation and Traffic" section of the IS/MND is based on a traffic impact analysis prepared by Linscott, Law & Greenspan (LLG). (Reference: Linscott, Law & Greenspan, *Traffic Impact Study – Ivar Gardens Hotel Project*, December 23, 2015.) The LLG traffic study is presented as Appendix G to the IS/MND. Our review focused on the technical adequacy of the Transportation and Traffic analysis, including the detailed procedures and conclusions documented in the LLG study.

Our review of the IS/MND Transportation and Traffic analysis revealed potentially significant deficiencies and impacts that should be addressed prior to approval of the project and its related environmental documentation by the City of Los Angeles. These issues are summarized below.

1. ***Traffic Volume Data*** – The basic ground rules for conduct of the traffic impact analysis are established by the Los Angeles Department of Transportation (LADOT). That department has published a document entitled, *Traffic Study Policies and Procedures* (August 2014), which presents the specific guidelines to be followed in preparing a traffic impact analysis in the City of Los Angeles. Page 7 of the document states:

   > *. . . all traffic counts should generally be taken when local schools or colleges are in session, on days of good weather, on Tuesdays through Thursdays during non-Summer months, and* ***should avoid being taken on weeks with a holiday.*** [Emphasis added.]

   Table 5-1 (p. 23) in the LLG report lists the dates on which the intersection turning movement counts were performed. As shown there, traffic counts were conducted at two of the study intersections (Ivar Avenue/Sunset Boulevard and Vine Street/Sunset Boulevard) on April 8, 2015. Referring to a 2015 calendar, we see that Easter Sunday occurred on April 5, and the data collection occurred on the following Wednesday (i.e., during a week with a holiday). This is a clear violation of LADOT traffic study policies and procedures.

   Because the intersection traffic volumes represent the most critical input parameter in the level of service calculation process, any inaccuracies in those values directly affect the validity of the level of service results. To the extent that the "existing" peak-hour traffic volumes are inaccurate, the corresponding level of service results in the traffic analysis will be invalid, and a misleading analysis of environmental setting and project-related impacts will be provided.

   Consequently, in accordance with LADOT traffic study guidelines, updated traffic data must be obtained for the two locations listed above and revised level of service calculations performed for all analysis scenarios, and incorporated into a revised environmental document.

2. ***Project Trip Generation*** – The trip generation estimates for the proposed Ivar Gardens Hotel are presented in IS/MND Table III-29 (p. III-115) and LLG Table 7-1 (p. 38). We have identified several issues relating to these estimates.

No. 1

1C.1

No. 2

1C.2

Pass-by And Diverted Trips Were Not Properly Addressed

The IS/MND traffic analysis improperly applies a 50 percent adjustment for "pass-by" trips that (because of round-offs) eliminated all of the AM trips and four of the seven PM trips. (In effect, the analysis applied a 100 percent pass-by trip reduction to the AM peak-hour values and a 57 percent reduction to the PM peak-hour numbers.)

As background, three types of trips are commonly made to retail facilities:

- Primary trips – Trips made for the specific purpose of visiting the retail use.
- Pass-by trips – Trips that are already on the roadway adjacent to the project access location(s), with the trip to the project site being an intermediate stop as part of another trip.
- Diverted trips – Trips attracted from roadways in the vicinity of the project site, but without direct access to the site.

Pass-by trips are specifically defined on p. 93 of the ITE *Trip Generation Handbook*, which presents the current state-of-the-practice with regard to pass-by trips:

> *Pass-by trips are attracted from traffic passing the site* on an adjacent street or roadway *that offers direct access to the generator.* ***Pass-by trips are not diverted from another roadway not adjacent to the site.*** [Emphasis not added.]

The classic example of a pass-by trip is stopping for a gallon of milk on the way home from work. In that example, the trip from work to home represents the primary trip purpose and the shopping trip is the pass-by trip.

The ITE *Trip Generation Handbook* presents a detailed example to illustrate the proper method for assigning primary, diverted, and pass-by trips. In the Ivar Gardens Hotel traffic analysis, it does not appear that the pass-by trips or diverted trips have been assigned in accordance with the procedure set forth in the ITE document. If the assignment has been incorrectly performed, the project's impacts will be understated at key study intersections near the site.

16.24

1C.2 cont.

IS/MND Table III-29 (p. III-115) and LLG Table 7-1 (p. 38) summarize the pass-by trip reductions associated with the proposed project's retail component and the existing Jack in the Box restaurant, and provide the resulting "net increase" in traffic. As presented there, the "net increase" simply reflects subtraction of the number of pass-by trips from the total estimated project trip generation. However, suggesting that pass-by trips result in a simple reduction in the project's trip generation is inaccurate, as the total volume of traffic generated by the proposed project will occur at the project's driveways, regardless of the pass-by percentage.

In fact, when incorporating a pass-by trip adjustment into a traffic impact analysis, only the method of assigning those trips to the roadway system differs from the assignment of non-pass-by (i.e., "primary" or "diverted") trips; the number of project-related trips assigned to the roads is unchanged (i.e., no reduction occurs). Specifically, separate assignments of primary trips, pass-by trips, and diverted trips must be performed, and the results of those three processes combined to create the overall project traffic assignment.

Among other shortcomings, the IS/MND traffic analysis does not recognize the distinction between "pass-by" trips and "diverted" trips. Pass-by trips are literally derived from the traffic passing by on the adjacent street providing direct access to the site (in this case, Cahuenga Boulevard provides direct access for all but service/delivery vehicles). Trips that are attracted from traffic on nearby (but not adjacent) streets, such as Sunset Boulevard (which provides no

direct access to the proposed project), are diverted trips. A key distinction between the two types of trips is that diverted trips represent new traffic on the street adjacent to the project site access driveway, whereas pass-by trips do not.

Consider the following example. When the retail component of the proposed project opens for business, some drivers on eastbound Sunset Boulevard will be attracted to that use. Currently, those drivers pass through the Cahuenga Boulevard/Sunset Boulevard intersection as eastbound through vehicles – that is, they travel straight through the intersection. When they, instead, travel to the retail space, they will make a left turn from eastbound Sunset Boulevard to northbound Cahuenga Boulevard, in order to enter the project driveway.

Because of the failure to recognize the difference between pass-by trips and diverted trips, the IS/MND traffic analysis fails to account for these added eastbound left-turns. This is important, because the level of service calculation method used in the analysis is based, in part, on the number of conflicting left turns at an intersection. If the proposed retail use results in added eastbound left turns at Cahuenga Boulevard/Sunset Boulevard, the volume/capacity (V/C) ratio at the intersection will increase (as that is a critical movement) and the level of service might be worse than reported in the IS/MND.

No. 2A

1C.2 cont.

In fact, review of the LOS calculation sheets presented in Appendix C of the LLG traffic impact analysis report reveals that addition of one PM peak-hour eastbound left turn at the intersection of Cahuenga Boulevard/Sunset Boulevard will increase the project-related incremental increase in V/C to 0.020 under future conditions. Because the intersection is projected to operate at LOS D under both Future Without Project and Future With Project conditions, a project-related V/C increase equal to or greater than 0.020 represents a significant impact under LADOT criteria.

Table 1 summarizes the critical movements and V/C results for the PM peak hour from the Project's AM and PM peak-hour LOS calculation sheets from the LLG study for the Cahuenga Boulevard/Sunset Boulevard intersection and also illustrates the effect of adding one eastbound left turn in that time period, based on data taken directly from the calculation sheets for that intersection in the LLG study. As noted above, that one additional left turn results in a significant impact at the intersection.

No. 2B

As demonstrated in Table 1, any minor correction or modification to the traffic analysis that would add a single project-related PM peak-hour eastbound left turn at Cahuenga Boulevard/Sunset Boulevard would result in a significant impact. The same is true with respect to each of the critical volumes shown in Table 1 (i.e., the northbound through, the southbound left, or the westbound through). We believe that correctly accounting for diverted and pass-by trips at the project will have that effect.

1C.3

Table 1
Level of Service Calculation Summary
Cahuenga Boulevard/Sunset Boulevard
PM Peak Hour

	Lane Volume		
	IS/MND Calculations[1]		
Critical Movement	Future Without Project	Future With Project	Modified Future With Project[2]
Northbound Through	427	428	428
Southbound Left	86	103	103

Eastbound Left	244	249	**250**
Westbound Through	575	580	580
Critical Volumes	North-South: 513 East-West: 819 SUM: 1,332	North-South: 531 East-West: 829 SUM: 1,360	North-South: 531 East-West: **830** SUM: **1,361**
Volume/Capacity (V/C) Ratio	0.935	0.954	**0.955**
V/C Less ATSAC/ATCS Adjustment	0.835	0.854	**0.855**
Level of Service (LOS)	D	D	D
Change in V/C due to project		0.019	**0.020**
Significant impact?		No	**Yes**

Notes:
[1] Reference: : Linscott, Law & Greenspan, *Traffic Impact Study – Ivar Gardens Hotel Project*, December 23, 2015
[2] Modified to reflect one additional eastbound left turn; Modified values shown in **bold** font.

No. 2B

We also evaluated the AM peak-hour calculation for this intersection under future year conditions. In that case, addition of three project-generated vehicles to any of the critical movements would increase the incremental V/C value sufficiently to result in a significant traffic impact. Table 2 summarizes the critical movements and V/C results for that peak hour. In that case, because the intersection is projected to operate at LOS E, a project-related incremental increase in V/C ratio of only 0.010 constitutes a significant impact.

1C.3 cont.

Table 2
Level of Service Calculation Summary
Cahuenga Boulevard/Sunset Boulevard
AM Peak Hour

	Lane Volume		
	IS/MND Calculations[1]		
Critical Movement	Future Without Project	Future With Project	Modified Future With Project[2]
Northbound Left	43	43	43
Southbound Through	661	667	667
Eastbound Left	175	176	**179**
Westbound Through	604	608	608
Critical Volumes	North-South: 704 East-West: 779 SUM: 1,483	North-South: 710 East-West: 784 SUM: 1,494	North-South: 710 East-West: **787** SUM: **1,497**
Volume/Capacity	1.041	1.048	**1.051**

(V/C) Ratio			
V/C Less ATSAC/ATCS Adjustment	0.941	0.948	**0.951**
Level of Service (LOS)	E	E	E
Change in V/C due to project		0.007	**0.010**
Significant impact?		No	**Yes**

Notes: [1] Reference: : Linscott, Law & Greenspan, *Traffic Impact Study – Ivar Gardens Hotel Project*, December 23, 2015
[2] Modified to reflect 3 additional eastbound left turns; Modified values shown in **bold** font.

No. 2B
1C.3 cont.

The Assumed 50 Percent Pass-by Rate is Inappropriate

Finally, we note that the 50 percent pass-by rate assumed for the retail use in the traffic analysis is apparently based on the assumption that the retail space is a "shopping center less than 50,000 sf," per the LADOT *Traffic Study Policies and Procedures*. On the other hand, if the retail space were assumed to be "specialty retail," the pass-by rate would be 10 percent. Similarly, if it were a bank/savings & loan, the pass-by rate would be 20 percent. Since we assume the specific tenant is unknown at this time, the conservative approach would be to assume a lower pass-by trip rate.

No. 2C
1C.4

Trip Generation Summary

The trip generation estimates developed with respect to the proposed Ivar Gardens Hotel project are flawed. The decision to use the "average rate" was wrong, the trip generation approach was not sufficiently conservative, and the treatment of pass-by and diverted trips was erroneous. We have demonstrated that correcting these errors will almost certainly result in significant impacts in both the AM and PM peak hours.

No. 2D
1C.5

3. ***Existing Jack in the Box Traffic*** – The Jack in the Box restaurant that currently occupies the project site will be demolished as part of the project. To account for this, the volume of traffic associated with that land use must be subtracted from the existing traffic volumes. But instead of actually counting how much vehicular traffic occurs at the existing restaurant, that value was estimated using standard trip generation rates from the ITE *Trip Generation Manual.*

   Also, Figures B-1 and B-2 in the LLG report show the geographic distribution used to "un-assign" those trips from the study intersections. It is not clear if these distribution percentages are based on any form of data collection or are simply a guess. Given the fact that the Jack in the Box restaurant currently exists, the appropriate way to handle this is to perform directional traffic counts at the existing driveways. That approach allows the analyst to determine with certainty how much traffic occurs and where it comes from and goes to.

   In short, the approach taken in the IS/MND traffic analysis is speculative and, therefore, questionable. The rationale for estimating the trip generation and distribution when data could be collected to provide a meaningful basis for accounting for the existing use must be explained.

No. 3
1C.6

4. ***Project Driveway Operations*** – The project proposes one full-access (i.e., all turning movements allowed) public driveway on Cahuenga Boulevard plus an inbound-only, gate-controlled service driveway on Ivar Avenue. All traffic (including delivery trucks and service vehicles) must exit

No. 4A
1C.7

at the Cahuenga Boulevard location. Both driveways are located about 100 - 125 feet (i.e., 4 - 5 car lengths) north of Sunset Boulevard.

However, no analysis of either project driveway intersection is done. Issues to address include:

- Will drivers be able to safely make left turns into and out of the site at the Cahuenga Boulevard driveway? This is a particular issue for exiting trucks.
- It appears that Cahuenga Boulevard has a "painted median" at the driveway (i.e., "double-double" yellow lines). As described in the *2016 California Driver Handbook*[1], it is illegal to turn left across a barrier/painted median, so this driveway must be limited to right-turns only.
- How much delay will drivers experience as they enter or exit?
- When delays become excessive, will drivers perform ill-advised and unsafe maneuvers, such as trying to turn into or through inadequate gaps in Cahuenga Boulevard traffic?
- As noted above, the driveways are only about 100 - 125 feet north of Sunset Boulevard. How long will the queues be on southbound Cahuenga Boulevard and southbound Ivar Avenue, and what effect will those queues have on the ability to enter or exit the site?
- How long will the inbound queue of delivery trucks/service vehicles be at the gate-controlled Ivar Avenue driveway? Will the trucks back out onto the public street and block northbound and/or southbound traffic on Ivar Avenue?
- Will trucks waiting on northbound Ivar Avenue to turn left into the site block the northbound traffic flow on Ivar Avenue, potentially causing queues to extend back to Sunset Boulevard?
- The project site plan (IS/MND Figure II-7, p. II-13) shows that the hotel's trash enclosure, which will accommodate three dumpsters, is located on the service driveway. What will happen when a tractor-trailer full of material to be delivered to the hotel arrives while trash is being picked up and the service driveway is blocked by a garbage truck or one or more dumpsters?

These issues must be addressed to ensure that the public fully understands the potential impacts of developing the proposed project. A revised traffic analysis is necessary.

5. ***Queuing Analysis*** – Issues related to queuing at the project driveways were addressed in the previous comment. However, those are not the only queuing issues in the study area. We note that the Site Plan presented as Figure II-7 in the IS/MND (p. II-13) illustrates an existing queuing issue that will be exacerbated by construction of the proposed project.

   Sunset Boulevard along the project frontage can only accommodate six vehicles between the crosswalks at Cahuenga Boulevard and Ivar Avenue. Figure II-7 clearly indicates that this is insufficient to accommodate existing demand, as the queue of vehicles on westbound Sunset Boulevard extends around the corner and back onto Ivar Avenue. Other westbound vehicles are trapped within the Ivar Avenue/Sunset Boulevard intersection, while pedestrians occupy the crosswalk in front of them, creating an obvious safety problem. Although we acknowledge that this existing condition is not the responsibility of the proposed project, it is reasonable to expect that the proposed project will exacerbate the problem. An analysis must be performed to determine the extent of the queuing issues so that appropriate mitigation can be identified.

[1] https://www.dmv.ca.gov/portal/dmv/detail/pubs/hdbk/driver_handbook_toc

6. ***Project Traffic Assignment*** – Notwithstanding our comments regarding the deficiencies of the trip generation estimates in the IS/MND traffic analysis, we attempted to replicate the PM peak-hour assignment of project traffic at the study area intersections. The process employed in the LLG traffic impact analysis is summarized on page 39 of that document:

> *The general, directional traffic distribution patterns for the existing site use* [Jack in the Box] *and proposed project are presented in* **Appendix B** *(refer to* Appendix Figures B-1 *and* B-2 *for the existing site use and* Appendix Figures B-3 *and* B-4 *for the proposed project). The forecast net new weekday AM and PM peak hour project traffic volumes at the study intersections associated with the proposed project are presented in* **Figures 7-1** *and* **7-2**, *respectively. The traffic volume assignments presented in* Figures 7-1 *and* 7-2 *reflect the traffic distribution characteristics shown in figures provided in* Appendix B *and the traffic generation forecasts presented in* Table 7-1. [Bold font not added.]

We created an Excel spreadsheet (presented in Attachment A) to perform the following two-step process, which we believe reflects the process used in the LLG analysis:

- The trip distribution percentages documented on Appendix Figure B-2 were used to remove the net trips associated with the existing Jack in the Box restaurant.
- The trip distribution percentages documented on Appendix Figure B-4 were used to add the net new trips associated with the proposed project.

In both cases, the number of "net trips" was taken from IS/MND Table III-29 (p. III-115) and LLG Table 7-1 (p. 38).

With very few exceptions, our analysis reveals higher project-related traffic at each of the study intersections. Table 3 summarizes a comparison of our project traffic assignment to the corresponding values presented on Figure 7-2 in the LLG report (p. 41). Only the movements where project traffic has been added are represented in Table 3; any movements not shown would have no project trips.

Only one movement would have a lower project-related volume under our assignment compared to the LLG assignment (i.e., the westbound through at Cahuenga Boulevard/Hollywood) and one would be the same (i.e., the eastbound left turn at Vine Street/Sunset Boulevard). In every other case, our assignment indicates higher project traffic. Although the differences may seem minor, as we demonstrated above, differences of as little as one additional project vehicle could determine whether or not a significant impact would occur. In the example we presented above, we found that the addition of one PM peak-hour eastbound left turn at Cahuenga Boulevard/Sunset Boulevard would result in a significant impact.

Our traffic assignment indicates that 13 more project-generated vehicles will occur on that movement than were accounted for in the LLG analysis. With that being the case, a significant impact would occur at Cahuenga Boulevard/Sunset Boulevard not revealed in the IS/MND.

As further verification of the deficiencies of the LLG project traffic assignment, we note that:

- Although Appendix Figure B-2 shows that 10 percent of the outbound traffic from the existing Jack in the Box will occur on the westbound through movement at the intersection of Cahuenga Boulevard/Hollywood Boulevard, no traffic was assigned to this movement in the LLG analysis. LLG Figure 7-2 (p. 41), which illustrates the PM peak-hour "Net New Project Traffic Volumes" shows no traffic on that movement. Further, comparison of LLG

20-6

1C.18

Figure 5-2 – "Existing Traffic Volumes" for the PM peak hour (p. 25), and LLG Figure 9-2 – "Existing With Project Traffic Volumes") for the PM peak hour (p. 47) reveals no change in the traffic volume on that movement (the number is 552 in both cases).

- Similarly, Appendix Figure B-2 – "Existing Site Distribution" and Appendix Figure B-4 – "Proposed Project Site Distribution" both indicate that 10 percent of the pertinent traffic volume would be on the northbound through movement at Cahuenga Boulevard/Sunset Boulevard. Again, though, the project traffic assignment on LLG Figure 7-2 shows nothing on that movement and comparison of the "Existing" and "Existing With Project" traffic volume figures shows the same.

1C.6

1C.18 cont.

Table 3
Project Traffic Assignment Comparison

Intersection		Net Project Traffic Assignment		
Approach	Movement	MRO	LLG[1]	Difference
Cahuenga Blvd./Sunset Blvd.				
Southbound	Right	30	23	7
	Thru	6	2	4
	Left	20	13	7
Westbound	Right	26	21	5
	Thru	-6	-12	6
Northbound	Thru	6	0	6
Eastbound	Left	14	1	13

Notes: [1] Reference: : Linscott, Law & Greenspan, *Traffic Impact Study – Ivar Gardens Hotel Project*, December 23, 2015

CONCLUSION

Our review of the "Transportation and Traffic" section of the Initial Study/Mitigated Negative Declaration for the Hollywood Ivar Gardens Project revealed several substantial issues affecting the validity of the conclusions presented. Our review indicates that a corrected traffic impact analysis will reveal one or more significant impacts that were not documented in the IS/MND. A modified traffic impact analysis must be prepared, and incorporated into a revised environmental document.

1C.19

Sincerely,

MRO ENGINEERS, INC.

Neal K. Liddicoat, P.E. , Traffic Engineering Manager

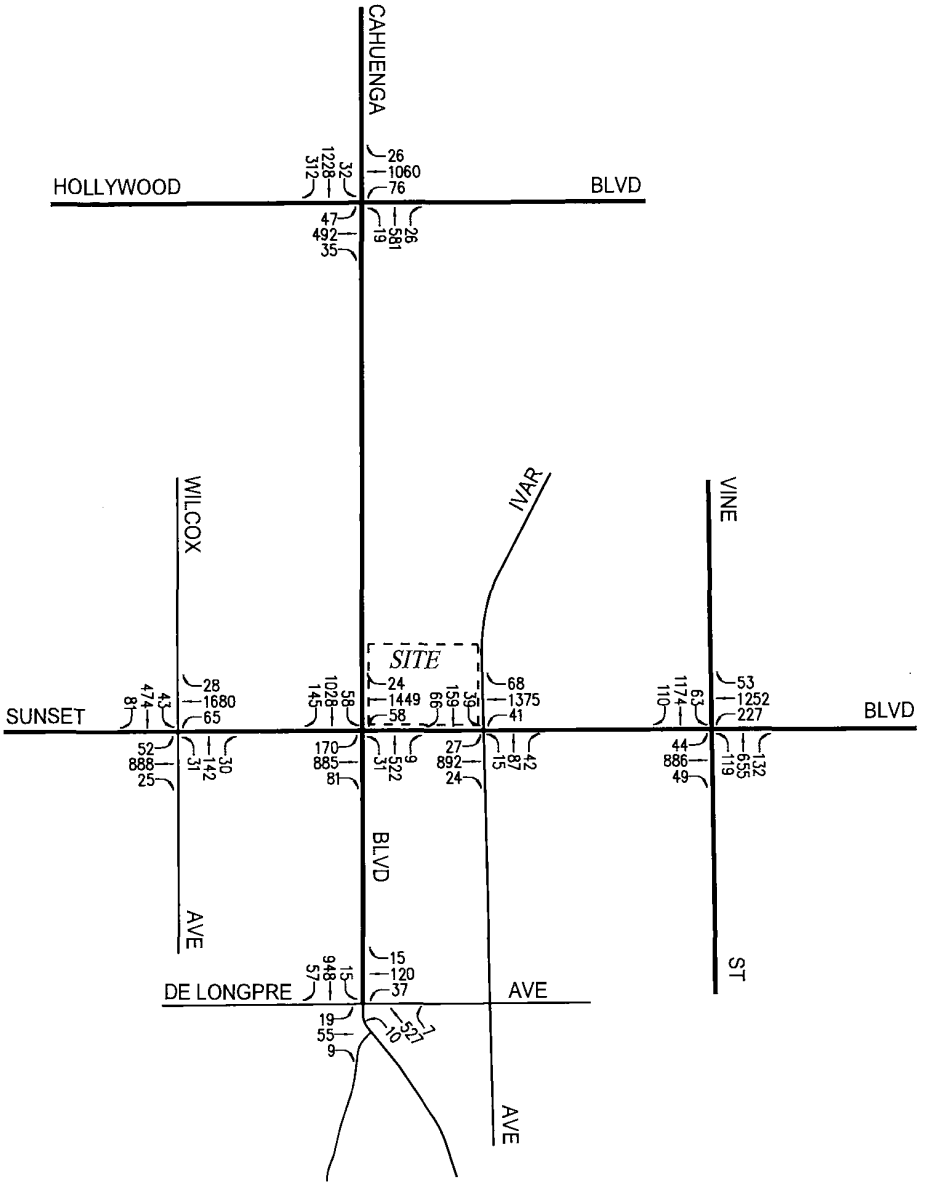
Attachment A – Project Traffic Assignment Excel Spreadsheet

ATTACHMENT A
PROJECT TRAFFIC ASSIGNMENT EXCEL SPREADSHEET
PM PEAK HOUR

		JACK-IN-THE-BOX				PROPOSED PROJECT				MRO RESULTS		LLG RESULTS	
NET TRIP GENERATION :		-33	-30			86	90			MRO	MRO	LLG	LLG
		TRIP DISTRIBUTION		TRIP ASSIGNMENT		TRIP DISTRIBUTION		TRIP ASSIGNMENT		NET	EXISTING +	NET	EXISTING +
	EXISTING	IN	OUT	IN	OUT	IN	OUT	IN	OUT	PROJECT	PROJECT	PROJECT	PROJECT
Cahuenga/Hollywood													
SBR	65										65		65
SBT	527	15%		-5		15%		13		8	535	5	532
SBL	9										9		9
WBR	106										106		106
WBT	552		10%		-3					-3	549	0	552
WBL	46					10%		9		9	55	7	53
NBR	56						15%		14	14	70	11	67
NBT	1165		15%		-5		15%		14	9	1174	6	1171
NBL	4										4		4
EBR	30	10%		-3		10%		9		6	36	4	34
EBT	710										710		710
EBL	85										85		85
Wilcox/Sunset													
SBR	48										48		48
SBT	225										225		225
SBL	38										38		38
WBR	84						5%		5	5	89	4	88
WBT	1149		20%		-6		25%		23	17	1166	12	1161
WBL	37		5%		-2		5%		5	3	40	2	39
NBR	28	5%		-2		5%		4		2	30	1	29
NBT	294										294		294
NBL	23										23		23
EBR	34										34		34
EBT	1614	20%		-7		20%		17		10	1624	7	1621
EBL	106										106		106
Cahuenga/Sunset													
SBR	116		5%		-2		35%		32	30	146	23	139
SBT	482		10%		-3		10%		9	6	488	2	484
SBL	63		10%		-3		25%		23	20	83	13	76
WBR	101					30%		26		26	127	21	122
WBT	1064		20%		-6					-6	1058	-12	1052
WBL	24										24		24
NBR	50										50		50
NBT	777	10%		-3		10%		9		6	783	0	777
NBL	54										54		54
EBR	46										46		46
EBT	1441										1441		1441
EBL	227	25%		-8		25%		22		14	241	1	228

ATTACHMENT A
PROJECT TRAFFIC ASSIGNMENT EXCEL SPREADSHEET
PM PEAK HOUR

		JACK-IN-THE-BOX				PROPOSED PROJECT				MRO RESULTS		LLG RESULTS	
NET TRIP GENERATION :		-33	-30			86	90			MRO	MRO	LLG	LLG
		TRIP DISTRIBUTION		TRIP ASSIGNMENT		TRIP DISTRIBUTION		TRIP ASSIGNMENT		NET	EXISTING +	NET	EXISTING +
	EXISTING	IN	OUT	IN	OUT	IN	OUT	IN	OUT	PROJECT	PROJECT	PROJECT	PROJECT
Ivar/Sunset													
SBR	49										49		49
SBT	96										96		96
SBL	37		20%		-6					-6	31	-12	25
WBR	45										45		45
WBT	1150	30%		-10		30%		26		16	1166	1	1151
WBL	74										74		74
NBR	90										90		90
NBT	194										194		194
NBL	32										32		32
EBR	52										52		52
EBT	1302		10%		-3		25%		23	20	1322	13	1315
EBL	25										25		25
Vine/Sunset													
SBR	142	5%		-2		5%		4		2	144	1	143
SBT	1351										1351		1351
SBL	178										178		178
WBR	125										125		125
WBT	973	20%		-7		20%		17		10	983	7	980
WBL	161										161		161
NBR	166										166		166
NBT	1048										1048		1048
NBL	129	5%		-2		5%		4		2	131	1	130
EBR	89		5%		-2		5%		5	3	92	2	91
EBT	1292		20%		-6		20%		18	12	1304	9	1301
EBL	88		5%		-2					-2	86	-2	86
Cahuenga/De Longpre													
SBR	39										39		39
SBT	537		10%		-3		10%		9	6	543	4	541
SBL	32										32		32
WBR	54										54		54
WBT	100										100		100
WBL	18										18		18
NBR	23										23		23
NBT	777	10%		-3		10%		9		6	783	4	781
NBL	22										22		22
EBR	31										31		31
EBT	184										184		184
EBL	66										66		66



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NOT TO SCALE

FIGURE 5-1
EXISTING TRAFFIC VOLUMES
WEEKDAY AM PEAK HOUR

LINSCOTT, LAW & GREENSPAN, engineers

IVAR GARDENS HOTEL PROJECT

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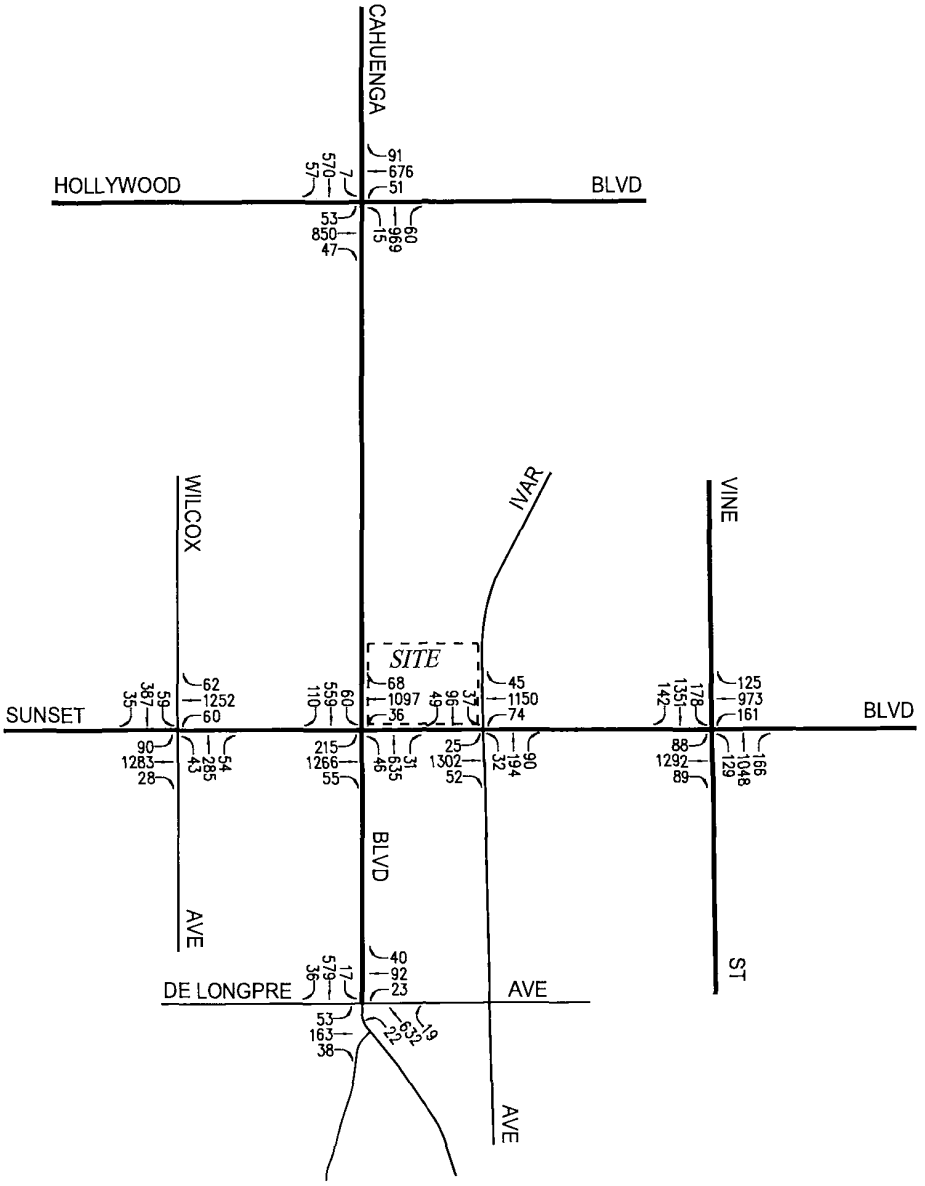

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FIGURE 5-2
EXISTING TRAFFIC VOLUMES
WEEKDAY PM PEAK HOUR

LINSCOTT, LAW & GREENSPAN, engineers

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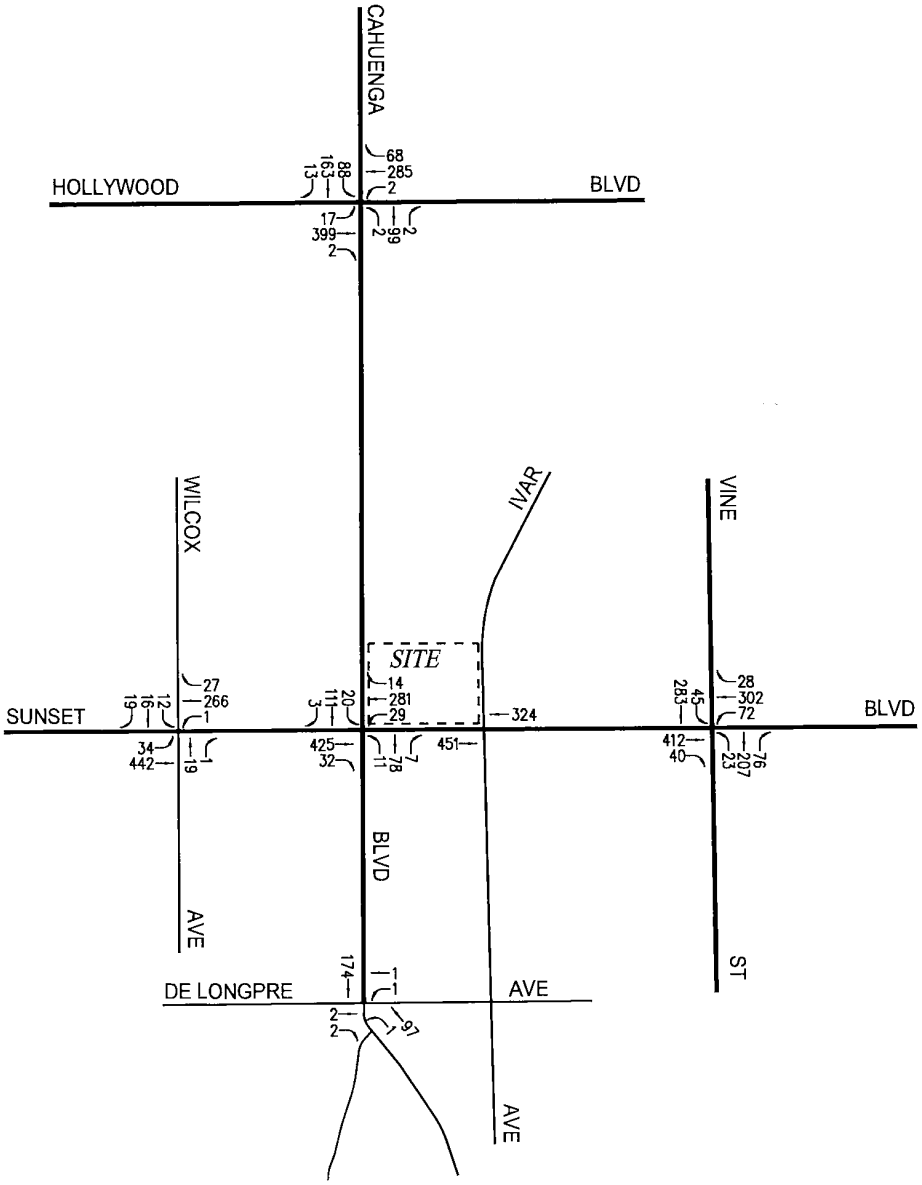

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FIGURE 6-2
RELATED PROJECTS TRAFFIC VOLUMES
WEEKDAY AM PEAK HOUR

LINSCOTT, LAW & GREENSPAN, engineers

IVAR GARDENS HOTEL PROJECT

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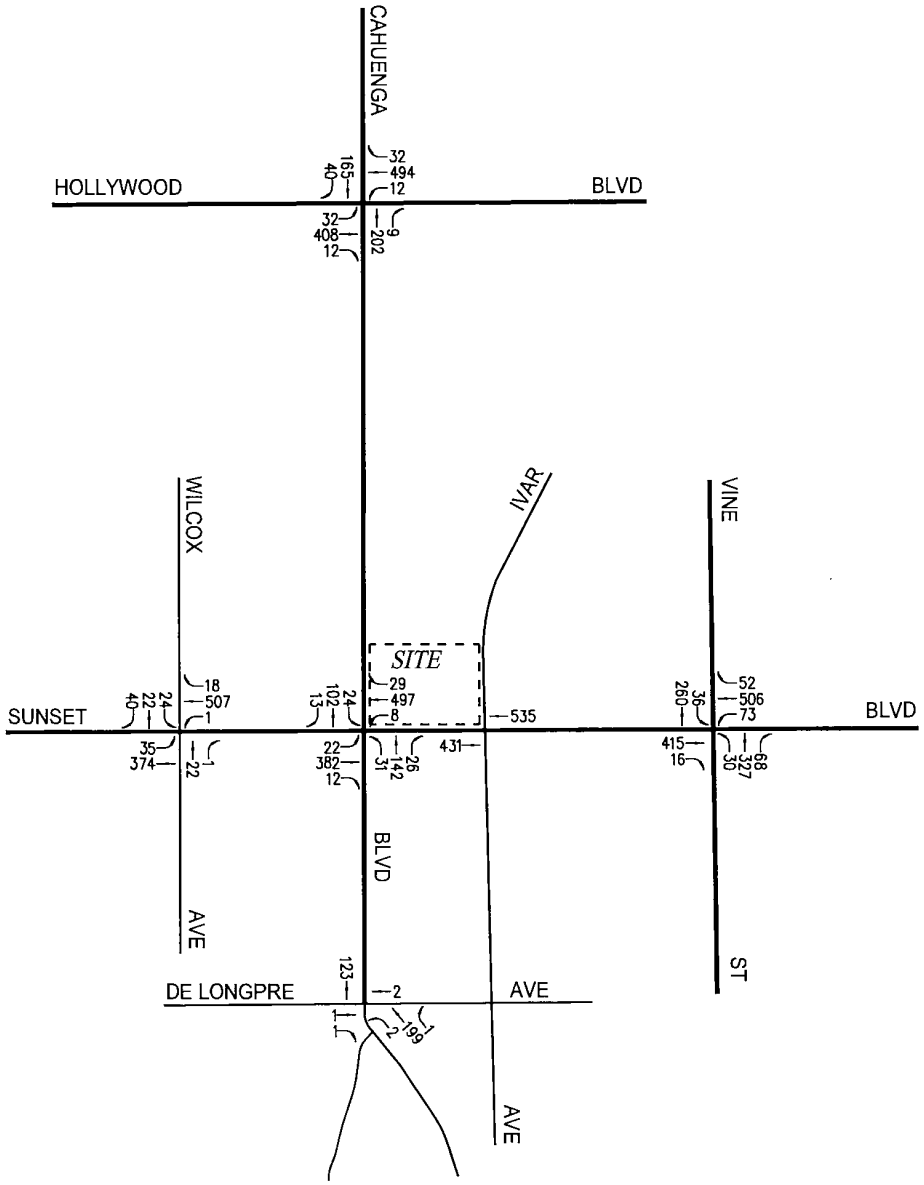

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FIGURE 6-3
RELATED PROJECTS TRAFFIC VOLUMES
WEEKDAY PM PEAK HOUR

LINSCOTT, LAW & GREENSPAN, engineers

IVAR GARDENS HOTEL PROJECT

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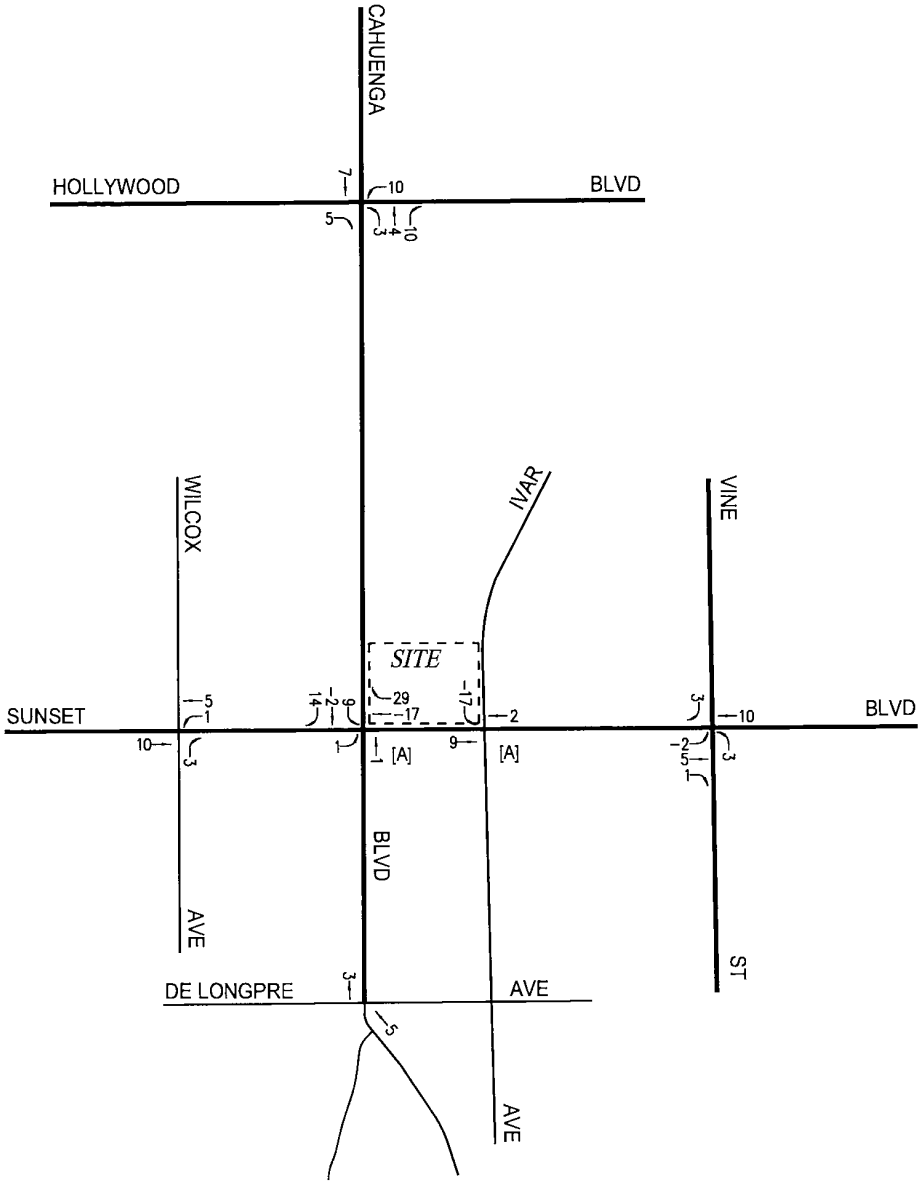


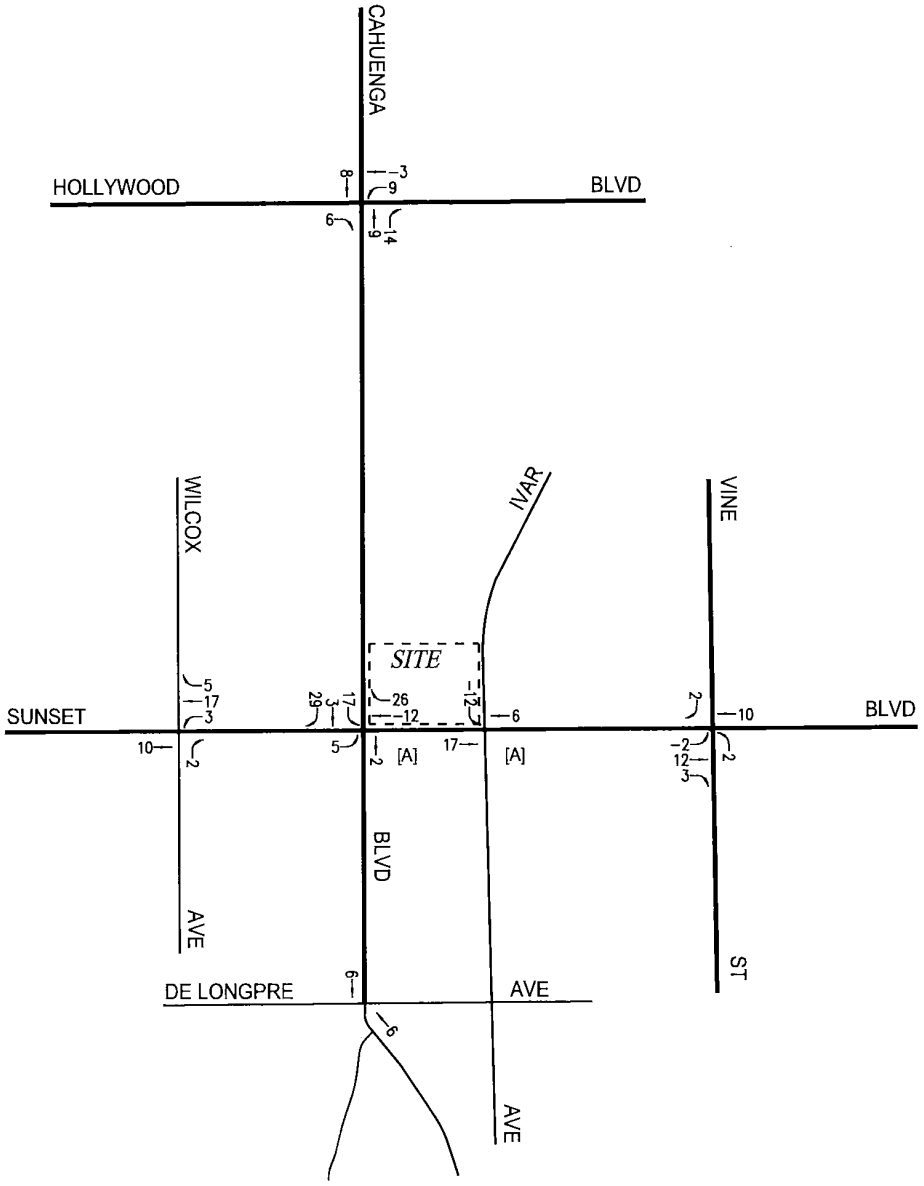
[A] PER LADOT POLICY, PASS-BY TRIP REDUCTIONS ARE NOT APPLIED TO INTERSECTIONS ADJACENT TO THE PROJECT SITE.

NOT TO SCALE

FIGURE 7-1
NET NEW PROJECT TRAFFIC VOLUMES
WEEKDAY AM PEAK HOUR

LINSCOTT, LAW & GREENSPAN, engineers

IVAR GARDENS HOTEL PROJECT



[A] PER LADOT POLICY, PASS-BY TRIP REDUCTIONS ARE NOT APPLIED TO INTERSECTIONS ADJACENT TO THE PROJECT SITE.

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FIGURE 7-2
NET NEW PROJECT TRAFFIC VOLUMES
WEEKDAY PM PEAK HOUR

LINSCOTT, LAW & GREENSPAN, engineers

IVAR GARDENS HOTEL PROJECT

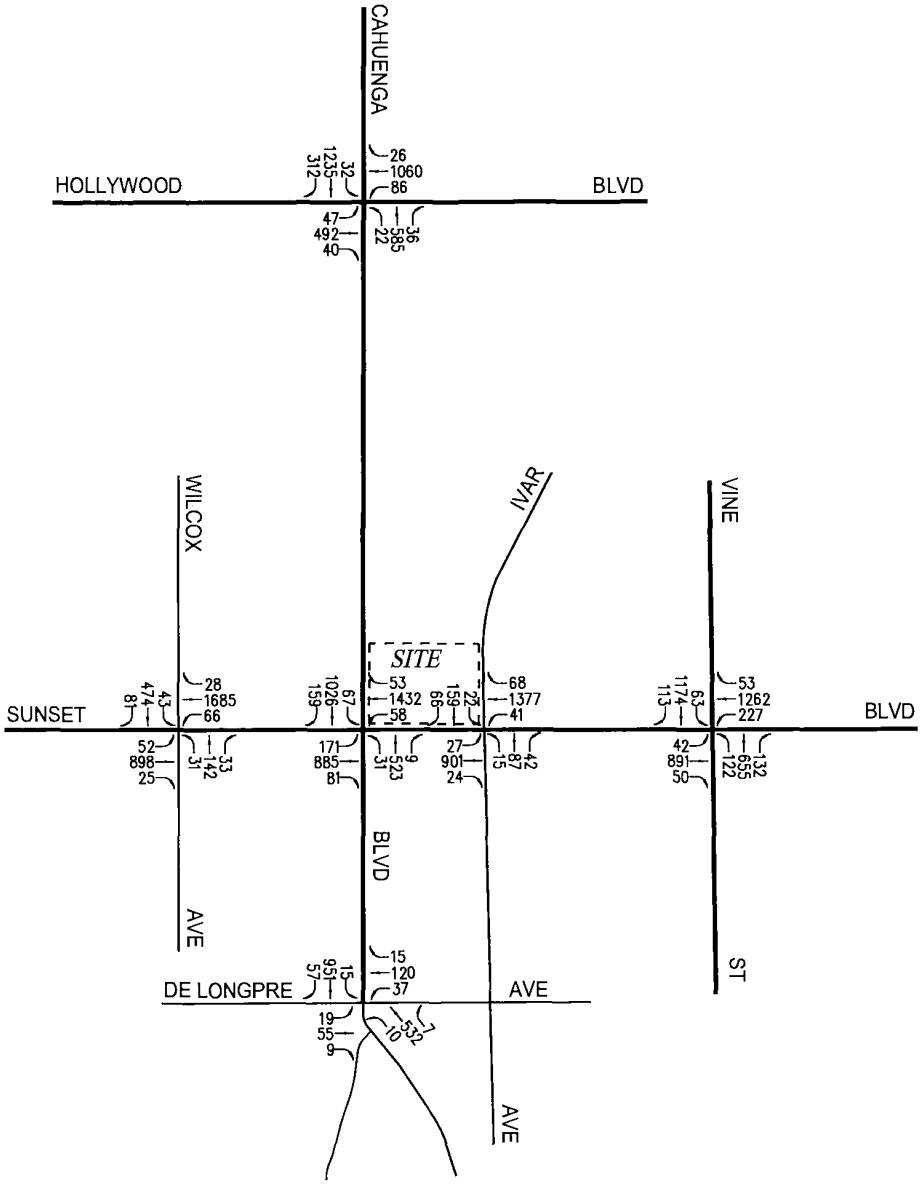

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FIGURE 9-1
EXISTING WITH PROJECT TRAFFIC VOLUMES
WEEKDAY AM PEAK HOUR

LINSCOTT, LAW & GREENSPAN, engineers

IVAR GARDENS HOTEL PROJECT

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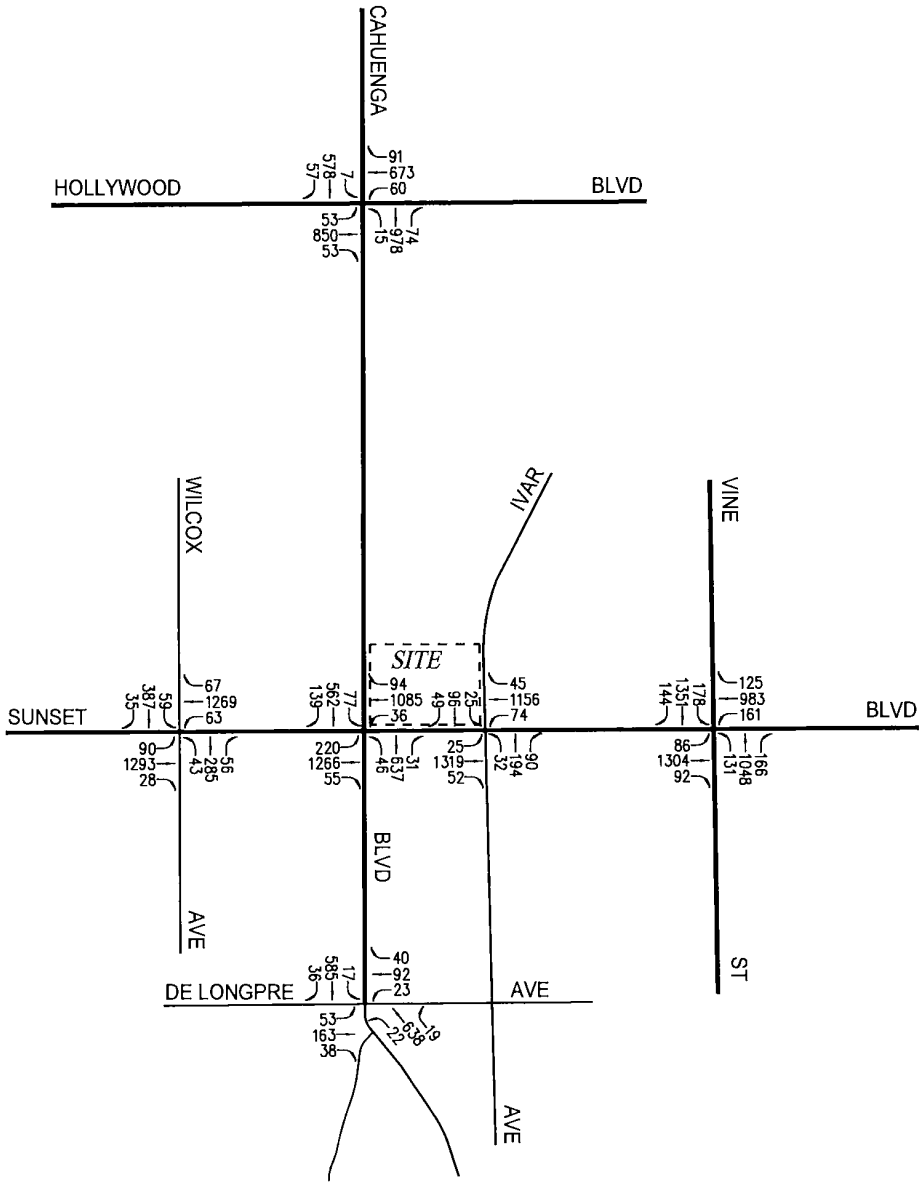

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FIGURE 9-2
EXISTING WITH PROJECT TRAFFIC VOLUMES
WEEKDAY PM PEAK HOUR

LINSCOTT, LAW & GREENSPAN, engineers

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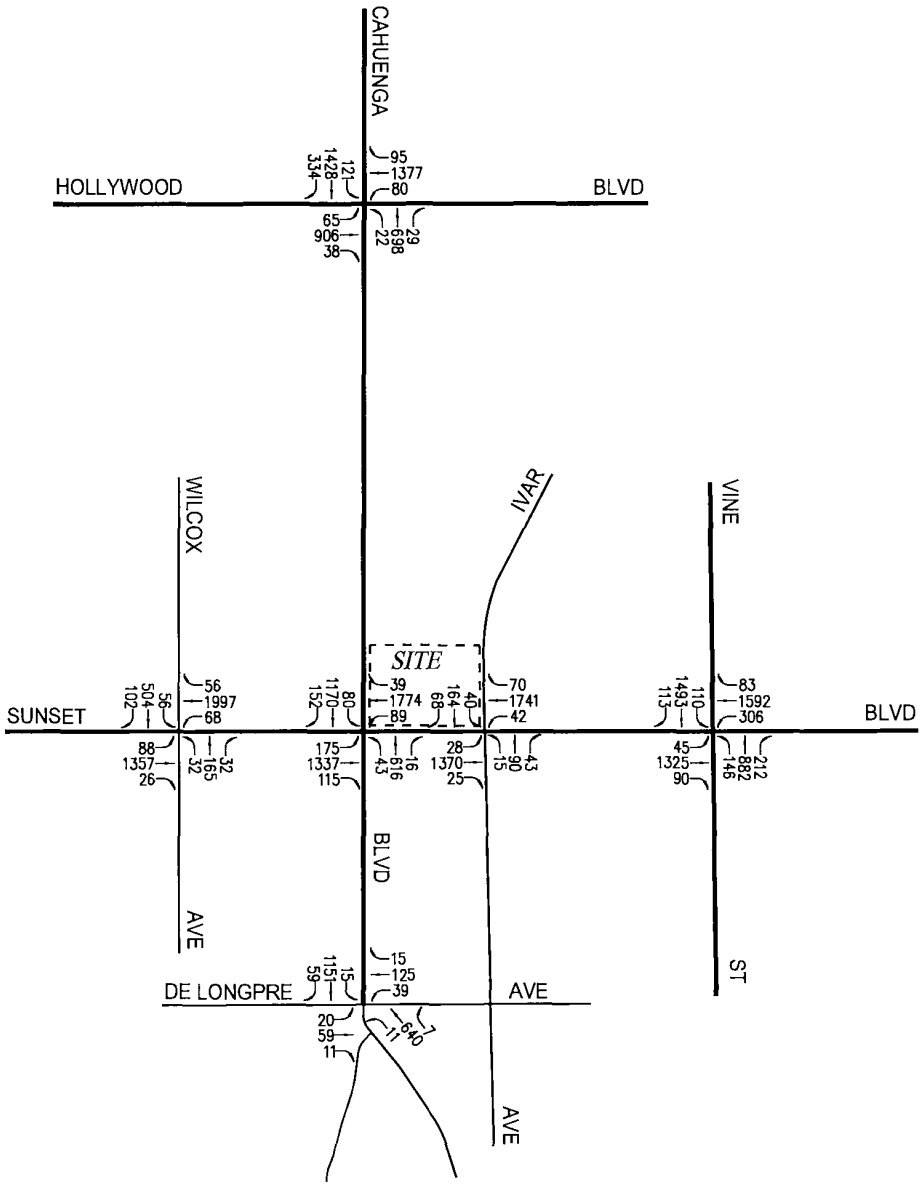

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FIGURE 9-3
FUTURE WITHOUT PROJECT TRAFFIC VOLUMES
WEEKDAY AM PEAK HOUR

LINSCOTT, LAW & GREENSPAN, engineers

IVAR GARDENS HOTEL PROJECT

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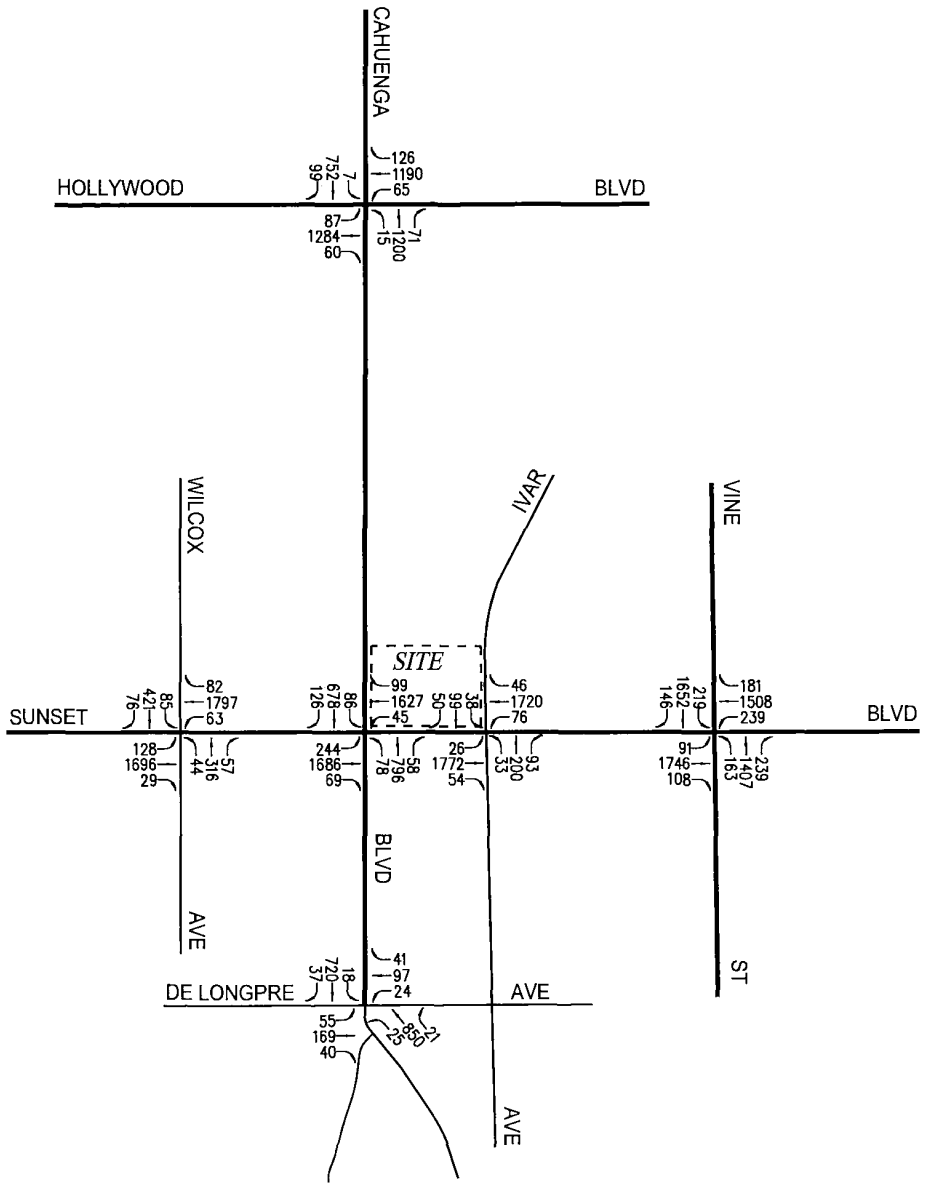

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FIGURE 9-4
FUTURE WITHOUT PROJECT TRAFFIC VOLUMES
WEEKDAY PM PEAK HOUR

LINSCOTT, LAW & GREENSPAN, engineers

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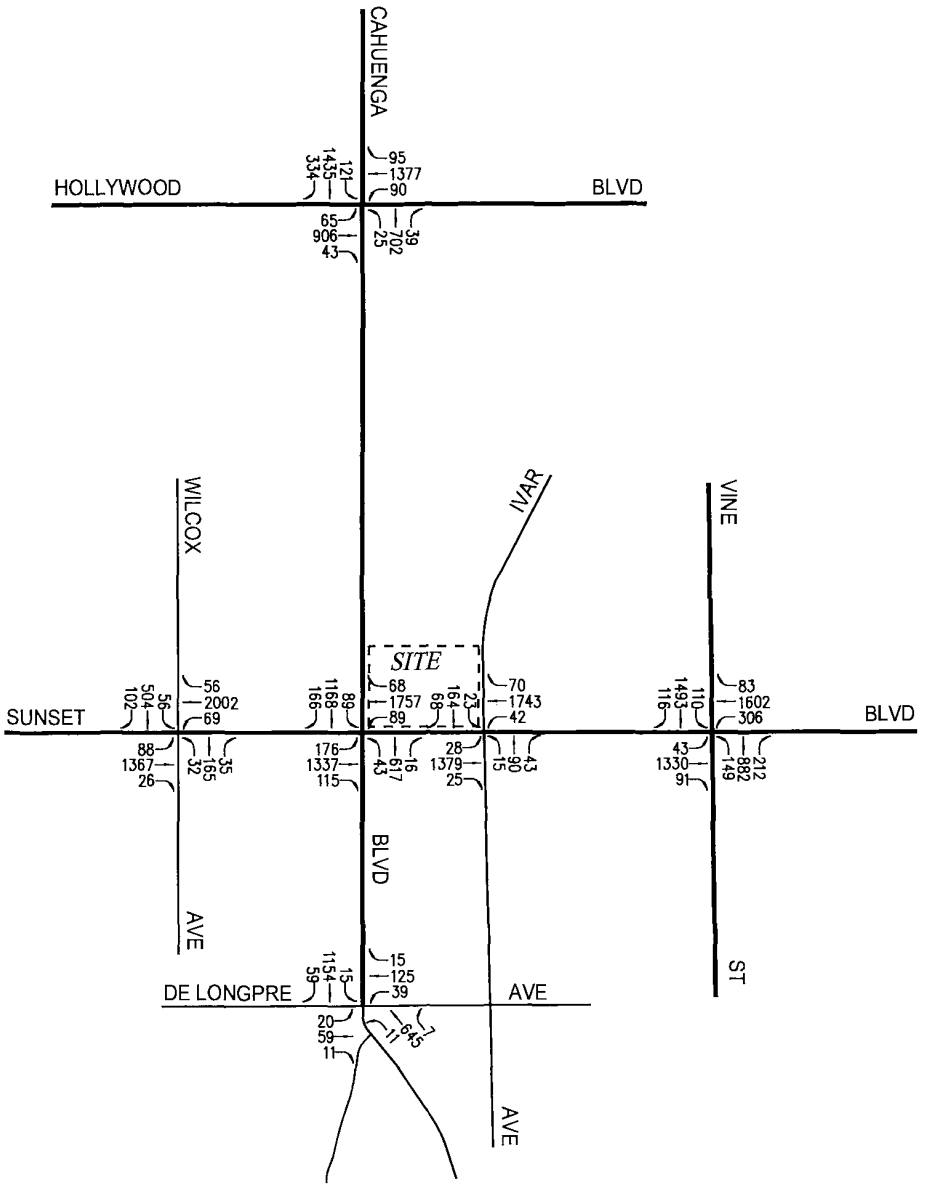

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FIGURE 9-5
FUTURE WITH PROJECT TRAFFIC VOLUMES
WEEKDAY AM PEAK HOUR

LINSCOTT, LAW & GREENSPAN, engineers

IVAR GARDENS HOTEL PROJECT

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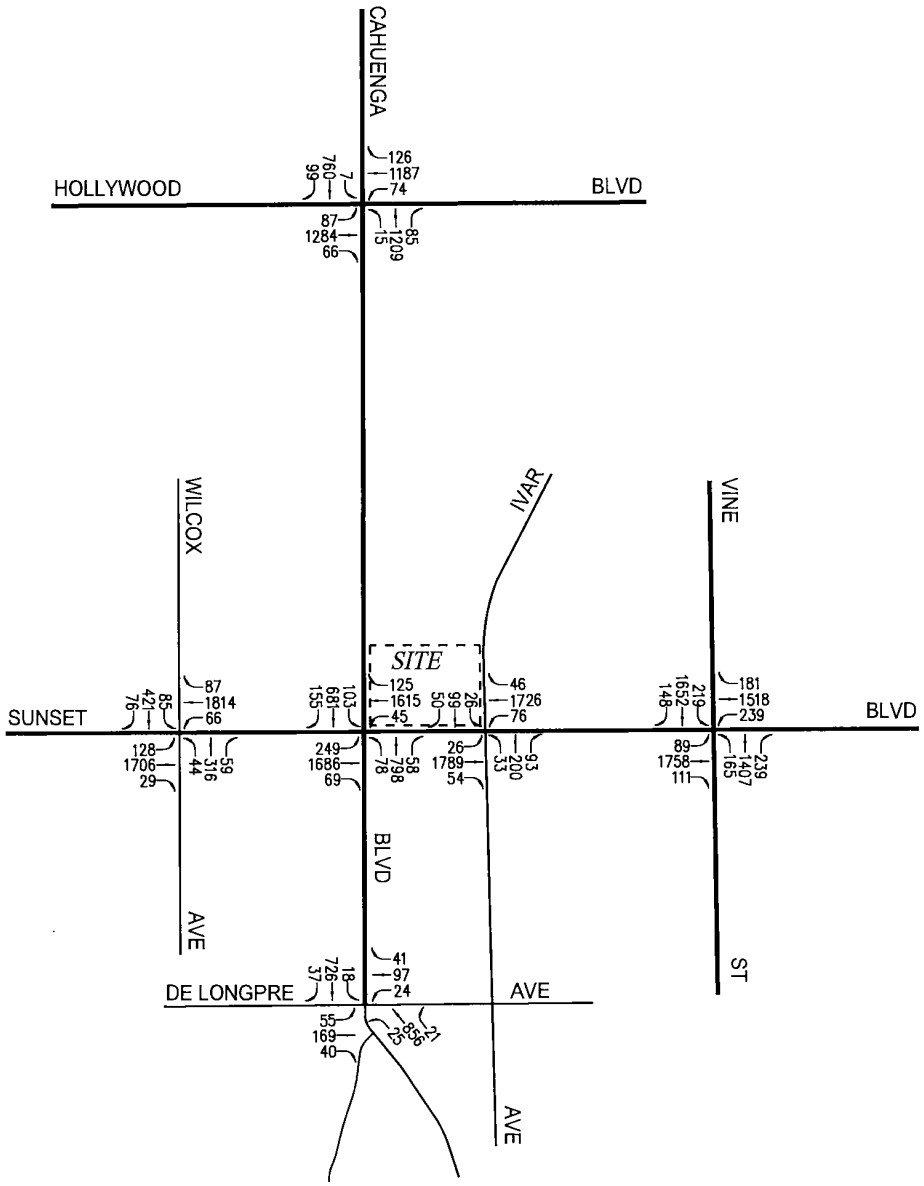

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FIGURE 9-6

FUTURE WITH PROJECT TRAFFIC VOLUMES

WEEKDAY PM PEAK HOUR

LINSCOTT, LAW & GREENSPAN, engineers

IVAR GARDENS HOTEL PROJECT

Table 5-1
EXISTING TRAFFIC VOLUMES [1]

NO.	INTERSECTION	DATE	DIR	AM PEAK HOUR		PM PEAK HOUR	
				BEGAN	VOLUME	BEGAN	VOLUME
1	Wilcox Avenue/ Sunset Boulevard	09/30/2015	NB	7:30	203	4:30	382
			SB		598		481
			EB		965		1,401
			WB		1,773		1,374
2	Cahuenga Boulevard/ Hollywood Boulevard	09/30/2015	NB	8:00	626	4:15	1,044
			SB		1,572		634
			EB		574		950
			WB		1,162		818
3	Cahuenga Boulevard/ Sunset Boulevard	09/30/2015	NB	8:15	562	4:30	712
			SB		1,231		729
			EB		1,136		1,536
			WB		1,531		1,201
4	Cahuenga Boulevard/ De Longpre Avenue	09/30/2015	NB	8:00	544	4:30	673
			SB		1,020		632
			EB		83		254
			WB		172		155
5	Ivar Avenue/ Sunset Boulevard	04/08/2015	NB	8:00	144	4:45	316
			SB		264		182
			EB		943		1,379
			WB		1,484		1,269
6	Vine Street/ Sunset Boulevard	04/08/2015	NB	8:15	906	5:00	1,343
			SB		1,347		1,671
			EB		979		1,469
			WB		1,532		1,259

[1] Counts conducted by The Traffic Solution.

Attachment 3: Response to Comments on: Adams Broadwell Joseph & Cardozo, *Comments on the Initial Study / Mitigated Negative Declaration for the Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-SPR),* July 6, 2016.

SWAPE, *Comments on the Hollywood Ivar Gardens Project (ENV-2015-2895-MND),* July 5, 2016.

RESPONSES TO COMMENTS

COMMENT LETTERS

1. Joyce Dillard
   P.O. Box 31377
   Los Angeles, CA 90031
   July 6, 2016

2. Adams Broadwell Joseph & Cardozo
   Rachael Koss
   601 Gateway Boulevard, Suite 1000
   South San Francisco, CA 94080-7037
   July 6, 2016

3. SWAPE
   Matt Hagemann, Jessie Jaeger
   2656 29th Street, Suite 201
   Santa Monica, CA 90405
   July 5, 2016

COMMENT LETTER No. 1

Joyce Dillard
P.O. Box 31377
Los Angeles, CA 90031
July 6, 2016

COMMENT 1.1

Environmental Factors that may be affected should include:

- Hydrology and Water Quality
- Utilities

Watershed quality and degradation issues have not been addressed.

LA Regional Water Quality Control Board issued Municipal Separate Storm Sewer Systems Permit ORDER NO. R4-2012-0175 NPDES PERMIT NO. C. It reads as follows:

> D. Permit Coverage and Facility Description
>
> The Los Angeles County Flood Control District, the County of Los Angeles, and 84 incorporated cities within the Los Angeles County Flood Control District with the

exception of the City of Long Beach (see Table 5, List of Permittees), herein after **referred to separately as Permittees and jointly as the Dischargers,** discharge storm water and non- storm water from municipal separate storm sewer systems (MS4s), also called storm drain systems. For the purposes of this Order, references to the "Discharger" or "Permittee" in applicable federal and state law;, regulations, plans, or polity are held ta be equivalent to references to the Discharger, or Permittees herein depicting the major drainage infrastructure within the area covered under this Order are included in Attachment C of this Order.

Ballona Creek Watershed Group is in the Santa Monica Bay Watershed Management Area with the City of Los Angeles as the Lead Agency in the preparation of the EWMP Enhanced Watershed Management Plans and the CIMP Coordinated Integrated Monitoring Program. There exists responsibility for the Receiving Water compliance issues with timelines of

Ballona Creek Trash TMDL September 30, 2015

Ballona Creek Estuary Toxic Pollutants TMDL January 11, 2021

Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL
Dry Weather April 27, 2013
Wet Weather July 15, 2021

Ballona Creek Metals TMDL
Dry Weather January 11, 2016
Wet Weather January 11, 2021

RESPONSE TO COMMENT 1.1

The commentor claims that watershed quality and degradation issues have not been addressed in the MND. However, impacts associated with watersheds, water quality, and stormwater mitigation are adequately addressed in Section IX, Hydrology and Water Quality of the IS/MND beginning on page III-60. Water supply is discussed in Section XVII, Public Utilities and Service Systems of the IS/MND, beginning on page III-124. The Proposed Project would comply with regulations such as the Standard Urban Storm Water Mitigation Plan (SUSMP) and the Stormwater Low Impact Development (LID) Ordinance No. 181899 to reduce potential water quality impacts. Furthermore, the Proposed Project would comply with LAMC Section 64.60, Stormwater Runoff and Urban Pollution Control, which would not deplete groundwater supplies or substantially interfere with groundwater recharge. The Commenter's concerns have been noted for the record and will be forwarded to the decision makers for their consideration. No further response is required.

COMMENT 1.2

CIRCULATION ELEMENT

There is no adopted Circulation Element which is a comprehensive infrastructure plan addressing the circulation of people, goods, energy, water, sewage, storm drainage, and communications. The Circulation Element is required by the State of California.

RESPONSE TO COMMENT 1.2

The commenter asserts that the City does not have an adopted Circulation Element. However, the City of Los Angeles adopted the Mobility Plan 2035 in August 2015. The Plan was subsequently amended and re-adopted on January 20, 2016 as an update to the City's General Plan Transportation Element (last adopted in 1999). The purpose of this Plan is to present a guide to the further development of a citywide transportation system which provides for the efficient movement of people and goods. This Plan recognizes that primary emphasis must be placed on maximizing the efficiency of existing and proposed transportation infrastructure through advanced transportation technology, through reduction of vehicle trips, and through focusing growth in proximity to public transit. In addition, the Plan sets forth street designations and related standards. The Mobility Plan 2035 includes goals that define the City's high-level mobility priorities.

The Project's traffic impacts were analyzed in the Traffic Study prepared by LLG dated December 23, 2015. Based on the findings reported in the City of Los Angeles Transportation Department's approval letter (DOT Case No. CEN 15-43958), the Project is required to meet the Highway Dedication and Street Widening Requirements of the City's adopted Mobility Plan 2035. Furthermore, the DOT approval letter concurs with the findings of the Traffic Study that the Proposed Project is not expected to result in any significant traffic impacts at any of the six study intersections identified in the detailed traffic analysis.

With respect to the current adoption date of The Mobility Plan 2035, it should be noted that the Traffic Impact Study was completed and submitted to LADOT in December 2015. The LADOT reviewed and approved the Traffic Impact Study on January 6, 2016 (see LADOT Correspondence of Approval in Appendix G to the MND), prior to the adoption of the current Mobility Plan 2035 that was adopted in late January 2016. Though the Project was evaluated in conformance with the roadway standards and dimensions under the August 2015 version of the Mobility Plan 2035, it should be noted that the changes to the Mobility Plan 2035 were not substantial and do not affect the findings of the LADOT approval letter, as the Project will be in conformance with the street widening requirements of the current adopted version of The Mobility Plan 2035.

COMMENT 1.3

FRAMEWORK ELEMENT

The project is not consistent with Framework Element Policy No. 3.3.2. Framework Element Policy No. 3.3.2 [sic] is the monitoring aspect of CEQA for the General Plan. It reads:

> *3.3.2 Monitor population, development, and infrastructure and service capacities within the City and each community plan area, or other pertinent service area.*

The results of this monitoring effort will be annually reported to the City Council and shall be used in part as a basis to:

a. Determine the need and establish programs for infrastructure and public service investments to accommodate development in areas in which economic development is desired and for which growth is focused by the General Plan

Framework Element.

b. Change or increase the development forecast within the City and/or community plan area as specified in Table 2-2 (see Chapter 2: Growth and Capacity) when it can be demonstrated that (1) transportation improvements have been implemented or funded that increase capacity and maintain the level of service,

(2) demand management or behavioral changes have reduced traffic volumes and maintained or improved levels of service, and (3) the community character will not be significantly impacted by such increases. Such modifications shall be considered as amendments to Table 2-2 and depicted on the community plans.

c. Initiate a study to consider whether additional growth should be accommodated, When 75 percent of the forecast of any one or more category listed in Table 2-2 (see Chapter 2: Growth and Capacity) is attained within a community plan area. If a study is necessary, determine the level of growth that should be accommodated and correlate that level with the capital, facility, or service improvements and/or transportation demand reduction programs that are necessary to accommodate that level.

d. Consider regulating the type, location, and/or timing of development, when all of the preceding steps have been completed, additional infrastructure and services have been provided, and there remains inadequate public infrastructure or service to support land use development. (P42, P43)

RESPONSE TO COMMENT 1.3

The Commenter asserts that the Project is not consistent with the Framework Policy 3.3.2. The Framework Element of the General Plan is a strategy for long-term growth which sets a citywide context to guide the update of the community plan and citywide elements. The referenced Framework Policy falls under Objective 3.3. which requires the City to "accommodate projected population and employment growth within the City and each community plan area and plan for the provision of adequate supporting transportation and utility infrastructure and public services." . Located on W. Sunset Boulevard, a designated Avenue I and transit corridor in Hollywood, the Project Site is also close to two Metro Rail stations (Hollywood & Vine and Hollywood & Highland) and multiple bus lines. The convenience of these transportation systems, combined with the Project Site's proximity to employment, retail, restaurants, and entertainment will reduce vehicular trips by hotel guests, who will primarily be visiting for work and vacation. Hotel and retail employees will also

benefit from access to these alternate modes of transportation, contributing to goals of reducing traffic congestion and improving air quality.

The Framework Element does not set forth specific development criteria that is applicable to development projects. Rather, The Framework Element includes policies for General Plan Elements such as Land Use, Housing, Transportation and Economic Development. The General Plan land use designation for the Site is "Regional Center Commercial." According to the Chapter 3 of the General Plan Framework, a primary goal for sites with these land use designations is to offer "mixed-use centers that provide jobs, entertainment, culture, and serve the region" and to reinforce existing and encourage the development of new regional centers that accommodate a broad range of uses that serve, provide job opportunities, and are accessible to the region, are compatible with adjacent land uses, and are developed to enhance urban lifestyles." (Goal 3F and Objective 3.10 of the Framework Element) With its mix of hotel and retail uses, the Proposed Project reinforces and enhances a sense of place in Hollywood, an existing regional center, while complementing the area's mix of uses. Its context-sensitive design is compatible with the high density character of the surrounding neighborhood and will facilitate an urban lifestyle that includes travel by foot, bicycle, and public transit to and from commercial, retail, restaurant, and entertainment venues. The Proposed Project will stimulate the economy of its regional center by bringing tourists and business visitors to the area.

COMMENT 1.4

Attachment:

Order R4-2012-0175-Final Attachment M

RESPONSE TO COMMENT 1.4

The Commenter's attachment includes the Total Maximum Daily Loads (TMDL) in the Santa Monica Bay Watershed Management Area. As discussed in the IS/MND (See page III-60), the Proposed Project would be required to be constructed and operated in compliance with the City's Stormwater Low Impact Development Ordinance (Ord. No. 181899), which would ensure the Project's impacts upon water quality would be less than significant. No further response is required.

COMMENT LETTER No. 2

Adams Broadwell Joseph & Cardozo
Rachael Koss
601 Gateway Boulevard, Suite 1000

South San Francisco, CA 94080-7037
July 6, 2016

COMMENT 2.1

Dear Mr. Turner:

We write on behalf of the Coalition for Responsible Equitable Economic Development ("CREED LA"), Thomas Brown, Luther Medina, John Ferruccio, Jorge L. Aceves, John P. Bustos, Gery Kennon, Chris S. Macias and Robert E. Murphy Jr., to provide comments on the Initial Study and Mitigated Negative Declaration ("MND") prepared by the City of Los Angeles ("City") for the Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VXC-HD-CUB-SPR) ("Project"), proposed by R.D. Olson Development ("Applicant"). The Project is proposed to be located at 6409, 6411 and 6407 W. Sunset Boulevard, 1512 N. Cahuenga Boulevard and 1511 N. Ivar Avenue in the Hollywood Community Plan Area of the City of Los Angeles. The Project involves the demolition of an existing fast food restaurant and surface parking, and the construction of a 21-story, 141,895 square-foot mixed-use building containing 275 hotel guestrooms with kitchenettes and 1,900 square feet of ground floor commercial space. The Project also includes four levels of subterranean parking. Project construction will require the export of approximately 3,882 square feet of demolition material and 56,000 cubic yards of soil.

RESPONSE TO COMMENT 2.1

This comment introduces the commentor and presents an understanding of the Proposed Project. No response is required.

COMMENT 2.2

Based upon our review of the MND and supporting documentation, we conclude that the MND fails to comply with the requirements of the California Environmental Quality Act ("CEQA"). The MND fails to provide a complete and accurate Project description and fails to identify the Project's potentially significant environmental impacts and propose measures that can reduce those impacts to a less than significant level.

As explained in these comments, there is more than a fair argument that the Project will result in potentially significant impacts to air quality and public health, and from greenhouse gas emissions and hazardous materials. The City may not approve the Vesting Zone Change, Height District Change, Conditional Use Permit, Zoning Administrator's Adjustment or Site Plan Review Findings for the Project until it prepares an environmental impact report ("EIR") that adequately analyzes the Project's potentially significant direct, indirect and cumulative impacts, and incorporates all feasible mitigation measures to avoid or minimize these impacts.

We prepared these comments with the assistance of air quality and hazards experts Matt Hagemann and Jessie Jaeger of Soil/Water/Air Protection Enterprise ("SWAPE"). SWAPE's technical comments and

curricula vitae are attached hereto as Attachment A. The City must address and respond to the comments of these experts separately.

RESPONSE TO COMMENT 2.2

This comment asserts that the MND fails to comply with CEQA on the basis that the MND does not provide an accurate project description and fails to identify potentially significant impacts. The comment also introduces SWAPE as experts in the field of air quality and hazards who provided supporting documentation in favor of CREED LA's arguments. As no specific information detailing the inadequacies of the MND are presented in this comment. No further response is warranted. The specific comments pertaining to the adequacy of air quality impacts, public health, greenhouse gas emissions and hazards, as referenced by CREED and presented in the following paragraphs of their letter are addressed below. SWAPE's comments provided in Attachment A to the Adams Broadwell Joseph & Cardozo letter are also addressed separately in response to Comment Letter 3.

COMMENT 2.3

I. STATEMENT OF INTEREST

CREED LA is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards and environmental and public service impacts of the Project. The coalition includes the Sheet Metal Workers Local 105, International Brotherhood of Electrical Workers Local 11, Southern California Pipe Trades District Council 16, and their members and their families and other individuals who live and work in the City of Los Angeles.

Individual members of CREED LA and its member organizations include Thomas Brown, Luther Medina, John Ferruccio, Jorge L. Aceves, John P. Bustos, Gery Kennon, Chris S. Macias, and Robert E. Murphy Jr., who live, work, recreate and raise their families in the City of Los Angeles and surrounding communities. Accordingly, they would be directly affected by the Project's environmental and health and safety impacts. Individual members may also work on the Project itself. They will be first in line to be exposed to any health and safety hazards that exist onsite.

In addition, CREED LA has an interest in enforcing environmental laws that encourage sustainable development and ensure a safe working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for business and industry to expand in the region, and by making it less desirable for businesses to locate and people to live there. Indeed, continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

RESPONSE TO COMMENT 2.3

This comment provides additional information on CREED LA and their statement of interest. This comment is noted for the record and will be forwarded to the decision makers for their consideration.

COMMENT 2.4

II. AN EIR IS REQUIRED

CEQA requires that lead agencies analyze any project with potentially significant environmental impacts in an EIR. "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR protects not only the environment, but also informed self-government." The EIR has been described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return."

CEQA's purpose and goals must be met through the preparation of an EIR, except in certain limited circumstances. CEQA contains a strong presumption in favor of requiring a lead agency to prepare an EIR. This presumption is reflected in the "fair argument" standard. Under that standard, a lead agency "shall" prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.

In contrast, a mitigated negative declaration may be prepared instead of an EIR only when, after preparing an initial study, a lead agency determines that a project may have a significant effect on the environment, but:

> (1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review *would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur,* and (2) there is *no substantial evidence* in light of the whole record before the public agency that the project, as revised, *may* have a significant effect on the environment.

Courts have held that if "no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR." The fair argument standard creates a "low threshold" favoring environmental review through an EIR, rather than through issuance of a negative declaration. An agency's decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.

"Substantial evidence" required to support a fair argument is defined as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." Substantial evidence can be provided by technical experts or members of the public.

According to the CEQA Guidelines, when determining whether an EIR is required, the lead agency is required to apply the principles set forth in Section 15064(f):

> [I]n marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.

RESPONSE TO COMMENT 2.4

The above comment provides information from the State CEQA Guidelines with respect to the legal standard of review for EIRs and MNDs. While it is acknowledged that the State CEQA Guidelines and the courts have established a relatively low standard of review based on a "fair argument" standard, the fair argument must be supported by substantial evidence. The term "substantial evidence," as defined in Section 15384 of the State CEQA Guidelines, "does not include argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate." As noted in the following responses, the claims and information presented by Adams Broadwell Joseph & Cardozo and SWAPE are clearly erroneous, unsubstantiated, and are not based on facts associated with the Proposed Project. As such, the commentor's opinion regarding the adequacy of the MND is not supported by substantial evidence and therefore does not constitute a fair argument that the Proposed Project would result in an adverse environmental impact that could not be mitigated to a less than significant level.

COMMENT 2.5

Furthermore, CEQA documents, including EIRs and MNDs, must mitigate significant impacts through measures that are "fully enforceable through permit conditions, agreements, or other legally binding instruments." Deferring formulation of mitigation measures to post-approval studies is generally impermissible. Mitigation measures adopted after Project approval deny the public the opportunity to comment on the Project as modified to mitigate impacts. If identification of specific mitigation measures is impractical until a later stage in the Project, specific performance criteria must be articulated and further approvals must be made contingent upon meeting these performance criteria. The Courts have held that simply requiring a project applicant to obtain a future report and then comply with any recommendations that may be made based upon the report is insufficient to meet the standard for properly deferred mitigation.

RESPONSE TO COMMENT 2.5

The Commenter addresses the requirements of mitigation measures and the issue of deferred mitigation as a preface to their later specific assertions pertaining to the haul route and mitigation measures associated with the hazardous materials section of the MND. These comments are addressed in detail below.

COMMENT 2.6

With respect to this Project, the MND fails to satisfy the basic purposes of CEQA. The MND fails to adequately disclose, investigate, and analyze the Project's potentially significant impacts, and fails to

provide substantial evidence to conclude that impacts will be mitigated to a less than significant level. Because the MND lacks basic information regarding the Project's potentially significant impacts, the MND's conclusion that the Project will have a less than significant impact on the environment is unsupported. The City failed to gather the relevant data to support its finding of no significant impacts, and substantial evidence shows that the Project may result in potentially significant impacts. Therefore, a fair argument can be made that the Project may cause significant impacts requiring the preparation of an EIR.

RESPONSE TO COMMENT 2.6

The commentor's opinion that the MND is inadequate and that a fair argument can be made that significant impacts would result from the proposed Project is not substantiated in this comment. No further response is required. Unsubstantiated claims do not meet the fair argument standard of review.

COMMENT 2.7

III. THE MND FAILS TO ADEQUATELY DESCRIBE THE PROJECT

The MND does not meet CEQA's requirements because it fails to include a complete and accurate project description, rendering the entire impact analysis inherently unreliable. An accurate and complete project description is necessary to perform an evaluation of the potential environmental effects of a proposed project. Without a complete project description, the environmental analysis will be impermissibly narrow, thus minimizing the project's impacts and undercutting public review. The courts have repeatedly held that "an accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient [CEQA document]." Only through an accurate view of the project may affected [sic] outsiders and public decision makers balance the proposal's benefit against its environmental costs.

RESPONSE TO COMMENT 2.7

This comment states that the Proposed Project did not provide an accurate project description as a preface to the specific comments raised below. Responses to issues presented under the subheadings III(A) (haul route), III(B) (construction water demand), and III(C) construction vehicle staging, are addressed below.

COMMENT 2.8

A. The MND Fails to Adequately Describe the Haul Route

The MND fails to adequately describe the haul route or the number of trucks that will be used to export 3,882 square feet of demolition material and 56,000 cubic yards of soil during Project construction. The MND identifies two potential haul routes: (1) 12.71 miles (each way) to the Bradley Landfill; and (2) 27.61 miles (each way) to the Manning Pit. However, the MND acknowledges that the haul route that will be used for the Project will not be determined until prior to construction. Further, according to the

MND, the haul route may be modified. As a result, the analysis of environmental and public health and safety impacts associated with the Project's haul route has been improperly deferred.

The haul route may create a disturbance to adjacent residents and schools. Therefore, the determination of which route Project haul trucks will follow is a key determination required to inform the City's analysis of potentially significant impacts from noise, safety, traffic, and toxic air contaminant exposure to the sensitive receptors that will be affected by trucks travelling along the haul route. Depending on which haul route is selected, different homes and schools would be affected. Residents and school patrons may be required to modify their own schedules and practices in order to accommodate, or avoid the adverse effects of, the haul trucks in their neighborhood. The City must also analyze the impacts that each potential haul route will cause to the differently affected neighborhoods, and must identify appropriate mitigation measures that will mitigate significant impacts to each neighborhood.

RESPONSE TO COMMENT 2.8

The commenters assertion that the MND failed to describe the haul route or number of truck trips is incorrect. The MND identified two potential haul routes and identified impacts from the potential haul routes identified. See Figure II-16 on page II-30. The number of haul trucks were identified in the Appendix A - Air Quality Worksheets. The building demolition activities are anticipated to last 15 days and require a total of 18 haul trucks. The grading phase would last approximately 52 days and require an estimated 5,256 haul trips (including return trips). This equates to approximately 50 haul trucks entering and leaving the site each day over the course of an approximate 2.5-month period.

The MND concluded that the impacts from either of the two haul routes identified would be less than significant because the haul routes that were identified would not pass by any schools, a construction management plan would be implemented to ensure pedestrian and vehicle safety, and hauling hours would be limited to 9 a.m. to 3 p.m. to avoid peak hours. The potential haul routes identified included the use of Western Avenue, Sunset Boulevard, and/or Cahuenga Boulevard. These streets are designated as Avenue I, Avenue I, and Avenue II streets, respectively, in the City's Mobility Plan. These streets are characterized by heavy traffic, and residential neighborhoods are typically not located on these primary streets. Therefore, because the hauling schedule would be limited to off-peak hours, the haul route would not impact any residential or school schedule.

Approval of the haul route is required from the City of Los Angeles, LADOT, Street Services and/or the Department of Building and Safety for projects within hillside areas or in designated Special Grading Area. The Project is not located in either of these areas and as such is not required to obtain haul route approval. It is anticipated that one of the two haul routes identified would be utilized during construction, as the routes identified are the most direct route to the freeway on-ramps and off-ramps for haul trips accessing and departing the Project Site. The Construction Management Plan would be submitted to LADOT for review and approval after project approval but before construction commences. As such, the MND adequately identified all potential haul routes and concluded that the impacts to public health and safety would be less than significant. Mitigation Measures TRAFFIC-1 through TRAFFIC-5 would mitigate any impacts from construction and the haul route to less than

significant levels. It is reasonable to assume that one of the two haul routes identified in the MND would be approved by DOT in conjunction with the Construction Management Plan. If an alternate route is suggested or required by DOT it is reasonable to conclude that such an alternate route would be a result of avoiding a temporary local road or lane closure or a potential road hazard. In any case it is anticipated that DOT staff would either approve the routes identified in the MND or select an alternate route that is consistent with their policy to minimize left turns and avoid passing through residential areas or by school sites to the maximum extent feasible. As such, any potential impacts resulting from an alternate route would be reduced to less than significant levels through the implementation of the Construction Management Plan review and approval process.

COMMENT 2.9

B. The MND Fails to Adequately Describe the Project's Construction Water Demand

To reduce fugitive dust, the MND states that "[a]ll unpaved demolition and construction areas shall be wetted at least twice daily during excavation and construction," "[t]he construction area shall be kept sufficiently dampened to control dust caused by grading and hauling," [a]ll dirt/soil shall be secured by trimming, watering or other appropriate means" and "[a]ll dirt/soil materials transported off-site shall be either sufficiently watered or securely covered." Yet, the MND fails to describe the amount of water necessary to water dirt, soil and other unpaved portions of the Project site during the 18 months of demolition/site clearing, excavation, grading and construction. Further, the MND fails to provide any evidence that the amount of water required for construction (whatever that may be) is available from any service providers. The City must provide this basic information so that the public and decision makers can meaningfully assess the Project's potential impacts. Further, without this information, there is no support for the City's conclusion that the Project's impacts to water supply are less than significant.

RESPONSE TO COMMENT 2.9

The amount of water necessary to wet exposed dirt, soil and other unpaved portions of the Project Site during the demolition/site clearing, excavation and grading phases in compliance with SCAQMD Rule 403 – Fugitive Dust is negligible and was appropriately analyzed under a separate Program-Level CEQA document by the SCAQMD when Rule 403 was amended in 2004.[1] The total water demand associated with implementing Rule 403 for all construction projects in the Basin was concluded to be less than significant as the amount of water necessary to comply with Rule 403 was nominal in comparison to the projected regional water supply of the MWD. Thus, compliance with this Rule would not result in a significant impact upon regional water supplies.

With respect to estimating the Project's water demand during construction, the duration of on-site watering for purposes of controlling fugitive dust would be approximately 3 months, not 18 months as

[1] *Final Environmental Assessment for Proposed Amended Rules 403 - Fugitive Dust, 403.1 - Supplemental Fugitive Dust Control Requirements for Coachella Valley Sources and 1186 - PM10 Emission Reductions from Paved and Unpaved Roads, and Livestock Operations, March 2004, SCAQMD No. 012804KCS.*

suggested by the commenter. The Project Site would be 100 percent covered by the parking foundation once the foundation is poured. As such, there would be no need to continuously wet the site during the building construction phases, as there would be no exposed soil. Compliance with Rule 403 requires the contractor to wet the soil sufficiently to prevent or minimize dust during earthwork activities. The estimation of water demand associated with mitigating fugitive dust impacts is based on a number of factors including but not limited to soil type, temperature, humidity, and wind speed. Using a conservative water use factor of 0.2 gallons of water per square yard of exposed surface area to be wetted per day,[2] it is estimated that the Proposed Project's water demand for dust suppression activities during construction would be approximately 523 gallons per day. This amount of water use represents only a fraction of the existing water demand at the Project Site under current conditions. The existing water use associated with the operation of the fast food restaurant is estimated at approximately 6,360 gallons per day. The amount of water needed for dust suppression during construction would be approximately 10 percent of the existing water use on a daily basis. Thus, the argument that the projected water demand from construction activities would create a significant impact is not supported by any substantial evidence, as water demand would actually decrease during construction.

COMMENT 2.10

C. The MND Fails to Adequately Describe Construction Parking and Staging Areas

A complete description of the Project's construction parking and staging areas is necessary to assess the Project's impacts. Project construction entails demolition, site clearing, excavation, grading and the export of soil, all of which requires the use of large construction equipment. In addition, Project construction will require truck deliveries and worker vehicles. The MND fails to adequately identify where delivery trucks and worker vehicles will park or where construction equipment will be staged. The MND does not indicate the size of parking or staging areas, or where they will be located. Depending on the use, size, surface composition and location, the Project's staging and parking areas could cause unanalyzed and unmitigated impacts. The City must adequately describe the Project's construction staging and parking areas so that decision makers and the public can adequately assess the Project's impacts.

RESPONSE TO COMMENT 2.10

The commenter's claim that the construction parking and staging areas was not addressed is incorrect. The Proposed Project's construction parking and staging areas were disclosed on page II-29 of the MND. Specifically, the MND stated that site deliveries and the staging of all equipment and materials would be organized in the most efficient manner possible on-site to mitigate any temporary impacts to the neighborhood and surrounding traffic. Construction equipment would be staged on-site for the duration of construction activities. Traffic lane and right-of-way closures, if required, will be properly permitted by the City agencies and will conform to City standards. The temporary construction impacts associated with parking and staging areas would be mitigated to a less than significant level through the

[2] *U.S. Environmental Protection Agency, Fugitive Dust Background Document and Technical Information Document of Best Available Control Measures, September 1992.*

implementation of Mitigation Measures Traffic-2, which requires a construction work site traffic control program be submitted to DOT for approval, and Traffic-5, which specifically requires the construction staging plan to ensure pedestrian access is maintained on adjacent sidewalks throughout construction in a safe and accessible manner.

COMMENT 2.11

IV. THERE IS A FAIR ARGUMENT THAT THE PROJECT MAY RESULT IN SIGNIFICANT IMPACTS THAT REQUIRE THE CITY TO PREPARE AN EIR

Under CEQA, a lead agency must prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment. The fair argument standard creates a "low threshold" favoring environmental review through an EIR, rather than through issuance of a negative declaration or notices of exemption from CEQA. An agency's decision not to require an EIR can be upheld only when there is no credible evidence to the contrary. Substantial evidence can be provided by technical experts or members of the public. "If a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect."

As discussed below, there is a fair argument supported by substantial evidence that the Project may result in significant impacts on air quality and public health, and from greenhouse gas emissions and hazardous materials. The City is required to prepare an EIR to evaluate the Project's impacts and propose all mitigation measures that are necessary to reduce those impacts to a less-than- significant level.

RESPONSE TO COMMENT 2.11

The comment asserts there is a fair argument supported by substantial evidence that the Project may result in significant impacts. However, this comment does not specifically raise any such arguments or provide any supporting information and refers to additional information presented in the following paragraphs. As such, the specific concerns presented in later comments are addressed below.

COMMENT 2.12

A. Substantial Evidence Supports a Fair Argument that Project Construction and Operation Will Cause a Significant Cancer Risk from Emissions of Toxic Air Contaminants that the MND Fails to Disclose and Mitigate

The MND concludes that the health risk posed to nearby sensitive receptors from exposure to toxic air contaminants ("TACs"), including diesel particulate matter ("DPM") emissions, from Project construction and operation would be less than significant. The MND's conclusion is unsupported because the City failed to quantify the risk and compare it to applicable thresholds of significance.

The MND's "analysis" of the Project's health risks from TACs is merely a statement that: (1) the Project does not warrant the need for a health risk assessment ("HRA") because Project operation does not consist of land uses that include typical sources of toxic air contaminants; and (2) Project construction "would be subject to the regulations and laws relating to toxic air pollutants at the regional, State and federal level that would protect sensitive receptors from substantial concentrations of emissions." SWAPE reviewed the MND's "analysis" of the Project's health risks from TACs and found it to be wholly inadequate and unsupported.

First, SWAPE explains that Project operation will generate vehicle trips, which will result in in [sic] DPM emissions. Thus, the MND's statement that the Project would not involve sources of TACs is entirely false. The City must quantify the DPM emissions and associated health risks from Project operation, and compare the results to the South Coast Air Quality Management District's ("SCAQMD") threshold to determine the Project's health risk impacts.

Second, SWAPE explains that even if Project construction is subject to regulations and laws related to toxic air pollutants, Project construction could still have significant health risks from TACs. This is because "current regulations can only reduce emissions; they do not get rid of them entirely." Thus, the City must quantify the DPM emissions and associated health risks from Project construction, and compare the risks to the SCAQMD's threshold to determine the Project's health risk impacts.

Third, by failing to prepare a HRA, the MND is inconsistent with the Office of Environmental Health Hazard Assessment ("OEHHA") *Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments* ("OEHHA Guidelines"). The OEHHA Guidelines describe the types of projects that warrant the preparation of HRAs. The OEHHA Guidelines recommend that all short-term projects lasting at least two months be evaluated for cancer risks to nearby sensitive receptors. Project construction would last 22 months, which is significantly longer than the two-month short-term threshold set by OEHHA to trigger the requirement for a HRA. Thus, the City must prepare a HRA for Project construction. Further, the OEHHA Guidelines recommend that exposure from projects lasting more than six months should be evaluated for the duration of the project using an exposure length of 30 years. Since Project operation would last substantially longer than six months, the City must prepare a HRA for the lifetime of Project operation (likely, at least 30 years).

RESPONSE TO COMMENT 2.12

This comment incorrectly asserts that the MND's analysis of Toxic Air Contaminants is inadequate and unsupported because the analysis did not quantify the amount of diesel particulate matter emissions associated with Project's construction and operation activities and is inconsistent with the OEHHA Risk Assessment Guidelines. The OEHHA Risk Assessment Guidelines, however, were prepared by OEHHA to provide uniform methodologies and air modeling protocols to address toxic air hazards for use in facility health risk assessments conducted pursuant to the Air Toxics Hot Spots Information and Assessment Act of 1987 (Health and Safety Code Section 44300 et seq.). The Health Risk Assessment Guidelines developed by OEHHA were not intended for non-point source operations such as a hotel

project, nor were they developed for purposes of assessing short term construction impacts for non-point source projects.

A Health Risk Assessment was not prepared for the Project's operational activities because hotel land uses are not permitted facilities subject to the Air Toxics Hot Spots Information Assessment Act (AB2588). Further, the SCAQMD generally requests an operational HRA be conducted for any warehouse or distribution center that generated 100 heavy diesel truck trips per day or 40 trucks per day with operating transport refrigeration units. Operations from the proposed hotel project would not generate a major source of diesel emissions and thus would not warrant a detailed site-specific health risk assessment.

Furthermore, a Health Risk Assessment was not prepared for the Proposed Project's construction activities because the construction activities that are anticipated are not anticipated to be a major source of PM_{10} or $PM_{2.5}$, and thus would not generate a substantial amount of diesel particulate matter (DPM). The Project's construction emissions were quantified and analyzed in the MND using CARB's recommended CalEEMod modeling program and were compared to the SCAQMD's adopted thresholds for regional and localized air emissions. As noted in the MND, the highest daily peak particulate matter (PM) emissions would occur during the projects grading phase, which is estimated to last approximately three months. As shown in Table III-1, Estimated Peak Daily Construction Emissions, the highest daily peak PM_{10} and $PM_{2.5}$ emissions estimated for the grading phase were 4.8 lbs./day and 2.54 lbs/day, respectively. As compared to the SCAQMD's significance thresholds of 150 lbs/day for PM10 and 55 lbs/day for $PM_{2.5}$, the Project's construction emissions were well below the regional significance thresholds. Additionally, the on-site emissions were assessed for purposes of addressing localized air quality impacts on adjacent land uses. As shown in Table III-4, Localized On-Site Peak Daily Construction Emissions, the localized PM_{10} and $PM_{2.5}$ emissions were estimated to be 0.17 lbs/day, in comparison to significance thresholds of 33 lbs/day for PM_{10} and 10 lbs/day for $PM_{2.5.}$ Diesel particulate matter is a subset of both PM_{10} and $PM_{2.5.}$ The products and equipment to be utilized and operated on-site during construction activities would comply with all applicable SCAQMD rules for their manufacture and use. The Project will be subject to all applicable SCAQMD rules designed to limit exposure to TACs during construction activities. For example, the Project would be required to comply with CARB's Air Toxics Control Measure that limits diesel powered equipment and vehicle idling to no more than 5 minutes at a location, and the CARB In-Use Off-Road Diesel Vehicle Regulation; compliance with these would minimize emissions of TACs during construction.

Although the OEHHA Risk Assessment Guidelines acknowledge that local air pollution control districts sometimes use the risk assessment guidelines for the Hot Spots program in permitting decisions for short-term projects such as construction or waste site remediation, the SCAQMD does not request HRA's for construction activities for CEQA projects where they serve as a commenting agency but are not the lead agency issuing a facility permit. As acknowledged in the OEHHA Risk Assessment Guidelines (at page 8-17), '[t]here is considerable uncertainty in trying to evaluate the cancer risk from projects that will only last a small fraction of a lifetime. There are some studies indicating that dose rate changes the potency of a given dose of a carcinogenic chemical. In others words, a dose delivered over a short time period may have a different potency than the same dose delivered over a lifetime."

COMMENT 2.17

To demonstrate the Project's potential health risks to nearby sensitive receptors, SWAPE prepared a preliminary screening-level HRA. SWAPE found that Project construction and operation would result in potentially significant health risks from DPM emissions. SWAPE used the U.S. Environmental Protection Agency's AERSCREEN model, sensitive receptor information from the MND and OEHHA guidance for its preliminary HRA. SWAPE found that Project construction would generate approximately 363 pounds of DPM over 22 months, and Project operation would generate approximately 97.8 pounds of DPM per year. SWAPE calculated the emission rates for Project construction and operation and, using the model, generated maximum reasonable estimates of single hour DPM concentrations from the Project. SWAPE then calculated the excess cancer risk for each sensitive receptor for adults, children and infants. SWAPE's calculations show that Project construction results in cancer risks of 8.6 (adults), 63 (children) and 120 (infants) in one million. SWAPE's calculations also show that the cancer risk over the course of a residential lifetime (30 years) is 190 in one million. The infant, child and lifetime cancer risks to nearby sensitive receptors all exceed the SCAQMD threshold of 10 in one million. The MND fails to disclose and mitigate the Project's significant cancer risks.

RESPONSE TO COMMENT 2.17

The Commenter references the findings of SWAPE's preliminary screening level health risk assessment. As discussed in greater detail in response to SWAPE's letter (See Response to Comment Letter #3, below), the modeling methodology and analysis used by SWAPE is based on very broad hypothetical assumptions that are not reflective of the emissions that would be generated by the Project's construction activities. The assumptions and inputs employed in SWAPE's analysis are so fundamentally flawed that they do not represent impacts that would occur from the Proposed Project. For example, SWAPE's estimate that the Project would generate 363 lbs/day of diesel particulate matter (DPM) over the course of 22 months is not based on the MND's calculation of PM_{10} or $PM_{2.5}$ emissions. To illustrate this, the following table summarizes the total particulate matter (in both PM_{10} and $PM_{2.5}$) from on-site exhaust emissions for each phase of construction:

Phase	Duration	Maximum Daily On-Site Emissions (lbs/day)		Total Daily On-Site Emissions (lbs)	
		PM_{10}	$PM_{2.5}$	PM_{10}	$PM_{2.5}$
Demolition	15 days	0.80	0.77	12.06	0.62
Grading	52 days	0.80	0.77	41.80	0.62
Building Construction	280 days	0.94	0.86	263.14	0.81
Paving	20 days	0.60	0.56	12.04	0.34
Architectural Coating	110 days	0.17	0.17	19.06	0.03
Total	**477 days**			**348.10**	**2.41**
Source: MND Appendix A, Air Quality Emissions worksheets.					

As shown in the table above, even under the conservative assumption that all of the Project's PM_{10} and $PM_{2.5}$ PM emissions are diesel particulate matter (DPM), SWAPE has grossly overstated the project's

DPM emissions. For one, SWAPE's calculation is based on a 7 day work week, when the Project's construction schedule is based on a 5 day work week. Second, diesel particulate matter (DPM) is a subset of PM_{10} and $PM_{2.5}$, thus the total amount of DPM should be less than the PM estimates provided in this table. Over 90 percent of DPM particles are smaller than 1 micrometer in diameter.[3] Thus, the total DPM emissions from on-site equipment would be closer to 2.65 lbs. over the approximate 22-month construction schedule. Thus SWAPE's analysis is grossly overstated and not representative of the Proposed Project. Furthermore, SWAPE's calculations are based on the following inaccurate exposure assumptions: (1) that the emissions would be consistent and averaged over an annul basis over 30 years, (2) that the residents located over 300 feet away would be exposed to emissions 24 hours a day for a 30 year period without ever leaving their place of residence, and (3) the the resident's exposure to DPM emissions generated outdoors would be the same indoors. Accordingly, the argument that the project would result in a significant lifetime cancer risk in persons residing over 300 feet from the Project Site is erroneous and is not reflective of a real world scenario. Thus, the SWAPE analysis does not constitute substantial evidence.

COMMENT 2.18

B. Substantial Evidence Supports a Fair Argument that the Project May Result in Potentially Significant Impacts from Greenhouse Gas Emissions

To assess the Project's greenhouse gas emissions (GHG") impacts, the MND compares the Project's GHG emissions after GHG reduction measures to the business as usual scenario ("BAU") (emissions that would be generated by the Project in the absence of any GHG reduction measures). Using this method, the MND finds that the Project would achieve a 46 percent reduction in GHGs between the BAU and the proposed Project. The MND concludes that the Project would result in a less than significant impact from GHG emissions because the 46 percent reduction greatly exceeds the California Air Resources Board's ("CARB") Climate Change Scoping Plan and AB 32 statewide reduction goals. The MND's analysis is flawed and its conclusion is unsupported.

First, the use of CARB's Climate Change Scoping Plan and AB 32 statewide GHG reduction goals as a threshold of significance for project-specific impacts was struck down by the California Supreme Court. The California Supreme Court held that making a straight-line comparison between statewide reduction goals and project-specific reductions is improper. Without "a quantitative equivalence between the [AB 32] Scoping Plan's statewide comparison" and the MND's "own project-level comparison," the use of a BAU comparison to demonstrate consistency with GHG emission reductions set forth by AB 32, is not an acceptable method for determining CEQA impacts. In *Center for Biological Diversity v. California Department of Fish and Wildlife and the Newhall Land and Farming Company ("Newhall"),* the project EIR evaluated GHG impacts using a BAU comparison, comparing the percent reduction in GHG emissions between the proposed project's BAU and 2020 scenarios to the statewide 2020 reduction goal in the CARE Scoping Plan. The EIR concluded that, because the project-specific GHG reduction exceeded the statewide reduction goal in the AB 32 Scoping Plan, the project's GHG

[3] *CARB, Report to the Air Resources Board on the Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant, approved April 1998 (at page A-27).*

emissions would result in a less than significant impact. The California Supreme Court rejected this approach, holding that agencies cannot use the statewide GHG emission reduction percentage as the CEQA significance threshold for project- specific impacts.

The *Newhall* Court stated that there is "no substantial evidence that Newhall Ranch's project-level reduction of 31 percent in comparison to business as usual is consistent with achieving AB 32's statewide goal of a 29 percent reduction from business as usual..." Further,

> the Scoping Plan nowhere related that statewide level of reduction effort to the percentage of reduction that would or should be required from individual projects, and nothing DFW or Newhall have cited in the administrative record indicates the required percentage reduction from business as usual is the same for an individual project as for the entire state population and economy.

Rather, "[t]he EIR simply assumes that the level of effort required in one context, a 29 percent reduction from business as usual statewide, will suffice in the other, a specific land use development."

Despite this ruling, the MND relies upon the same method expressly rejected in *Newhall* to conclude that the Project's GHG emissions would result in a less than significant impact. Specifically, using the anticipated year of Project buildout, the MND takes the statewide reduction goal for 2020 and determines the percent reduction from BAU that the Project would need to meet to achieve statewide goals. Using a straight-line comparison between Project-specific and statewide GHG emission reductions, the MND states that the Project would reduce its GHG emissions by 46 percent, which, according to the MND, is consistent with the statewide reduction goal. As a result, the MND concludes the Project would have a less than significant impact from GHG emissions. SWAPE explains that:

> [r]educing the Project's emissions to below statewide business as usual levels would not be sufficient to reduce the entire state's GHG impacts to below a level of significance unless all developments currently in operation, and all future projects in California, of any size, were also required to reduce their emissions to below business as usual by the same percentage.

Newhall makes clear that the approach used in the MND is unsupported and improper. The City cannot use the statewide GHG emission reduction percentage goal as the CEQA threshold to determine whether a specific project has significant GHG emissions.

RESPONSE TO COMMENT 2.18

The Commenter incorrectly claims that the MND analysis employed a BAU methodology that was based on CARB's statewide GHG reduction goals as a project specific threshold of significance. This type of BAU methodology was the subject of a recent California Supreme Court, which found that the GHG methodology in the Newhall Ranch EIR was not appropriate as the EIR failed to relate the statewide GHG reduction goals across all sectors of the economy to the proposed project's emissions. The MND does not employ the same methodology used in the Newhall Ranch EIR and in fact does not employ a quantified threshold for determining significance. As stated on page III-49 of the MND, for

purposes of the GHG analysis, the threshold of significance was based on a qualitative analysis of the Proposed Project's consistency with the applicable policies and/or regulations outlined in the Scoping Plan, SB 375, SCAG's 2012-2035 RTP/SCS, and the LA Green Building Code. The methodology employed in the MND is consistent with one of several suggested approaches that were outlined by the Supreme Court in the Newhall Ranch case. The Project's GHG emissions were quantified and compared with a scenario of a base project without GHG reduction measures for the purposes of demonstrating the reduction in GHG emissions that would occur as a result of the Project's specific design features. The demonstrated reduction in GHG emissions was not applied to a numeric threshold of significance. The analysis in the MND quantified the reduction in GHG emissions that would occur as a result of the project's consistency with the regional growth strategies outlines by SB 375 and SCAG's 2012-2035 RTP/SCS, and compliance with the LA Green Building Code, which mandates specific efficiency standards for new construction for informational purposes to demonstrate the benefits of the project's consistency with these plans and regulations. The commentor's assertion that the MND employed a methodology that was similar to the analysis used in the Newhall case, which was subsequently struck down by the Superior Court, is simply incorrect.

COMMENT 2.19

Second, the City improperly used outdated interim GHG reduction goals for 2020 that were superseded by Executive Order B-30-15. Executive Order B-30-15 requires emissions reductions above those mandated by AB 32 to reduce GHG emissions 40 percent below their 1990 levels by 2030. 1990 statewide GHG emissions are estimated to be approximately 431 million MMTCO2e. Therefore, SWAPE provides that, by 2030, California will be required to reduce statewide emissions by 172 MMTCO2e, which results in a statewide limit on GHG emissions of 259 MMTCO2e. 2020 BAU levels are estimated to be approximately 509 MMTCO2e. SWAPE explains that, to successfully reach the 2030 statewide goal of 259 MMTCO2e, California would have to reduce its emissions by 49 percent below the BAU levels. Thus, the Project should demonstrate, at a minimum, a reduction of 49 percent below BAU levels. SWAPE notes "that this reduction percentage is applicable to statewide emissions, not project-specific emissions. Therefore, this percent reduction may be higher when scaled down to the project-level."

RESPONSE TO COMMENT 2.19

The Commenter originally misinterprets and disagrees with the methodology used in the GHG emissions analysis in the MND, as discussed in COMMENT 2.19. Here, the Commenter proceeds with erroneous assertions that the targeted GHG reduction goals should be based on 2030 statewide goals instead of 2020 goals. As documented in the Newhall Ranch case, the Supreme Court ruled that applying the statewide GHG reduction goals to a specific development project was inappropriate without substantiating how the statewide goals relate to a project's GHG emissions. The Supreme Court found that while this approach could be used (if the percent reduction applied to a project was substantiated based on the statewide emission goals), the use of a BAU methodology was not recommended. This Commenter's argument is contradicting by disagreeing with a misinterpreted methodology and then provides values that the MND should have incorporated for that methodology.

Nevertheless, the MND did not apply the BAU comparison methodology in the greenhouse gas emissions section, and applying a BAU level was not necessary for the MND analysis.

COMMENT 2.20

Finally, even if the MND's approach was appropriate, the Project's GHG emissions with GHG reduction measures (the "As Proposed scenario"), the BAU GHG emissions and the percent reduction between the two scenarios were incorrectly calculated in the MND. SWAPE explains that a correct BAU analysis compares the emissions that would be generated by the Project in the absence of any GHG reduction measures to the emissions that would be generated by the Project when GHG reduction measures are included. Then, the percent reduction in GHG emissions should be compared to an applicable threshold. However, the calculation in the MND improperly accounts for emissions generated by the existing land uses on the Project site. In the MND, the 46 percent reduction in GHG emissions is derived by subtracting the existing on-site emissions from the As Proposed scenario GHG emissions. SWAPE explains that is totally incorrect. The City should have compared the BAU scenario to the As Proposed scenario. Further, the calculations used to estimate the BAU GHG emissions are incorrect. The BAU scenario in the MND accounts for the emissions generated by existing land uses on the site, and then compares this 46 percent reduction to the statewide reduction goal for 2020. Once again, SWAPE explains that accounting for existing GHG emissions on-site is totally incorrect. As a result, the City's conclusion about the Project's impact from GHG emissions is unsupported. When the existing on-site emissions are not included in the analysis, the Project would achieve only a 13 percent reduction in GHG emissions between the BAU and As Proposed Scenarios. Even if comparing a project's emission reductions to the AB 32 statewide reduction goal was prop.er (which it is not), the Project's GHG emissions reduction of 13 percent would not meet the 15 percent reduction required by AB 32 to reduce statewide emissions to 1990 levels by 2020. Further, the MND includes incorrect models for the BAU and the As Proposed scenarios. SWAPE explains that, according to the modeling output files, the operational year for both the As Proposed and BAU scenarios is 2018, not 2020. As a result, "the Project's GHG emissions cannot be directly compared to the GHG reduction target for 2020, as specified in CARB's Scoping Plan." Therefore, the emissions estimates in the MND and associated estimated emissions reductions could not be used to show compliance with AB 32 and CARB's Scoping Plan.

RESPONSE TO COMMENT 2.20

This comment addresses a suggested approach to analyzing the Project's emissions under a BAU methodology. As noted in response to comments 2.19 and 2.20, above, the BAU methodology was not employed in the MND's GHG analysis. Because the BAU methodology was not employed in the MND, no specific response to the application of the BAU approach is necessary or warranted.

COMMENT 2.21

SWAPE conducted an independent analysis of the Project's GHG emissions using the SCAQMD screening threshold of 3,000 metric tons of carbon dioxide equivalents per year (MTCO2e/year) and found that the Project's GHG emissions would result in a significant impact. Project construction would

generate 21 MTCO2e/year (when amortized over 30 years) and Project operation would generate 3,081 MTCO2e/year. SWAPE found that, when the Project's amortized construction emissions and operation emissions are combined, the emissions are 3,102 MTCO2e/year, which exceed the SCAQMD's screening threshold of 3,000 MTCO2e/year. This is a significant, unmitigated impact that the City failed to disclose in the MND.

RESPONSE TO COMMENT 2.21

The SCAQMD screening threshold of 3,000 MTCO2e/year referenced in this comment was addressed in the MND on page III-48. As noted in the MND, he SCAQMD Governing Board adopted the staff proposal for an interim GHG significance threshold for stationary source/industrial projects where SCAQMD is lead agency. However, SCAQMD has yet to formally adopt a GHG significance threshold for residential and or commercial projects. Because this threshold was not formally adopted by the SCAQMD it was not utilized as threshold for determining significance in the MND. However, it should be noted that even if the MND were to apply this threshold, the Project's impacts would be below the 3,000 MTCO2e threshold after accounting for the existing land uses that would be displaced. As shown in Table III-8 of the MND, the Project's net operational GHG emissions would be 1,921.34 MTCO2e/year.

COMMENT 2.22

C. Substantial Evidence Supports a Fair Argument that the Project May Result in Potentially Significant Impacts from Hazardous Materials

The MND states that prior uses on the Project site include a dry cleaner and gas station. SWAPE explains that these uses may have caused subsurface contamination that would pose a health risk to construction workers, hotel guests and hotel workers. Specifically, chemical contamination commonly associated with dry cleaners includes tetrachloroethylene ("PCE"), a likely carcinogen, and chemical contamination associated with gas stations includes benzene, a known human carcinogen and volatile organic compound ("VOC"). Hotel guests and hotel workers may be exposed to these contaminants through vapor intrusion, and construction workers may be exposed to these contaminants by touching contaminated soil or breathing vapors during excavation, grading and trenching.

The MND states "there have been various subsurface investigations conducted on the Project Site and it received closure from the Regional Water Quality Control Board" and "the Project Site presumably met the standard at the time, indicating the solvents used for the Hollywood Laundry did not contaminate the groundwater and soil or were remediated." The Phase I Environmental Site Assessment ("Phase I ESA") prepared for the Project states that "the Project site presumably met the commercial/industrial standard" under the 1986 Los Regional Water Quality Control Board closure of the gas station and, therefore, did not "find a recognized environmental condition (REC) in connection with the property in relation to the presence of a Texaco previously occupying the Project site." The MND's and Phase I ESA's presumptions and conclusions are unsupported for two reasons.

First, neither the Phase I ESA nor the MND contain any sampling results supporting the presumptions and conclusions. The MND states:

> the Phase I ESA was unable to obtain information regarding the sampling activities conducted on the Project Site to determine if the Project site was monitored/sampled for contamination during former groundwater/vapor monitoring activities. As a result, the most recent levels of contamination from the Texaco and the Hollywood Laundry at the Project Site are unknown.

SWAPE explains that the City must include environmental sampling results in an EIR, including results for soil vapor, PCE and benzene. The EIR must compare soil sampling results to construction worker screening levels to determine the Project's potentially significant impacts from contamination. Without sampling results, there is no support for the MND's and Phase I ESA's conclusions.

Second, SWAPE explains that investigations conducted for contamination from a gas station are inapplicable to contamination from dry cleaning operations. "Gas station investigations are focused on releases of petroleum compounds at locations where underground storage tanks are located. In contrast, dry cleaner investigations focus on sampling for the compound PCE in locations where it may have leaked through cracks in the concrete flooring or was dumped outside." Without an investigation targeting contamination from dry cleaning operations, there is no support for the MND's and Phase I ESA'sconclusions.

Rather than conduct an adequate investigation of contamination now, the MND defers an investigation and potential cleanup of contamination until after Project approval. This is a blatant violation of CEQA.

RESPONSE TO COMMENT 2.22

The Commenter is concerned that the historical land uses on the Project Site would pose an increased health hazard to upon construction workers and future hotel guests and workers. However, as disclosed in the MND, various subsurface investigations were conducted on the Project Site and received case closure notices from the RWQCB in 1986. The Phase I ESA noted that any contamination from the dry cleaning service would have been present during the gas station subsurface investigation. Because the case closed in 1986, there are no recognized environmental conditions (RECs) in connection with the historical uses on the Project Site. The MND analysis concluded that the Project's Phase I ESA did not find any REC's in connection with the Project Site due to case closure from the RWQCB in regards to the previous gas station and the lack of any contamination history or violations from the previous laundry facility. Although the specific data logs and monitoring surveys that were referenced in the RWQCB's closure report documentation were unavailable, the fact that closure reports were issued for the site support the conclusion that the site was remediated to an acceptable level. Nevertheless, the Proposed Project would incorporate Mitigation Measure HAZ-1, which requires approval and sign-off from the Fire Department indicating that all on-site hazardous materials have been remediated. The Proposed Project did not defer an impact to a mitigation measure as it is anticipated that the soils to be excavated are clean and have already been remediated to the satisfaction of the RWQCB. Therefore, the Project Site does not warrant another subsurface investigation as any residual impacted soils identified during excavation would be subject to remediation under the review of the LADF.

COMMENT 2.23

Moreover, the MND requires the investigation and cleanup of potentially contaminated soil and groundwater to be conducted under oversight by the Los Angeles Fire Department. SWAPE explains that the Los Angeles Fire Department is not an appropriate agency to oversee the investigation and cleanup of groundwater contamination or where human, health may be at risk from sources other than underground storage tanks. Rather, the Los Angeles Fire Department must refer sites with groundwater contamination to the Regional Water Quality Control Board. SWAPE explains that for sites with potential health risks from contamination, the Department of Toxic Substances Control, in conjunction with the Office of Health Hazard Assessment, is the appropriate agency to oversee the environmental assessment of the site.

RESPONSE TO COMMENT 2.23

The Project Site falls within the LAFD's jurisdiction and would need to file a chemical inventory to disclose hazardous materials stored, used or handled on site. The LAFD is the City's key agency in hazardous materials emergencies.[4] Pursuant to the 2010 California Fire Code Chapter 27: Hazardous Materials Categories and Permit Amounts, the LAFD is authorized to give written sign-off to the Applicant for land, grading, and building permits. The Fire Department is appropriately identified as the first local agency to verify that the soils encountered during construction are free of contamination. TO the extent warranted the LAFD would consult with and refer the project contractor to the appropriate regulatory agencies based on the condition of the materials encountered.

COMMENT 2.24

Further, the MND completely fails to address SCAQMD Rule 1166, Volatile Organic Compound Emissions from Decontamination of Soil. Under Rule 1166, the potential for VOC contamination requires the Applicant to submit, and the SCAQMD to approve, a VOC mitigation plan prior to commencement of Project construction. Rule 1166 prohibits the uncontrolled release of VOC-contaminated soil vapor during Project construction. Rule 1166 provides that "[a] person shall not engage in or allow any on-site or off-site spreading, grading or screening of VOC- contaminated soil, which results in uncontrolled evaporation of VOC to the atmosphere." In other words, no excavation may take place unless a Rule 1166 permit is in place for the Project. Rule 1166 also requires project applicants to implement robust vapor-control mitigation measures to ensure that the excavation of VOC-contaminated soil does not result in significant releases of VOCs through soil vapor. The Rule further requires that all persons conducting soil excavation or grading for a project in a location that may contain VOC-contaminated soil monitor for VOC contamination *"at least once every 15 minutes"* for the duration of the excavation, and *record all VOC concentration readings* in a format approved by the SCAQMD. If VOC-contaminated soil is detected during excavation or grading, Rule 1166 requires the project manager to notify SCAQMD within 24 hours of the detection, and immediately implement the SCAQMD-approved mitigation plan. Finally, the mitigation plan must include specific measures to

[4] *Los Angeles Fire Department, HAZMAT, website: http://www.lafd.org/about/special-operations/hazmat, accessed July 2016.*

reduce dust and odor, and to govern the handling and disposal of VOC-contaminated soil. The MND fails to mention Rule 1166, and fails to state whether the Applicant has applied for or obtained a Rule 1166 permit, despite the fact that compliance with the Rule is mandatory. The MND also fails to include any mitigation measures to address the potential risk of disturbance of VOC-contaminated soil during Project construction.

The MND's and Phase I ESA's conclusions regarding contamination on the Project site are unsupported. As it stands, substantial evidence supports a fair argument that the Project may result in health impacts to construction workers, hotel guests and hotel workers from on-site contamination. The City must prepare an EIR that quantitatively assesses and mitigates these impacts. The EIR must also discuss Rule 1166 compliance and must incorporate Rule 1166's mitigation requirements.

RESPONSE TO COMMENT 2.24

There is no evidence in the record to indicate that VOC's would be encountered during construction. The Phase I ESA concluded that there are no recognized environmental conditions (RECs) in relation to the Project Site and cited closure reports from the RWQCB as evidence to support the assumption that the site was appropriately remediated in association with the 1986 closure activities. Mitigation Measure HAZ-1 is proposed as a precautionary measure to ensure that any contaminated soil or groundwater, if encountered, would be suitably remediated and would require approval and sign-off from the Fire Department. Rule 1166 would be implemented to ensure that any VOC-contaminated soil is properly handled and disposed of during the construction phase.

COMMENT 2.25

V. CONCLUSION

There is substantial evidence supporting a fair [sic] that the Project may result in significant adverse impacts that were not identified in the MND, and that are not adequately analyzed or mitigated. We urge the City to fulfill its responsibilities under CEQA by withdrawing the MND and preparing a legally adequate EIR to address the potentially significant impacts described in this comment letter and the attached letter. Only by complying with all applicable laws will the City and the public be able to ensure that the Project's significant environmental impacts are mitigated to less than significant levels.

Thank you for your attention to these comments.

RESPONSE TO COMMENT 2.25

As discussed in response to comments 2.1 through 2.24, the assertions and claims raised by Adams Broadwell Joseph & Cardozo do not present a fair argument that the project would result in a significant impact. The State CEQA Guidelines mandates that the lead agencies decision to prepare an EIR must be based on substantial evidence in the record. Pursuant to CEQA, substantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact. Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is

clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment (*P.R.C Section 21080(d) and (e)*). As the claims and assertions presented by the commentor are erroneous and supported by speculative assumptions, they do not present a fair argument that an EIR is warranted.

COMMENT LETTER No. 3

SWAPE
Matt Hagemann, Jessie Jaeger
2656 29th Street, Suite 201
Santa Monica, CA 90405
July 5, 2016

COMMENT 3.1

Dear Ms. Koss:

We have reviewed the June 9, 2016 Initial Study/Mitigated Negative Declaration (IS/MND) for the proposed Hollywood Ivar Gardens Project (ENV-2015-2895-MND) ("Project") located in the City of Los Angeles. The Proposed Project includes the demolition of an existing fast food restaurant ("Jack in the Box") and a surface parking lot, and the construction and development of a mixed-use building with a maximum of 275 guestroom units with kitchenettes (142 guest suites, 132 guestrooms, and 1 two-bedroom suite) and approximately 1,900 square feet of ground floor commercial space. According to the IS/MND, export of approximately 3,882 square feet of demolition material and approximately 56,000 cy of soil would be required.

RESPONSE TO COMMENT 3.1

This comment letter acknowledges that SWAPE has reviewed the Draft MND for the Proposed Project. This comment accurately restates both the proposed and existing land uses on the Project Site. No further comments are required.

COMMENT 3.2

We conclude that the IS/MND fails to adequately evaluate the Project's Air Quality, Greenhouse Gas and Hazard and Hazardous Waste impacts. As a result, air pollutant, greenhouse gas (GHG) emissions and health impacts associated with construction and operation of the Project are underestimated. The potential impacts of hazardous chemicals in the subsurface have not been properly investigated and disclosed. A Draft Environmental Impact Report (DEIR) should be prepared to adequately assess and mitigate the Project's potentially significant air quality, GHG and hazardous waste impacts.

RESPONSE TO COMMENT 3.2

The Commenter asserts that the MND fails to comply with CEQA and expresses concerns with significant impacts regarding air quality, greenhouse gas emissions, and hazardous wastes. The

commenter discusses their concerns in more detail under the proceeding subheadings of their comment letter. As such, detailed responses to each of these concerns are presented below.

COMMENT 3.3

Air Quality

Diesel Particulate Matter Health Risk Emissions Inadequately Evaluated

The IS/MND concludes that the health risk posed to nearby sensitive receptors from exposure to diesel particulate matter (DPM) emissions released during Project construction and operation would be less than significant, yet fails to actually quantify this risk and compare it to applicable thresholds (p. III-32). The IS/MND attempts to justify the omission of an actual health risk assessment (HRA) by stating the following:

> "The Proposed Project consists of a mixed-use hotel development with retail uses and would not support any land uses or activities that would involve the use, storage, or processing of carcinogenic or non-carcinogenic toxic air contaminants. As such no significant toxic airborne emissions would result from Proposed Project implementation. In addition, construction activities would be subject to the regulations and laws relating to toxic air pollutants at the regional, State, and federal level that would protect sensitive receptors from substantial concentrations of these emissions. Therefore, impacts associated with the release of toxic air contaminants would be less than significant" (p. III-32).

This justification, however, is incorrect, as operation of the Project will generate vehicle trips, which will generate diesel exhaust emissions. Diesel particulate matter (DPM), which is a component of diesel exhaust, is a known carcinogen. Therefore, the IS/MND's statement that operation of the Project would not result in toxic airborne emissions is entirely incorrect. Furthermore, even though "construction activities would be subject to the regulations and laws relating to toxic air pollutants at the regional, State, and federal level that would protect sensitive receptors," this does not automatically mean that the Project's construction-related emissions would not have a potentially significant health risk impact, as current regulations can only reduce emissions; they do not get rid of them entirely. The proposed Project will generate diesel exhaust emissions during construction from on-road vehicle and off-road equipment usage that will also contribute to the Project's DPM emissions, and thus, health risk. As a result, until the Project's construction and operational health risk impacts are adequately quantified and compared to applicable thresholds, the IS/MND cannot make any conclusions with regards to the Project's health risk impacts.

By failing to prepare a construction or an operational health risk assessment, the IS/MND is inconsistent with recommendations set forth by the Office of Environmental Health Hazard Assessment (OEHHA), the organization responsible for providing recommendations for health risk assessments in California. In February of 2015, OEHHA released its most recent *Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments,* which was formally adopted in March of 2015. This guidance document describes the types of projects that warrant the preparation of a health

risk assessment. Construction of the Project will produce emissions of DPM, a human carcinogen, through the exhaust stacks of construction equipment over a construction period of 22 months, from August 2016 to January 2018 (Appendix A, pp. 31). The OEHHA document recommends that all short-term projects lasting at least two months be evaluated for cancer risks to nearby sensitive receptors. Therefore, per OEHHA guidelines, health risk impacts from Project construction should have been evaluated by the IS/MND. Furthermore, once construction of the Project is complete, the Project will operate for a long period of time. During operation, the Project will generate vehicle trips, which will generate additional exhaust emissions, thus continuing to expose nearby sensitive receptors to emissions. The OEHHA document recommends that exposure from projects lasting more than 6 months should be evaluated for the duration of the project, and recommends that an exposure duration of 30 years be used to estimate individual cancer risk for the maximally exposed individual resident (MEIR). Even though we were not provided with the expected lifetime of the Project, we can reasonably assume that the Project will operate for at least 30 years, if not more. Therefore, health risks from Project operation should have also been evaluated by the IS/MND, as a 30-year exposure duration vastly exceeds the 2-month and 6- month requirements set forth by OEHHA. These recommendations reflect the most recent health risk policy, and as such, an updated assessment of health risks to nearby sensitive receptors from construction and operation should be included in a revised CEQA evaluation for the Project. In an effort to demonstrate the potential risk posed by the Project to nearby sensitive receptors, we prepared a simple screening-level health risk assessment. The results of our assessment, as described below, demonstrate that construction and operation related DPM emissions may result in a potentially significant health risk impact.

As of 2011, the EPA recommends AERSCREEN as a leading air dispersion model, due to improvements in simulating local meteorological conditions based on simple input parameters. The model replaced SCREEN 3, which is included in OEHHA and CAPCOA guidance as the appropriate air dispersion model for Level 2 health risk screening assessments ("HRSAs"). A Level 2 HRSA utilizes a limited amount of site-specific information to generate maximum reasonable downwind concentrations of air contaminants to which nearby sensitive receptors may be exposed. If an unacceptable air quality hazard is determined to be possible using AERSCREEN, a more refined modeling approach is required prior to approval of the Project.

We prepared a preliminary health risk screening assessment of the Project's construction and operational impact to sensitive receptors using the annual estimates from the IS/MND's air model. The IS/MND states that the closest sensitive receptors to the Project site are located within 345 feet, or approximately 105 meters away (p. III-31). Consistent with recommendations set forth by OEHHA, we used a residential exposure duration of 30 years, starting from the infantile stage of life. We also assumed that construction and operation of the Project would occur concurrently, with no gaps between each Project phase. The CalEEMod model's annual emissions indicate that construction activities will generate approximately 363 pounds of DPM over a 660 day (22 month) construction period. The AERSCREEN model relies on a continuous average emissions rate to simulate maximum downwind concentrations from point, area, and volume emissions sources. To account for the variability in construction equipment usage over the many phases of Project construction, we calculated an average DPM emissions rate for construction by the following equation.

Emission Rate (grams/second) = (363.2 lbs/660 days) x (453.6 grams/lb) x (1 day/24 hrs) x (1 hour/3,600 seconds) = 0.0029 g/s

Subtracting the 22-month construction duration from the total residential exposure duration of 30 years, we can reasonably assume that after Project construction, the MEIR would be exposed to the Project's operational DPM emissions for an additional 28.19 years (10,290 days). The CalEEMod model's annual emissions indicate that operational activities will generate approximately 97.8 pounds of DPM per year, or approximately 2,757 pounds of DPM over a 28.19 year operational period. Applying the same equation used to estimate the construction DPM emission rate, we estimated the following emission rate for Project operation.

Emission Rate (grams/second) = (2,757.16 lbs/10,290 days) x (453.6 grams/lb) x (1 day/24 hrs) x (1 hr/3,600 seconds) = 0.0014 g/s

Construction and operational activity was simulated as a 0.54 acre rectangular area source in AERSCREEN, with dimensions of 55 meters by 40 meters. A release height of three meters was selected to represent the height of exhaust stacks on construction equipment and other heavy duty vehicles, and an initial vertical dimension of one and a half meters was used to simulate instantaneous plume dispersion upon release. An urban meteorological setting was selected with model-default inputs for wind speed and direction distribution.

The AERSCREEN model generated maximum reasonable estimates of single hour DPM concentrations from the Project site. EPA guidance suggests that in screening procedures, the annualized average concentration of an air pollutant be estimated by multiplying the single-hour concentration by 10%. There are residences located approximately 105 meters away from the Project boundary. The single-hour concentration estimated by AERSCREEN for Project construction is approximately 3.59 $\mu g/m^3$ DPM at approximately 100 meters downwind. Multiplying this single-hour concentration by 10%, we get an annualized average concentration of 0.359 $\mu g/m^3$ for construction. For Project operation, the single- hour concentration in AERSCREEN is approximately 1.75 $\mu g/m^3$ DPM at approximately 105 meters downwind. Again, multiplying this single-hour concentration by 10%, we get an annualized average concentration of 0.175 $\mu g/m^3$ for operation.

We calculated the excess cancer risk for each sensitive receptor for adults, children, and/or infant receptors using applicable HRA methodologies prescribed by OEHHA. The annualized average concentration for construction was used for the infantile stage of life (0-2 years) and the beginning of the child stage (1 month), and the annualized average concentration for operation was used for the remainder of the 30 year exposure period, which makes up the rest of the child (2.06 to 16 years) and adult stages of life (16 to 30 years). OEHHA recommends the use of Age Sensitivity Factors (ASFs) to account for the heightened susceptibility of young children to the carcinogenic toxicity of air pollution. According to the revised guidance, quantified cancer risk should be multiplied by a factor of ten during the first two years of life (infant), and by a factor of three for the subsequent fourteen years of life (child aged two until sixteen). Furthermore, in accordance with guidance set forth by OEHHA, we used 95th percentile breathing rates for infants and 80th percentile breathing rates for children and adults.

We used a cancer potency factor of 1.1(mg/kg-day)$^{-1}$ and an averaging time of 25,550 days. The results of our calculations are shown below.

The Maximum Exposed Individual at an Existing Residential Receptor (MEIR)

Activity	Duration (years)	Concentration (µg/m^3)	Breathing Rate	ASF	Cancer Risk
Construction	2.00	0.36	1090	10	1.2E-04
Infant Exposure Duration	**2.00**			**Infant Exposure**	**1.2E-04**
Construction	0.06	0.36	572	3	5.6E-07
Operation	13.94	0.18	572	3	6.3E-05
Child Exposure Duration	**14.00**			**Child Exposure**	**6.3E-05**
Operation	14.00	0.18	233	1	8.6E-06
Adult Exposure Duration	**14.00**			**Adult Exposure**	**8.6E-06**
Lifetime Exposure Duration	**30.00**			**Lifetime Exposure**	**1.9E-04**

The excess cancer risk to adults, children, and infants at a sensitive receptor located 105 meters away, over the course of Project construction and operation are 8.6, 63, and 120 in one million, respectively. Furthermore, the excess cancer risk over the course of a residential lifetime (30 years) is approximately 190 in one million. Consistent with OEHHA guidance, exposure was assumed to begin in the infantile stage of life to provide the most conservative estimates of air quality hazards. The infantile, child, and lifetime cancer risks all exceed the SCAQMD threshold of 10 in one million.

It should be noted that our analysis represents a screening-level health risk assessment, which is known to be more conservative, and tends to err on the side of health protection. The purpose of a screening-level health risk assessment, however, is to determine if a more refined health risk assessment needs to be conducted. If the results of a screening-level health risk are above applicable thresholds, then the Project needs to conduct a more refined health risk assessment that is more representative of site specific concentrations. Our screening-level health risk assessment demonstrates that construction and operation of the Project could result in a potentially significant health risk impact. As a result, a refined health risk assessment must be prepared to examine air quality impacts generated by Project construction using site-specific meteorology and specific equipment usage schedules. A DEIR must be prepared to adequately evaluate the Project's health risk impact, and should include additional mitigation measures to reduce these impacts to a less-than-significant level.

RESPONSE TO COMMENT 3.3

This comment asserts that the results of a screening level analysis supports the need for a health risk assessment to be conducted for the project's construction and operational activities. Pursuant to Section 15204 of the State CEQA Guidelines, "CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors. When

responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR." The requirement to prepare a construction or operational health risk assessment pursuant to OEHHA Guidelines is not required under CEQA or any required permits or approvals. Based on the relatively low emissions associated with PM_{10} and $PM_{2.5}$ during both construction and operation, there is no evidence to suggest that the Proposed Project would generate diesel emissions that are excessive or above acceptable levels that already occur within the environment. Furthermore, as discussed in greater detail below, the screening level analysis presented in Comment 3.3 does not accurately reflect the project's characteristics or exposure pathways to sensitive receptors.

The OEHHA Risk Assessment Guidelines, were prepared by OEHHA to provide uniform methodologies and air modeling protocols to address toxic air hazards for use in facility health risk assessments conducted pursuant to the Air Toxics Hot Spots Information and Assessment Act of 1987 (Health and Safety Code Section 44300 et seq.). The Health Risk Assessment Guidelines developed by OEHHA were not intended for non-point source operations such as a hotel project, nor were they developed for purposes of assessing short term construction impacts for non-point source projects.

A Health Risk Assessment was not prepared for the Project's operational activities because hotel land uses are not permitted facilities subject to the Air Toxics Hot Spots Information Assessment Act (AB2588). Further, the SCAQMD generally requests an operational HRA be conducted for any warehouse or distribution centers that generate 100 heavy diesel truck trips per day or 40 trucks per day with operating transport refrigeration units. The proposed hotel operations would not generate a major source of diesel emissions and thus would not warrant a detailed site-specific health risk assessment.

Furthermore, a Health Risk Assessment was not prepared for the Proposed Project's construction activities because the construction activities that are anticipated are not anticipated to be a major source of PM_{10} or $PM_{2.5}$, and thus would not generate a substantial amount of diesel particulate matter (DPM). The Project's construction emissions were quantified and analyzed in the MND using CARB's recommended CalEEMod modeling program and were compared to the SCAQMD's adopted thresholds for regional and localized air emissions. As noted in the MND, the highest daily peak particulate matter (PM) emissions would occur during the projects grading phase, which is estimated to last approximately three months. As shown in Table III-1, Estimated Peak Daily Construction Emissions, the highest daily peak PM_{10} and $PM_{2.5}$ emissions estimated for the grading phase were 4.8 lbs./day and 2.54 lbs/day, respectively. As compared to the SCAQMD's significance thresholds of 150 lbs/day for PM10 and 55 lbs/day for $PM_{2.5}$, the Project's construction emissions were well below the regional significance thresholds. Additionally, the on-site emissions were assessed for purposes of addressing localized air quality impacts on adjacent land uses. As shown in Table III-4, Localized On-Site Peak Daily Construction Emissions, the localized PM_{10} and $PM_{2.5}$ emissions were estimated to be 0.17 lbs/day, in comparison to significance thresholds of 33 lbs/day for PM_{10} and 10 lbs/day for $PM_{2.5}$. Diesel particulate matter is a subset of both PM_{10} and $PM_{2.5}$. The products and equipment to be utilized and operated on-site during construction activities would comply with all applicable SCAQMD rules for their manufacture and use. The Project will be subject to all applicable SCAQMD rules designed to

limit exposure to TACs during construction activities. For example, the Project would be required to comply with CARB's Air Toxics Control Measure that limits diesel powered equipment and vehicle idling to no more than 5 minutes at a location, and the CARB In-Use Off-Road Diesel Vehicle Regulation; compliance with these would minimize emissions of TACs during construction.

Although the OEHHA Risk Assessment Guidelines acknowledge that local air pollution control districts sometimes use the risk assessment guidelines for the Hot Spots program in permitting decisions for short-term projects such as construction or waste site remediation, the SCAQMD does not request HRA's for construction activities for CEQA projects where they serve as a commenting agency but are not the lead agency issuing a facility permit. As acknowledged in the OEHHA Risk Assessment Guidelines (at page 8-17), '[t]here is considerable uncertainty in trying to evaluate the cancer risk from projects that will only last a small fraction of a lifetime. There are some studies indicating that dose rate changes the potency of a given dose of a carcinogenic chemical. In others words, a dose delivered over a short time period may have a different potency than the same dose delivered over a lifetime." The cancer potency factor used by SWAPE was based on $1.1(mg/kg\text{-}day)^{-1}$ and an averaging time of 25,550 days (70 years). This factor assumes a constant exposure to DPM over a 70-year lifetime and does not account for dose or exposure duration. The construction activities of the project would occur for approximately 8 hours a day and 5 days a week. Thus, it is inaccurate to assume that nearby persons would be exposed to any emissions during the evening hours or on weekends. Persons would only be exposed to emissions at times when the emissions are being generated and when the individuals are within a proximate range of exposure to the emissions. Factors such as leaving one's residence to go to work or school are not considered within SWAPEs analysis.

COMMENT 3.4

Greenhouse Gas

Failure to Adequately Assess the Project's Greenhouse Gas Impacts

In an effort to comply with CEQA and the California Global Warming Solution Act, AB 32, the IS/MND compares the Project's construction and operational GHG emissions (As Proposed) to the emissions that would be generated by the Project in the absence of any GHG reduction measures, also known as a Business As Usual scenario (BAU). Using this method, the IS/MND concludes that because the Project would achieve a 46 percent reduction in GHGs between the BAU and As Proposed scenarios, which greatly exceeds CARB's Scoping Plan and AB 32 statewide reduction goals, the Project would have a less than significant GHG impact (p. III-51). The use of this threshold to determine whether or not the Project would result in a significant GHG impact, and the conclusions made using this method, however, are flawed for several reasons. First, it is based on a reduction goal for statewide emissions, not on project-level reduction goals. Making a straight-line comparison between statewide reduction goals and project- specific reductions, however, was recently deemed improper by the California Supreme Court. Therefore, this threshold should not be used. Second, it relies on outdated interim GHG reduction goals for 2020 that have been superseded by Executive Order B-30-15. Third, the "As Proposed" Project GHG emissions, the "Business As Usual" Project GHG

emissions, and the percent reduction between the two scenarios have been incorrectly calculated. Due to these reasons, we find the IS/MND's GHG analysis to be incorrect and unreliable, and it should not be used to determine Project significance.

Incorrectly Used Statewide Reduction Goals to Determine Project Significance

In light of the recent California Supreme Court case *Center for Biological Diversity et al. v. California Department of Fish and Wildlife and the Newhall Land and Farming Company* 2015 Cal. LEXIS 9478 *(Newhall* Case), the use of a BAU comparison to demonstrate consistency with GHG emission reductions set forth by AB 32 is no longer considered to be an accurate, acceptable method. The *Newhall* Case concludes that lead agencies cannot use the *statewide* GHG emission reduction percentage as the CEQA threshold to determine whether a *specific project* has significant GHG emissions. As a result, this method of determining Project significance is incorrect and should not be relied upon.

The Newhall Ranch project located in Santa Clarita was a mixed-use project, in which various commercial uses, schools, golf courses, parks and community facilities, as well as approximately 20,885 dwelling units were proposed for development. Similar to the Hollywood Ivar Gardens Project IS/MND, the EIR for the proposed Newhall Ranch project evaluated whether or not the project's GHG emissions would comply with the reduction goals set forth by AB 32 by 2020 using a project versus BAU comparison. Specifically, the Newhall EIR compared the percent reduction in GHG emissions between the Project's BAU and 2020 scenarios (resulted in a 31% reduction) to the statewide 2020 reduction goal of 29% set forth by the CARB Scoping Plan. Using this method, the Newhall EIR concluded that because the Project-specific GHG reduction exceeded the statewide reduction goal set forth by AB 32 and the Scoping Plan, the Project's GHG emissions would result in a less than significant GHG impact.

Similar to the Newhall Ranch EIR, the IS/MND here relies on the BAU method to determine the Project's GHG impacts. According to the IS/MND, the Project would have to achieve a 46 percent reduction from BAU that is consistent with the CARB Scoping Plan to result in a less than significant GHG impact. Using the anticipated year of Project buildout, the IS/MND takes the statewide reduction goal for 2020 and determines the percent reduction from BAU that the Project would need to meet in order to achieve statewide goals (p. III-51). Using a straight-line comparison between Project-specific and statewide GHG emission reductions, the Hollywood Ivar Gardens Project would reduce its GHG emissions by 46 percent, which, according to the IS/MND, is consistent with the statewide reduction goal (p. III-52). As a result, the IS/MND concludes that the Project would have a less than significant GHG impact (p. III-52).

The use of a "straight-line" comparison between Project-specific and statewide GHG emissions, both by the Newhall Ranch EIR and the Hollywood Ivar Gardens Project IS/MND, is flawed because the percent reduction required by the proposed Project at the project-level is not directly comparable to the percent reduction required to meet the statewide goal. Reducing the Project's emissions to below statewide business as usual levels would not be sufficient to reduce the entire state's GHG impacts to

below a level of significance unless all developments currently in operation, and all future projects in California, of any size, were also required to reduce their emissions to below business as usual by the same percentage. The *Newhall Case* makes clear that this approach utilized in the IS/MND to achieve compliance with AB 32 is improper. The *Newhall Case* concludes that agencies cannot use the statewide GHG emission reduction percentage as the CEQA threshold to determine whether a specific project has significant GHG emissions.

As explained in the *Newhall Case,* there is currently "no substantial evidence that Newhall Ranch's project-level reduction of 31 percent in comparison to business as usual is consistent with achieving AB 32's statewide goal of a 29 percent reduction from business as usual..." As the *Newhall Case* explained in striking down the California Fish and Wildlife GHG analysis:

> "The Scoping Plan set out a statewide reduction goal and a framework for reaching it-a set of broadly drawn regulatory approaches covering all sectors of the California economy and projected, if implemented and followed, to result in a reduction to 1990-level greenhouse gas emissions by the year 2020. The plan expressed the overall level of conservation and efficiency improvements required as, among other measures, a percentage reduction from a hypothetical scenario in which no additional regulatory actions were taken. *But the Scoping Plan nowhere related that statewide level of reduction effort to the percentage of reduction that would or should be required from individual projects, and nothing DFW or Newhall have cited in the administrative record indicates the required percentage reduction from business as usual is the same for an individual project as for the entire state population and economy.* Plaintiffs put forward one ready reason to suspect that the percent reduction is not the same, and that in fact a greater degree of reduction may be needed from new land use projects than from the economy as a whole ... The administrative record does not establish a firm ground for the efficiency comparison the EIR makes and thus, for this reason as well, does not substantially support the EIR's conclusion that Newhall Ranch's 31 percent emissions savings over business as usual satisfies the report's significance criterion of consistency with the Scoping Plan's 29 percent statewide savings by 2020 ... The EIR simply assumes that the level of effort required in one context, a 29 percent reduction from business as usual statewide, will suffice in the other, a specific land use development."

As stated above, the Scoping Plan in no way related the statewide level of reduction to the percentage of reduction that would or should be required from individual projects, and nothing in the Newhall EIR or in the Hollywood Ivar Gardens IS/MND, indicates that the required percent reduction from business as usual is the same for an individual project as for the entire state population and economy. The lead agencies for the *Newhall Case* and the Hollywood Ivar Gardens Project improperly used the statewide percent goal as its sole criterion of significance for GHG emissions. The *Newhall Case* makes clear that the Project may in fact have to do far better. As such, the City must identify an acceptable method of compliance with CEQA and AB 32 for the Project's GHG emissions, and must determine a Newhall-compliant alternative threshold for the Project-specific GHG emissions.

RESPONSE TO COMMENT 3.4

The Commenter incorrectly claims that the MND analysis employed a BAU methodology that was based on CARB's statewide GHG reduction goals as a project specific threshold of significance. This type of BAU methodology was the subject of a recent California Supreme Court, which found that the GHG methodology in the Newhall Ranch EIR was not appropriate as the EIR failed to relate the statewide GHG reduction goals across all sectors of the economy to the proposed project's emissions. The MND does not employ the same methodology used in the Newhall Ranch EIR and in fact does not employ a quantified threshold for determining significance. As stated on page III-49 of the MND, for purposes of the GHG analysis, the threshold of significance was based on a qualitative analysis of the Proposed Project's consistency with the applicable policies and/or regulations outlined in the Scoping Plan, SB 375, SCAG's 2012-2035 RTP/SCS, and the LA Green Building Code. The methodology employed in the MND is consistent with one of several suggested approaches that were outlined by the Supreme Court in the Newhall Ranch case. The Project's GHG emissions were quantified and compared with a scenario of a base project without GHG reduction measures for the purposes of demonstrating the reduction in GHG emissions that would occur as a result of the Project's specific design features. The demonstrated reduction in GHG emissions was not applied to a numeric threshold of significance. The analysis in the MND quantified the reduction in GHG emissions that would occur as a result of the project's consistency with the regional growth strategies outlines by SB 375 and SCAG's 2012-2035 RTP/SCS, and compliance with the LA Green Building Code, which mandates specific efficiency standards for new construction for informational purposes to demonstrate the benefits of the project's consistency with these plans and regulations. The commentor's assertion that the MND employed a methodology that was similar to the analysis used in the Newhall case, which was subsequently struck down by the Superior Court, is simply incorrect.

COMMENT 3.5

Failure to Demonstrate Consistency with Executive Order B-30-15

The IS/MND's reliance on a statewide reduction goal for 2020 to determine Project significance is also fundamentally flawed because it is inconsistent with, and fails to take into account, the revised, more ambitious GHG reduction goals set by Governor Brown by Executive Order B-30-15. Governor Brown issued an executive order to establish an even more ambitious GHG reduction target. Executive Order B-30-15 requires emissions reductions above those mandated by AB 32 to reduce GHG emissions 40 percent below their 1990 levels by 2030. 1990 statewide GHG emissions are estimated to be approximately 431 million MTCO2e (MMTCO2e). Therefore, by 2030 California will be required to reduce statewide emissions by 172 MMTCO2e (431x 40%), which results in a statewide limit on GHG emissions of 259 MMTCO2e. 2020 BAU levels are estimated to be approximately 509 MMTCO2e. Therefore, in order to successfully reach the 2030 statewide goal of 259 MMTCO2e, California would have to reduce its emissions by 49 percent below the BAU levels.

This 49 percent reduction target, once adjusted for use at the project-level, should be considered as a threshold of significance against which to measure Project impacts. Because the Project site is unlikely to be redeveloped again prior to 2030, the 2030 goals are applicable to any evaluation of the Project's impacts. A DEIR should be prepared to demonstrate the Project's compliance with these more

aggressive measures specified in Executive Order B-30-15. Specifically, the Project should demonstrate, at a minimum, a reduction of 49 percent below BAU levels. It should be noted, however, that this reduction percentage is applicable to statewide emissions, not project-specific emissions. Therefore, this percent reduction may be higher when scaled down to the project-level.

RESPONSE TO COMMENT 3.5

The Commenter originally misinterprets and disagrees with the methodology used in the GHG emissions analysis in the MND, as discussed in COMMENT 2.19. Here, the Commenter proceeds with erroneous assertions that the targeted GHG reduction goals should be based on 2030 statewide goals instead of 2020 goals. As documented in the Newhall Ranch case, the Supreme Court ruled that applying the statewide GHG reduction goals to a specific development project was inappropriate without substantiating how the statewide goals relate to a project's GHG emissions. The Supreme Court found that while this approach could be used (if the percent reduction applied to a project was substantiated based on the statewide emission goals), the use of a BAU methodology was not recommended. This Commenter's argument is contradictory by disagreeing with a misinterpreted methodology and then provides values that the MND should have incorporated for that methodology. Nevertheless, the MND did not apply the BAU comparison methodology in the greenhouse gas emissions section, and applying a BAU level was not necessary for the MND analysis.

COMMENT 3.6

Incorrectly Estimates Percent Reduction Between BAU and As Proposed Scenarios

Finally, even if we were to assume that the use of a BAU comparison method to determine Project significance is correct, the 46 percent reduction provided within the IS/MND was incorrectly derived. A correct BAU analysis compares the emissions that would be generated by the Project in the absence of any GHG reduction measures (BAU scenario) to the emissions that would be generated by the Project when GHG reduction measures are included (As Proposed scenario), and then compares this percent reduction to an applicable threshold. However, this 46 percent reduction also accounts for the emissions generated by the existing land uses currently operating on-site, and is derived by subtracting the existing emissions from the As Proposed emissions to determine a percent reduction from BAU, which is entirely incorrect. Furthermore, the calculations used to estimate the Project's BAU and As Proposed GHG emissions are incorrect and do not reflect what is specified by CARB. As a result, the Project's GHG impacts are inadequately evaluated, and the analysis provided in the IS/MND should not be relied upon to determine the Project's GHG impact.

AB 32 requires California to reduce its statewide GHG emissions to 1990 levels by 2020 under a BAU scenario. In order to demonstrate compliance with AB 32 and the associated Scoping Plan using this method, the IS/MND should have established a BAU scenario that they compared to the Project's As Proposed emissions. The IS/MND's BAU analysis, however, also accounts for the emissions generated by the existing land uses currently operating on-site, and then compares this 46 percent reduction to the statewide reduction goal for 2020. Accounting for existing on-site emissions, however, is entirely incorrect, and should not be included when assessing the percent reduction in GHG emissions between

the BAU and As Proposed scenarios. When the Project's existing on-site emissions are not included within the analysis, we find that the Project would achieve a 13 percent reduction in GHG emissions between BAU and As Proposed scenarios (see table below) (p. III-51).

Assuming that comparing a project's emission reductions to the statewide reduction goal set forth by CARB and AB 32 is correct, the Project's GHG reduction of 13 percent would not meet the 15 percent reduction required by AB 32 to reduce statewide emissions to 1990 levels by 2020. As a result, when using IS/MND's methods correctly, we find that the Project would have a significant GHG impact, as it would not meet the required statewide reduction target for 2020, contrary to the significance determination made within the IS/MND.

RESPONSE TO COMMENT 3.6

This comment addresses a suggested approach to analyzing the Project's emissions under a BAU methodology. As noted in response to comments 2.19 and 2.20, above, the BAU methodology was not employed in the MND's GHG analysis. Because the BAU methodology was not employed in the MND, no specific response to the application of the BAU approach is necessary or warranted.

COMMENT 3.7

Not only does the IS/MND incorrectly account for existing emissions within its analysis, but it also incorrectly models both the BAU and the As Proposed scenarios' emissions. According to the modeling output files, found in Appendix D of the IS/MND, the operational year for the "As Proposed" scenario was 2018, not 2020 (pp. 19). By modeling the "As Proposed" emissions under a 2018 operational year, the Project's GHG emissions cannot be directly compared to the GHG reduction target for 2020, as specified in CARB's Scoping Plan. CARB calculated the GHG reduction target by comparing the forecast of 2020 emissions in a BAU scenario (i.e. 509 MMTCO2e) to the 2020 emissions limit (i.e. the 1990 emissions limit of 431 MMTCO2e). Therefore, in order to be consistent with the methods used by CARB to determine the reduction target, the "As Proposed" scenario should be modeled under a 2020 operational year.

Furthermore, the GHG emissions from the BAU scenario were also incorrectly modeled. According to the modeling output files, found in Appendix D of the IS/MND, the operational year for the "BAU" scenario was also 2018, not 2020 (pp. 19). By modeling the "BAU" emissions under a 2018 operational year, the Project's GHG emissions cannot be directly compared to the GHG reduction target for 2020, as specified in CARB's Scoping Plan. As a result, the emissions estimated within the IS/MND and the resultant estimated emissions reductions should not be relied upon to demonstrate compliance with AB 32 and CARB's Scoping Plan at a project level.

Based on CARB's definition, the forecast of 2020 GHG emissions in a BAU scenario is an estimate of the emissions expected to occur in the year 2020 if none of the foreseeable measures included in the *First Update to the Climate Change Scoping Plan* (CARB) May 2014 (Scoping Plan) were implemented (see Page 92, 6th paragraph of *First Update to the Climate Change Scoping Plan - May 2014).* CARB also defines BAU to mean "the normal course of business or activities for an entity or a project before

the imposition of greenhouse gas emissions reduction requirements or incentives." The California Air Pollution Control Officers Association (CAPCOA) acknowledges that the BAU scenario is the estimate of emissions that would occur in the absence of measures to reduce emissions. CAPCOA goes on to further state that BAU is the projection of GHG emissions at a future date based on current technologies and regulatory requirements in absence of other reductions. Therefore, the BAU scenario should reflect emissions that would be generated by the Project in the absence of AB 32, which is effectively a 2005 year emissions profile, since AB 32 was adopted in 2006. Use of 2005 year emission factors, carbon intensity, and Title 24 energy usage for each land use type, from a greenhouse gas standpoint, is appropriate since these factors would reflect what would happen in 2020 if the measures specified in the Scoping Plan were not implemented. By applying the reduction percentages directly to the 2018 emissions estimates, as is conducted in the IS/MND, the BAU scenario is inaccurately represented.

RESPONSE TO COMMENT 3.7

This comment addresses a suggested approach to analyzing the Project's emissions under a BAU methodology. As noted in response to comments 2.19 and 2.20, above, the BAU methodology was not employed in the MND's GHG analysis. Because the BAU methodology was not employed in the MND, no specific response to the application of the BAU approach is necessary or warranted.

COMMENT 3.8

Updated Greenhouse Gas Analysis Demonstrates Significant Impact

As previously discussed, the use of a BAU comparison method to determine the Project's GHG impacts is entirely flawed. Rather, the IS/MND should have utilized a screening threshold, such as the one provided by the SCAQMD of 3,000 metric tons of carbon dioxide equivalents per year (MTCO2e/year). When we utilized this threshold, rather than the incorrect BAU method used in the IS/MND, we find that the Project's GHG emissions would result in a significant impact. As such, additional feasible mitigation should be applied to the Project in an effort to mitigate the Project's GHG emissions to the maximum extent possible.

When the emissions estimated in the IS/MND's model are compared to this threshold, we find that the Project's GHG emissions, alone, would exceed the SCAQMD 3,000 MTCO2e/year threshold. The IS/MND's annual emissions demonstrate that construction of the Project would generate 21 MTCO2e per year (when amortized over 30 years) and operation of the Project would generate 3,081 MTCO2e per year (Table IV-9, p. III-53). When the Project's amortized construction emissions and operational emissions are combined, we find that the Project's GHG emissions would exceed the SCAQMD's screening threshold of 3,000 MTCO2e per year (see table below).

Our analysis demonstrates that construction and operation of the proposed Project would result in a significant GHG impact. Therefore, per SCAQMD guidance, in order to reduce the Project's GHG emissions to a less than significant level, all available, feasible mitigation should be applied to the Project in an effort to mitigate the Project's GHG emissions to the maximum extent possible. Until all feasible mitigation is implemented by the lead agency and the Project's GHG emissions are effectively

reduced to the maximum extent possible, the Project's GHG impacts cannot be deemed less than significant.

RESPONSE TO COMMENT 3.8

The SCAQMD screening threshold of 3,000 MTCO2e/year referenced in this comment was addressed in the MND on page III-48. As noted in the MND, the SCAQMD Governing Board adopted the staff proposal for an interim GHG significance threshold for stationary source/industrial projects where SCAQMD is lead agency. However, SCAQMD has yet to formally adopt a GHG significance threshold for residential and/or commercial projects. Because this threshold was not formally adopted by the SCAQMD it was not utilized as a threshold for determining significance in the MND. However, it should be noted that even if the MND were to apply this threshold, the Project's impacts would be below the 3,000 MTCO2e threshold after accounting for the existing land uses that would be displaced. As shown in Table III-8 of the MND, the Project's net operational GHG emissions would be 1,921.34 MTCO2e/year.

COMMENT 3.9

Hazards and Hazardous Waste

Environmental Sampling is Necessary

The MND identifies prior uses at the Project site, including a dry cleaner and a gas station that may indicate unhealthful conditions to construction workers, hotel guests, and hotel workers. Chemicals commonly associated with dry cleaners include tetrachloroethylene (PCE), a likely human carcinogen. Chemical contamination associated with gas stations includes benzene, a known human carcinogen.

Hotel guests and hotel workers at the Project site may be exposed to these contaminants through a process known as vapor intrusion whereby these compounds, in soil or groundwater, move through vapor and concentrate in indoor air of buildings above. Construction workers may be exposed by touching contaminated soil or breathing vapors during excavation, grading and trenching.

The MND includes a summary of the 1986 Los Angeles Regional Water Quality Control Board closure of a gas station at the Project site. The MND states that the Phase I ESA, completed in support of the Project (Appendix E), concluded (p. III-55): "the Project Site presumably met the commercial/industrial standard at the time the case was closed. Therefore, the Phase I ESA did not find a recognized environmental condition (REC) in connection with the property in relation to the presence of a Texaco previously occupying the Project Site."

A DEIR needs to be prepared to include environmental sampling results, including those for soil vapor, for PCE and benzene, two carcinogenic chemicals typically associated with former land uses. The DEIR also needs to include an evaluation of any soil contamination that may pose a risk to construction workers. To conduct such an evaluation, the DEIR should compares [sic] soil sampling results to construction screening levels established by the San Francisco Bay Regional Water Quality Control

Board.

Investigation for a Gas Station is Insufficient to Determine Impacts from Dry Cleaners

The MND attempts to dismiss potential residual impacts from the former dry cleaners by referencing the investigations conducted for the former gas station as sufficient to indicate whether a release from the dry cleaning operations occurred. Investigation techniques are quite different for the two types of facilities. Gas station investigations are focused on releases of petroleum compounds at locations where underground storage tanks are located. In contrast, dry cleaner investigations focus on sampling for the compound PCE in locations where it may have leaked through cracks in the concrete flooring or was dumped outside.

The MND states (p. III-55): "there have been various subsurface investigations conducted on the Project Site and it received case closure from the RWQCB, as mentioned above. Thus, the Project Site presumably met the standard at the time, indicating the solvents used for the Hollywood Laundry did not contaminate the groundwater and soil or were remediated."

This is a not based in fact. The MND admits: "the Phase I ESA was unable to obtain information regarding the sampling activities conducted on the Project Site to determine if the Project Site was monitored/sampled for contamination during former groundwater/vapor monitoring activities. As a result, the most recent levels of contamination from the Texaco and the Hollywood Laundry at the Project Site are unknown."

The MND simply assumes that a gas station investigation would have yielded sampling results for PCE in soil and groundwater "indicating the solvents used for the Hollywood Laundry did not contaminate the groundwater and soil or were remediated." This is an assumption that is inappropriate given the site history as a dry cleaner and the use and potential release of PCE, a likely human carcinogen to the subsurface. It is also inappropriate because the site has only been investigated for gas station closure and sampling results were not available for the Phase I consultant to review.

Mitigation is Inadequate

Knowing that the facility may be contaminated by a former gas station and a dry cleaner, the MND defers any investigation and potential cleanup until after certification and under Los Angeles Fire Department authority. This is inappropriate because: (1) conditions at the site, which may include soil, soil vapor and groundwater contamination with carcinogens benzene and tetrachloroethylene, are not disclosed; and (2) The Los Angeles Fire Department is not capable of providing oversight of conditions where groundwater contamination exists and requires the assessment of human health risks.

(1) Conditions are not disclosed

No sampling of soil, soil vapor and groundwater was conducted for the Project. A DEIR needs to be prepared for the Project that includes the results of environmental sampling. This is important not only to allow for review of soil, soil gas and groundwater data but also to identify

any impacts that may be related to the cleanup of contamination. Such impacts may include the need for offsite disposal and transport of contaminated soil, the treatment of contaminated soil vapor, and dewatering and treatment of contaminated groundwater.

RESPONSE TO COMMENT 3.9

The Commenter is concerned that the historical land uses on the Project Site would pose an increased health hazard to upon construction workers and future hotel guests and workers. However, as disclosed in the MND, various subsurface investigations were conducted on the Project Site and received case closure notices from the RWQCB in 1986. The Phase I ESA noted that any contamination from the dry cleaning service would have been present during the gas station subsurface investigation. Because the case closed in 1986, there are no recognized environmental conditions (RECs) in connection with the historical uses on the Project Site. The MND analysis concluded that the Project's Phase I ESA did not find any REC's in connection with the Project Site due to case closure from the RWQCB in regards to the previous gas station and the lack of any contamination history or violations from the previous laundry facility. Although the specific data logs and monitoring surveys that were referenced in the RWQCB's closure report documentation were unavailable, the fact that closure reports were issued for the site support the conclusion that the site was remediated to an acceptable level. Nevertheless, the Proposed Project would incorporate Mitigation Measure HAZ-1, which requires approval and sign-off from the Fire Department indicating that all on-site hazardous materials have been remediated. The Proposed Project did not defer an impact to a mitigation measure as it is anticipated that the soils to be excavated are clean and have already been remediated to the satisfaction of the RWQCB. Therefore, the Project Site does not warrant another subsurface investigation as any residual impacted soils identified during excavation would be subject to remediation under the review of the LADF.

COMMENT 3.20

(2) Fire Department is inappropriate agency for oversight

Mitigation Measure HAZ-1 tasks the Los Angeles Fire Department with certification that soil and groundwater contamination has been cleaned-up. The Los Angeles Fire Department is not an appropriate agency for this sign-off. A DEIR should be prepared to identify the California Department of Toxics Substances Control as the appropriate agency for oversight of the assessment and cleanup of site contamination.

Mitigation Measure HAZ-1 states:

> Prior to the issuance of any use of land, grading, or building permit, the applicant shall obtain a sign-off from the Fire Department indicating that all on-site hazardous materials, including contamination of the soil and groundwater, have been suitably remediated, or that the proposed project will not impede proposed or on-going remediation measures.

The Los Angeles Fire Department is designated by the State of California as a Certified Unified

Program Agency (CUPA). As such, the Fire Department is authorized to apply statewide standards to each facility within its jurisdiction that treats on site or generates hazardous waste, operates underground storage tanks or stores hazardous materials. The Fire Department refers sites with groundwater contamination to the Los Angeles Regional Water Quality Control District.

As stated at their website, the Los Angeles Fire Department uses its CUPA authority for UST investigation and cleanup where contaminants are found in soil only. The Fire Department is totally inappropriate to provide oversight where human health may be potentially at risk from soil, soil vapor and groundwater contamination from sources other than USTs, i.e., a dry cleaner.

The California Department of Toxics Substances Control is the appropriate agency to engage for oversight of the environmental assessment of the Project site. The California Department of Toxics Substances Control, in conjunction of the California Office of Health Hazard Assessment, is able to evaluate the sampling of soil and groundwater and to assess health risks, activities which must be completed prior to preparation of a DEIR.

RESPONSE TO COMMENT 3.20

The Project Site falls within the LAFD's jurisdiction and would need to file a chemical inventory to disclose hazardous materials stored, used or handled on site. The LAFD is the City's key agency in hazardous materials emergencies.[5] Pursuant to the 2010 California Fire Code Chapter 27: Hazardous Materials Categories and Permit Amounts, the LAFD is authorized to give written sign-off to the Applicant for land, grading, and building permits. The Fire Department is appropriately identified as the first local agency to verify that the soils encountered during construction are free of contamination. To the extent warranted the LAFD would consult with and refer the project contractor to the appropriate regulatory agencies based on the condition of the materials encountered.

[5] *Los Angeles Fire Department, HAZMAT, website: http://www.lafd.org/about/special-operations/hazmat, accessed July 2016.*

Attachment 4: Veneklasen Associates, *Technical Memorandum on Hollywood Ivar Gardens Initial Predictions of Construction Noise*, April 14, 2017

Veneklasen Associates
Consultants in Acoustics | Noise | Vibration | AV | IT | Security

April 14, 2017

Parker Environmental Consultants
23822 Valencia Boulevard, Suite 301
Valencia, CA 91355

Attention: **Shane E. Parker**

Subject: **Hollywood Ivar Gardens**
Intial Predictions of Construction Noise
VA Project No. 6763-001

Dear Mr. Parker,

INTRODUCTION

Veneklasen Associates (VA) was contracted by Parker Environmental Consultants to assess the potential impact of construction noise from the proposed Hollywood Ivar Gardens project located at 6407 Sunset Boulevard, Los Angeles, CA 90028. This assessment was conducted in order to assess the potential for noise and vibration impact at the nearby Los Angeles Film School (LAFS) to the east of the project site and at Grandmaster Records to the north of the project site. This construction noise assessment was conducted as an update to the Mitigated Negative Declaration (MND) issued for this project. Existing noise sources in the area consist mainly of automobile traffic on Sunset Boulevard and N Cahuenga Boulevard. The project location and receptor locations are shown in Figure 1.

A list of acoustical terms and their definitions is presented in Appendix A.

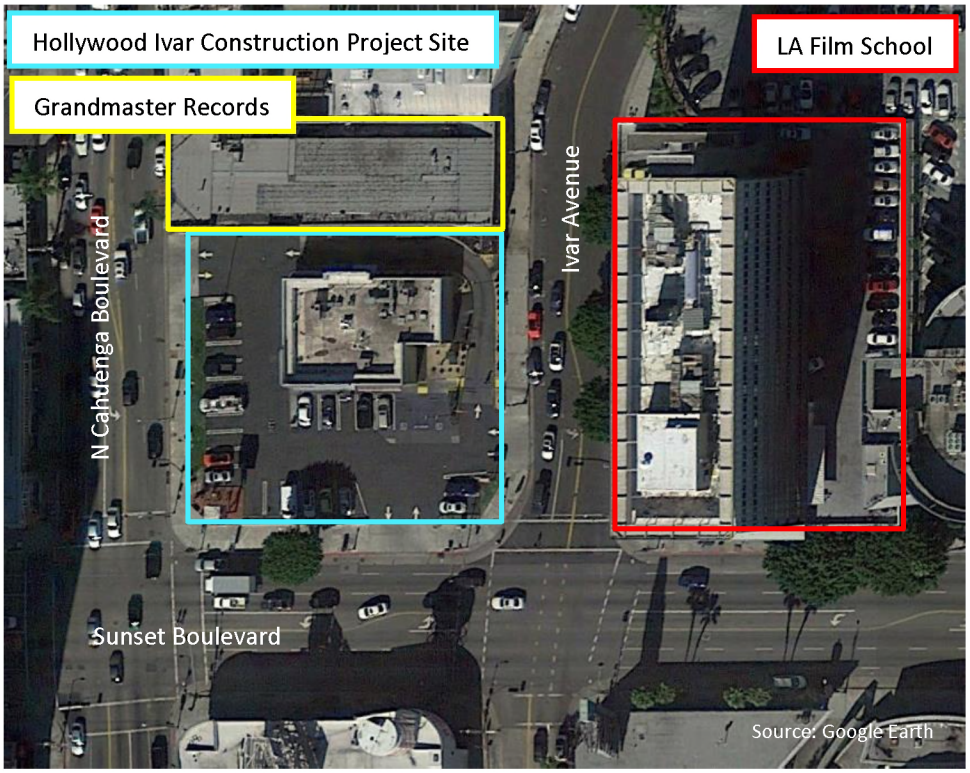


Figure 1. Project Site Location

NOISE CRITERIA

The California Environmental Quality Act (CEQ), passed in 1970, governs many aspects of environmental assessments for development and other projects, including noise and vibration. CEQA guidelines specify criteria for several aspects of noise and vibration, including noise and vibration levels due to vibration.

The City of Los Angeles CEQA Thresholds Guide (2006) specifies the threshold of significance for noise due to construction activity in Section I.1. On page I.1-3, in Section 2.A, it specifies that "[c]onstruction activities lasting more than 10 days in a three month period would exceed existing ambient noise levels by 5 dBA or more at a noise sensitive use" would exceed this threshold of impact. It is assumed that this noise level increase refers to noise levels at the exterior of the noise-sensitive receptor.

The City of Los Angeles Municipal Code specifies the measurement of ambient noise levels as a 15-minute average equivalent sound level (L_{eq}). Therefore, all sound levels in this report shall refer to the L_{eq} sound pressure level averaged over a period of 15 minutes.

NOISE PREDICTION AND MODELING

Noise exposure was modeled at three receptor points representing the most noise-sensitive representative locations in the vicinity of the project. The first receptor point is located directly north of the project site at the south façade of the Grandmaster Records building at a height of 5 ft above grade. The second receptor point is located outside the exterior-interior recording studio door at the LAFS to the east of the project site at a height of 5 ft above grade. The third receptor point is located at the exterior windows of the 1st floor of classrooms, approximately 5 feet above the roof of the parking area. Therefore, this receptor is located at approximately 38 feet above grade. The LAFS receptor points are placed approximately 5 feet from the façade of the building which is an acoustically reflective surface. The receptor point at Grandmaster Records was placed along the midpoint of the line between the Hollywood Ivar project site and the Grandmaster Records building façade. These receptor points are shown on Figure 2 of this report. Note that the LAFS receptor points are not able to be accurately seen on this aerial map due to the parallax of the buildings on the angle of the imagery.

Ambient noise levels were measured at four (4) locations around the project site as part of the MND study for this project. Noise levels were measured at each of the four corners of the project site, and primary noise sources included automobile traffic on N Cahuenga Boulevard and on Sunset Boulevard. Ambient noise levels at the LAFS for this assessment were predicted utilizing the measured ambient noise levels in the MND and their corresponding setback distances from major roadway noise sources. The average noise level on the southeast of the project site were measured to be 77 dBA (Site 3 in the MND) and the average noise level on the northeast of the project site, which is directly across from the LAFS parking structure, were measured to be 65 dBA (Site 4 in the MND). VA predicts the existing noise levels to be 70 dBA the most noise-sensitive areas of the LAFS.

Construction for the Hollywood Ivar Gardens project shall be split up into five (5) phases of construction. A list of construction equipment was specified for each phase of construction in the MND, which shall be used for noise and vibration calculations in this report. The reference sound pressure level for each piece of equipment was updated for this study utilizing data from both the Federal Transit Administration (FTA) Noise Guidance Manual and the Federal Highway Administration (FHWA) Construction Noise Handbook. Utilization factors for the prediction of average noise levels were assumed from equipment usage specified in the FHWA Construction Noise Handbook. A list of construction equipment utilized for each phase is shown in Table 1.

Table 1. Construction Equipment Reference Sound Levels

Phase	Equipment Type	Sound Pressure Level at 50ft (dBA)	Utilization Factor
Demolition	Concrete Industrial Saw	90	20%
	Rubber Tire Dozer	85	40%
	Tractor/Loader/Backhoe (2)	84-85	40%
Grading	Concrete Industrial Saw	90	20%
	Rubber Tire Dozer	85	40%
	Tractor/Loader/Backhoe (2)	84-85	40%
Building Construction	Crane	88	16%
	Forklifts (2)	85	50%
	Tractor/Loader/Backhoe (2)	84-85	40%
Paving	Cement and Mortar Mixers (4)	69-81	15%-40%
	Paver	86	50%
	Roller	78	20%
	Tractor/Loader/Backhoe	85	40%
Architectural Coating	Air Compressor	81	75%

Using the construction equipment reference sound levels and utilization factors presented in Table 1, overall average noise levels were predicted at a 50ft setback distance for each phase of construction. Overall noise levels are shown in Table 2 below.

Table 2. Overall Sound Level Predictions for Construction Phases

Phase	Sound Pressure Level at 50ft (dBA)
Demolition	87
Grading	87
Building Construction	88
Paving	89
Architectural Coating	80

As shown in Table 2, it is predicted that the paving phase of construction is predicted to generate the highest levels of noise throughout this construction project. Therefore, compliance with applicable noise guidelines and all mitigation strategies were evaluated and designed according to this phase of construction to ensure that the "worst-case" acoustical scenario was evaluated. A detailed list of construction equipment to be used for acoustical modeling purposes is shown in Table 3. Note that a range of concrete/mortar mixing/pumping equipment was selected to ensure that a range of construction equipment was evaluated.

Table 3. Paving Phase Construction Reference Noise Levels

Equipment Number	Equipment Type	Sound Pressure Level at 50ft (dBA)	Utilization Factor	Modeled Height (ft)
1	Concrete Batch Plant	83	15%	6
2	Concrete Mixer Truck	85	40%	6
3	Concrete Pump Truck	82	20%	6
4	Concrete Vibrator	76	20%	6
5	Paver	89	50%	6
6	Roller	85	20%	6
7	Front End Loader	85	40%	6

A proposed mitigation method for this project is the construction of a 16ft high noise barrier wall along the north and east side of the project area. This wall may be constructed of a solid plywood wall or draped sound blankets, and will have an operable gate for entry/exit to the site, which will remain closed at all feasible times. The proposed location of this noise barrier wall is shown in Figure 2.

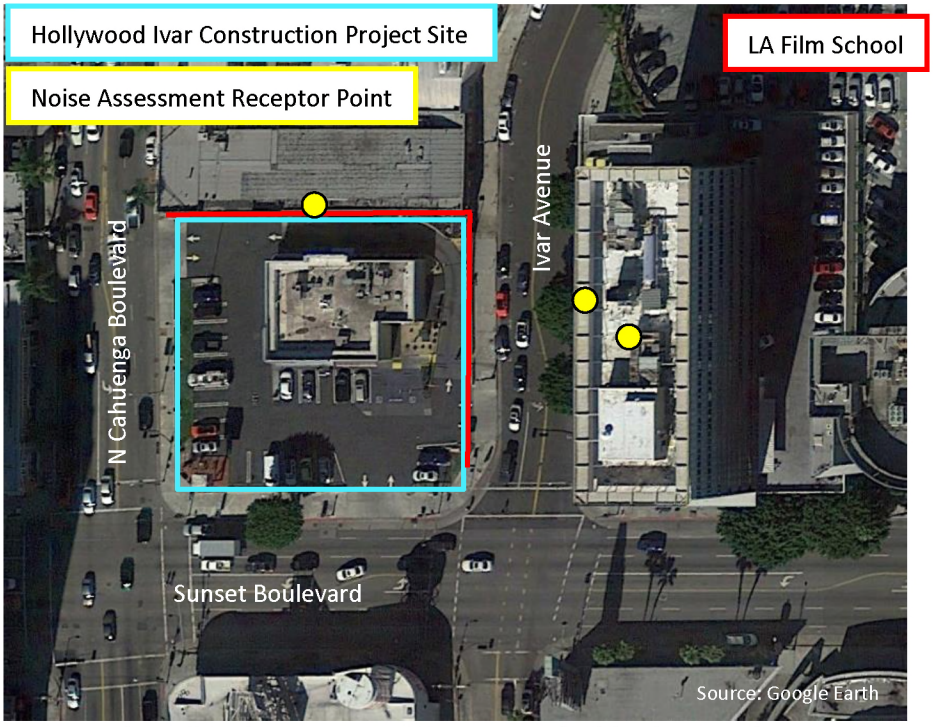


Figure 2. Noise Assessment Receptor and Mitigation Locations

In addition to the perimeter wall shown in Figure 2, temporary noise barriers were modeled on the interior of the project site. This temporary wall would be moved to stay close to the loudest noise generating equipment, depending on the predicted location of construction for a given time period. A temporary noise barrier was modeled at a setback distance of 10ft from construction equipment, at a height of 10 ft.

An acoustical model of the property was generated using Brüel and Kjær's Predictor V11.00. The selected calculation method for this project was LimA – International Organization for Standardization (ISO) 9613 1/2 to evaluate the effect of construction noise. Noise exposure was modeled as a 15-minute average with all listed equipment operating as shown in Table 3. Modeled noise measurement results are shown in Table 4

Table 4. Paving Phase Construction Noise Modeling Results

Receptor	Ambient Sound Level, L_{eq} (dBA)	Construction Noise Exposure, L_{eq} (dBA)			Future Predicted Sound Level[d], L_{eq} (dB)		
		No Sound Wall	16ft Wall	+10ft Temp. Wall[c]	No Sound Wall	16ft Wall	+10ft Temp. Wall[c]
Grandmaster Records	65[a]	86	67	67	86	69	69
LAFS Studio (Ground Floor)	70[b]	79	63	59	79	71	70
LAFS Classroom (1st Floor)	70[b]	68	68	65	72	72	71
LAFS Classroom (2nd Floor)	70[b]	77	77	70	78	78	73
LAFS Classroom (3rd Floor)	70[b]	78	78	70	79	79	73

[a] Ambient noise levels were measured as Site 4 of the MND.
[b] Ambient noise levels were calculated utilizing the measured noise levels in the MND and their various setback distances from the roadway traffic sources in the area.
[c] The case including a temporary sound wall also include the 16ft perimeter wall along the north and east of the project site.
[d] The "Future Predicted Sound Level" is equal to the sum of the ambient noise level and the construction noise exposure. This resultant sound level is that which would be measured by a sound level meter and perceived by the human ear.

As shown in Table 4, the installation of a perimeter 16 ft sound wall along the north and east of the project site will reduce construction noise exposure below the ambient noise levels at the LAFS Studio receptor. Although the sound wall does not block sound exposure to the upper floor classrooms, the existing shielding provided by the LAFS structure reduce noise levels at these receptors. Therefore, the resultant future sound level during construction will only be 1 or 2 dB higher (respectively) than the existing sound level at these receptors.

Inclusion of the temporary sound wall reduces construction noise levels significantly at upper floor classroom receptors, such that the noise exposure from construction activity is equivalent to the existing ambient sound levels at these receptors. Therefore, the noise level during construction at the 2nd and 3rd floor classrooms would only be 3 dB higher than the existing ambient noise level. For reference, a 3 dB increase generally represents a just-noticeable change in volume outside of a laboratory.

The transportation and removal of materials to and from a project site (hauling activity) can be an additional noise source considered for construction activity. It is estimated that up to 100 hauling trips per day can occur on the project site. Using this conservative estimation, it is assumed that 4 hauling trips occur in a 15-minute period. It is predicted that noise from hauling activity would increase the existing ambient noise levels in the area by a maximum of 0.5dB, which would be less than significant to the overall noise levels. Since the ambient noise levels in the area are already dominated by automobile traffic, this noise source would not introduce noises that are qualitatively novel to the environment.

VIBRATION PREDICTION

Prediction of vibration levels from construction activities is highly inexact due to the type of equipment used, depth of construction/demolition activity, soil conditions, construction of the receptor building, etc. Therefore, construction vibration levels cannot be accurately predicted without the utilization of detailed measurements in situ while construction equipment is operating. However, this project will not include pile driving activity which is known to generate the most severe vibration levels for construction projects. Construction equipment utilized for this project will not generate vibration levels high enough to cause damage to normally constructed buildings.

In order to assess the impact of vibration levels due to construction equipment, it is recommended that vibration measurements are conducted on the first day(s) of construction of each phase of construction, to verify that vibration levels will not exceed applicable standards.

NOISE AND VIBRATION MONITORING

It is recommended that a permanent noise monitor and vibration monitor be placed at the northeast corner of the project site for the duration of construction activity. These monitors will continuously measure on-site noise and vibration levels, and can be calibrated to provide an alert to contractors if noise or vibration levels exceed applicable standards. VA will provide guidance on the exact location and measurement parameters of these devices.

CONCLUSIONS AND DISCUSSION

Existing ambient noise levels and predicted future noise levels due to construction noise were predicted for this project. The threshold of significance for noise impact was evaluated using the guidelines specified in the City of Los Angeles CEQA Thresholds document.

Construction activity would persist for a significant length of time and would significantly increase the noise levels in the environment without the inclusion of noise mitigation. However, construction of a noise barrier wall around the perimeter of the project site would significantly reduce noise exposure from construction activity, below the threshold of significance for noise impact at ground floor receptors (up to and including the 1st floor of classrooms).

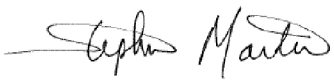
Perimeter noise barriers will be ineffective at reducing noise levels to upper floor classrooms at the LAFS, due to the upper floors having an unobstructed line-of-sight to construction activity below. To further reduce noise exposure to these upper story receptors, temporary sound walls/enclosures should be constructed around particularly noisy types of construction equipment, when feasible. This may not always be possible due to movable equipment, site access, etc. In general, temporary sound barriers should seek to completely block line-of-sight between the noise source and receptor, and should be placed as close to the noise source as possible. It is important to note that these temporary barriers should be constructed around the loudest equipment at a construction site, and installation around quieter types of equipment may not reduce the sound level if louder equipment is left unmitigated. VA will continue to consult on the construction and placement of temporary sound walls.

As shown in Table 4, all future noise levels are predicted to be less than 5 dB higher than existing noise levels with the inclusion of both perimeter sound walls and temporary noise barriers close to noise-generating equipment. Therefore, this project will be in compliance with applicable CEQA guidelines.

The noise barrier construction can utilize various materials, and can be constructed as a solid plywood wall or utilize acoustical blankets draped over fencing or other material. VA will provide guidance on the design of this wall prior to installation to ensure that it meets suitable insertion loss (noise reduction) standards for this project.

Please do not hesitate to contact us if you have any questions regarding the materials presented in this report.

Sincerely,
Veneklasen Associates, Inc.



Stephen A. Martin, Ph.D., P.E.
Associate Principal

Jack Briskie
Associate

APPENDIX A. DEFINITIONS OF ACOUSTICAL TERMS

Term	Definition
Decibel (dB)	A unit describing the amplitude of sound in a logarithmic ratio to a reference value.
A-weighted Decibels (dBA)	A filter applied to sound pressure levels in decibel to simulate the response of the human ear at the threshold of hearing. A-weighting de-emphasizes the low frequency components of a sound similar to the human ear at these levels. This metric has been closely tied to subjective reactions of annoyance to noise, and is used as a noise metric in this and in many other environmental acoustics reports. In this report, all dBA levels reported refer to the sound pressure level, referenced to 20µPa
Sound Pressure Level (L_p)	The amplitude of sound compared to the reference value of 20µPa. Sound Pressure Level is what we perceive as audible sound. Sound Pressure Level decreases as distance from the source to the receiver increases. All sound values discussed in this report refer to Sound Pressure Levels.
Equivalent Sound Level (L_{eq})	The time-weighted average sound or vibration level for a given period of time. Use of this metric allows the observation of the overall sound level for the measurement period.