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June 14, 2021

## **VIA ELECTRONIC MAIL**

Members of the City Council  
Los Angeles City Council  
200 North Spring Street  
Los Angeles, CA 90012

RE: 1309 - 1331 South Pacific Avenue, Case No. CPC-2019-4908-DB-SPR-1A;  
Environmental No. ENV-2019-4909-CE<sup>1</sup>

Dear Members of the City Council

This firm represents Citizens Protecting San Pedro. As we detailed in our appeal and our November 4, 2020 and June 1, 2021 Comment Letters on the proposed project, the City is improperly processing the proposed project using an Exemption from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, 15332, Article 19 (Class 32 Infill Development). This letter responds to the applicant's attorney's response to our appeal and further demonstrates that the proposed project is not eligible for a Categorical Exemption under CEQA. This letter is in addition to, and augments, comments submitted during the administrative process and information in the appeal justification previously submitted by Citizens Protecting San Pedro, and others. That information is incorporated herein by reference.<sup>2</sup>

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<sup>1</sup> Council file for this project available at:

<https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=20-0680>

<sup>2</sup> Public comments and the appeal justifications for this project are available in the project files located in the offices of the Department of Regional Planning and Los Angeles Department of Transportation, located at City of Los Angeles Department of City Planning 200 North Spring Street, Los Angeles, CA 90012, and in the Council file for this project available at:

<https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=20-0680>

The full project files are incorporated herein by reference.

## **I. THE PROJECT IS NOT ELIGIBLE FOR A CEQA CLASS 32 CATEGORICAL EXEMPTION**

Pursuant to CEQA Guidelines Section 15322(d), a project is not eligible for a Class 32 Exemption if it would “result **in any** significant effects relating to traffic, noise, air quality, or water quality.”

### **The Project Would Result in Significant Air Quality Impacts**

In response to our comments on the inaccuracy of the project description used in the Air Quality Analysis prepared for the project and the inaccuracies in the Project’s Air Quality Technical Report detailed in our Comment Letter, and the technical analysis prepared by SWAPE dated October 30, 2020 included as Attachment C1 to our November 4, 2020 Comment Letter, the applicant’s attorney has submitted a Memorandum by DKP attempting to rebut the substantial evidence we presented of the project’s potential to result in air quality impacts.

The environmental firm SWAPE has reviewed the DKP Memorandum and has prepared a rebuttal and further analysis which is included as **Attachment A** to this letter. As detailed by SWAPE in their May 28, 2021 analysis:

1. The Response’s revised modeling includes unsubstantiated input parameters, including unsupported individual construction phase lengths and worker trip numbers;
2. The Response fails to evaluate the Project’s operational health risk impacts;
3. The Report and Response fail to address potential cumulative impacts;
4. SWAPE’s revised CalEEMod model, which is based the Project-specific information provided by the Report and Response, indicates potentially significant construction-related criteria air pollutant emissions;
5. SWAPE’s revised health risk analysis, which is consistent with the methodology relied upon for the Response’s construction health risk analysis, indicates a potentially significant health risk impact; and,
6. The Response’s revised modeling indicates potentially significant greenhouse gas emissions.

As a result of project-specific modeling, SWAPE found potentially significant air quality and health risk impacts. Therefore, the proposed Project does not qualify for a Class 32 Exemption under the California Environmental Quality Act (“CEQA”) and 14 Cal. Code of Regs. 1500 et seq. (“CEQA Guidelines”) and, therefore, a full CEQA analysis should be prepared to adequately assess and mitigate the potential air quality and health risk impacts that the Project may have on the surrounding environment.

## **The Project Would Result in Significant Traffic Impacts**

In response to our comments on the inaccuracy of the project description used in the Traffic Analysis prepared for the project, and the inaccuracies in the Project's Technical Report detailed in our Comment Letter, the applicant's attorney has submitted a Memorandum by Linscott, Law & Greenspan (LLG) dated April 15, 2021 attempting to rebut the substantial evidence we presented of the project's potential to result in traffic impacts. The LLG memo includes the VMT analysis required by CEQA and the City, which was not prepared for the proposed project until we commented on its absence. This illustrates why a Mitigated Negative Declaration or Environmental Impact Report should have been prepared for the project to facilitate public review and comment on the project and the CEQA studies. Such review is necessary to ensure the accuracy of the environmental studies for the proposed project and to ensure that appropriate mitigation is provided for significant impacts. Such review has been inhibited by the City's improper use of a Categorical Exemption for the proposed project.

The LLG memo also notes that we are correct when we pointed out inconsistencies in the project description between studies and that staff report. We again note that an accurate and stable project description is the "sin qua non" of legally adequate environmental document.

Infrastructure Group, Inc. has now reviewed the proposed project Site Plan and the Traffic Study and has found them to be flawed, as detailed in **Attachment B** of this comment letter. Issues include: the fact that the Traffic Study treated the existing buildings as occupied, when in fact they are vacant, and took an inappropriate trip credit; the Traffic Study's inadequate cumulative impact analysis due to a failure to include all cumulative projects in the analysis; the inappropriate use of tandem parking; defects in the submitted site plan; the project's inability to comply with the requirement for the provision of Case 2 driveways; and the proposed project's failure to comply with the transitional height requirements of the San Pedro CPIO Section IV-2.A.3(a).

In Response to Comment 3 – LLG attempts to excuse taking a trip credit for long vacant uses on the project site, by stating that Traffic Study MOU for the project was executed with LADOT on July 26, 2019 and that a project can claim trip credits for an existing use if it has been occupied for at least six consecutive months within the past two years.<sup>3</sup> However, as noted by Infrastructure Group in their review included in **Attachment B**, the nightclub La Zona Rosa, which was located at 1331 South Pacific Avenue has been closed since at least 2014. A Certificate of Cancellation was issued June 25, 2014 by the Secretary of State, well before the start of the Traffic Study, and is attached to Infrastructure Group's memo included as **Attachment B** to this letter. 1309 South Pacific Avenue was offered for sale February 28, 2018 and was offered for lease as of October 11, 2018.<sup>4</sup> Furthermore, the site plan review findings on page F-2 indicate the: "project is for the construction of a new mixed-income multi-family residential development on an underutilized site that includes **3 vacant** commercial structures."<sup>5</sup>

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<sup>3</sup> No citation for this contention has been provided.

<sup>4</sup> <https://www.loopnet.com/property/1309-S-Pacific-Avenue-San-Pedro-CA-90731/06037-7454026011/>

<sup>5</sup> See Council File: [https://clkrep.lacity.org/onlinedocs/2020/20-0680\\_misc\\_2\\_06-01-2020.pdf](https://clkrep.lacity.org/onlinedocs/2020/20-0680_misc_2_06-01-2020.pdf)  
<https://planning.lacity.org/pdiscaseinfo/document/MjI5NjY30/46e6f77e-051c-4e11-ad6d-6ce8558211cd/pdd>

(Emphasis added). The Traffic Study thus improperly took credit for a long shuttered 2,400 SF warehouse and a 4,000 light industrial building.

In our prior Comment Letter dated November 4, 2020, we demonstrated that the proposed project would result in a significant neighborhood intrusion impact due to the increase in ADT on 14<sup>th</sup> Street, which is the street on which project access is located. The City has defined the following significance thresholds for neighborhood intrusion impacts on page L.4-2 of the City's Complete Threshold Guide<sup>6</sup>:

#### A. Significance Threshold

A project would normally have a significant neighborhood intrusion impact if project traffic increases the average daily traffic (ADT) volume on a local residential street in an amount equal to or greater than the following:

ADT increase  $\geq 16\%$  if final ADT\*  $< 1,000$   
ADT increase  $> 12\%$  if final ADT\*  $> 1,000$  and  $< 2,000$  ADT increase  
 $> 10\%$  if final ADT\*  $> 2,000$  and  $< 3,000$  ADT increase  $> 8\%$  if final ADT\*  
 $> 3,000$

\* "Final ADT" is defined as total projected future daily volume including project, ambient, and related project growth.

14<sup>th</sup> Street is residential as evidenced by both zoning and existing uses (see Attachment A to our November 4, 2020 Comment Letter). As detailed in our November 4, 2020 Comment Letter, the project trip distribution shows 45 percent of project traffic using the segment of 14<sup>th</sup> west of the project access and east of Grand Avenue. Since existing plus project ADT on the segment would be less than 1,000 ADT, an impact would occur if project ADT represents more than 16% of future with project ADT. As detailed in our November 4, 2020 Comment letter, project ADT would represent a 24.8 percent increase in ADT. The project would thus result in a significant neighborhood intrusion traffic impact, according to the City's Complete Threshold Guide.

LLG acknowledges that 14<sup>th</sup> Street is a Local Street, but attempts to dismiss this significant traffic impact, by arguing in their Response to Comment 8 that:

The intent of the City's neighborhood street segment analysis and associated thresholds was not to preclude residential projects from being developed on designated Local/residential roadways, but rather the criteria was developed and intended to assess the potential increases in cut-

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<sup>6</sup> Available at: <https://planning.lacity.org/eir/CrossroadsHwd/deir/files/references/A07.pdf>

through vehicle trips associated with larger commercial projects, and measure the “diversion” of commercial project-generated vehicle trips through residential areas due to congestion levels on arterials. Thus, the neighborhood street segment analysis criteria does not apply in this circumstance since a residential project proposed on a local residential street has a right to project access. Therefore, the analysis and conclusions provided within this comment are not applicable and no further analysis is required.

However, LLG’s contention is not supported by the explanation of neighborhood intrusion impacts in Section L.4 of the City’s Complete Threshold Guide<sup>7</sup> and included in **Attachment C** to this letter. First, the point of conducting an analysis is not to preclude any particular type of project; the point is to ensure that impacts are properly mitigated. Nowhere in the instructions for preparing a neighborhood intrusion analysis does the City’s Complete Threshold Guide indicate that the requirements for a neighborhood intrusion analysis do not apply to residential projects. The potential for a significant traffic impact in the form of a neighborhood intrusion impact remains and the proposed project is therefore not eligible for Class 32 Exemption.

In our November 4, 2020 Comment letter, we documented the need for an analysis of the project’s impacts on the unsignalized intersections that would be affected by project traffic. We noted that the need for such an analysis was important due to project traffic turning movements to and from 14<sup>th</sup> Street and Pacific Avenue, given that Pacific Avenue is located on the High Injury Network and is both part an identified pedestrian district and bicycle network, which are unusual circumstance. The additional project-generated traffic through this intersection thus has the potential to increase accident risk at this location and to result in both intersection and safety impacts. LLG has attempted to dismiss the need for such an analysis because the project is a residential project taking access from a residential street. However, the use-type does not change the potential for impacts due to project generated traffic. Traffic is traffic. All of the project traffic will travel through the unsignalized intersections at 14<sup>th</sup> and Pacific Avenue or 14<sup>th</sup> and Grand Avenue. The proposed project changes both site access and increases trip making from the project site. However, no analysis of the impact of the project on the functioning and safety of these two unsignalized intersections was addressed in the Traffic Analysis for the project. The potential for significant unsignalized intersection impacts remains. The proposed project is not eligible for a Class 32 Exemption.

### **The Project Would Result in Significant Noise Impacts**

RK Engineering Group, Inc. (RKE) has prepared a Noise Impact Review for the proposed project. The RKE Noise Impact Review is included as **Attachment D** to this letter. As detailed in the RKE Review, there are a number of problems with the Noise Study for the project, which render its conclusions unsupported by substantial evidence. According to RKE:

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<sup>7</sup> Available at: <https://planning.lacity.org/eir/CrossroadsHwd/deir/files/references/A07.pdf>  
See pages L-4-1 to L-4 which are included in Attachment C.

(S)everal inaccuracies and omissions have been found within the analysis of potential environmental noise impacts from the 1309-1331 South Pacific Avenue project. Given the substantial amount of construction and excavation activities that are proposed to take place, the new rooftop HVAC equipment, and the close proximity to adjacent homes and sensitive receptors, the project would cause a significant impact to noise. Hence, the project should provide additional CEQA review and mitigation to reduce impacts to the maximum extent feasible.

The Noise Study asserts that construction best practices can reduce noise levels by 20 dBA. This assumption is entirely unsubstantiated and practically infeasible. This much noise reduction would not be expected even with the most substantial physical barriers that shield adjacent sensitive receptors from line of sight of construction activity. Given that the project will construct a 4-story/45-foot high building, it would be practically infeasible to build a screening wall high enough to block that much construction noise. Adjacent sensitive residential buildings are also multiple stories high, thus further reducing any potential noise reduction from line of sight screening.

The proposed project would result in significant construction noise impacts. It is therefore not eligible for a Class 32 Exemption.

**The Project is Not Consistent with the Redevelopment Plan for the Project Area and Has Failed to Comply With Review Requirements for Projects in a Development Project Area**

City Ordinance 186,325<sup>8</sup> provides review procedures for project located within an active redevelopment plan area. The proposed project is located within the Pacific Corridor Redevelopment Plan area. The Pacific Corridor Redevelopment Area (Plan) was adopted in 2002 and does not expire until May of 2033.<sup>9</sup>

The project applicant has failed to comply with the Project Compliance Review requirements for projects within a Redevelopment Project area. The City did conduct an Administrative Review (dated 10/20/2020 – related to CPC-2019-4908-DB-SPR), however, that review was for a mixed-use development, which the proposed project is not (see **Attachment E**). On November 4, 2020 at the request of the applicant (October 27, 2020), Case No. DIR-2020-5031-RDP was withdrawn from further consideration (see **Attachment F**). No subsequent

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<sup>8</sup>Available at: [http://clkrep.lacity.org/online/docs/2013/13-1482-S3\\_ORD\\_186325\\_11-11-2019.pdf](http://clkrep.lacity.org/online/docs/2013/13-1482-S3_ORD_186325_11-11-2019.pdf)

“An ordinance adding Sections 11.13 and 11.5.14 and amending Sections 11.5.9 11.5.10, 12.04, 12.22, 12.24, 16.05, 16.11 and 19.01 of the Los Angeles Municipal Code (LAMC) to effectuate the transfer of land use related plans and functions of the former local Community Redevelopment Agency (CRA) to the City of Los Angeles pursuant to California Health and Safety Code Section 34173(i).”

<sup>9</sup> <https://planning.lacity.org/plans-policies/overlays/pacific-corridors>

application has been filed. The City has therefore not conducted the required review for a project which is located in a redevelopment project area.

LOS ANGELES CITY PLANNING

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### Case Summary & Documents

Case Number Ordinance Zoning Information CPC Cards ZA Cards

Case Number:  [Search](#) Format: AA-YYYY-1234 Example: ZA-2011-3269

**Case Number:** DIR-2020-5031-RDP  
**Case Filed On:** 08/25/2020  
**Accepted For Review On:**  
**Assigned Date:** 08/25/2020  
**Staff Assigned:** CONNIE CHAUV  
**Hearing Waived / Date Waived :** No  
**Hearing Location:**  
**Hearing Date :** 12:00 AM  
**DIR Action:** WITHDRAWN  
**DIR Action Date:** 11/04/2020  
**End of Appeal Period:**  
**Appealed:** No  
**BOE Reference Number:** 0  
**Case on Hold?:** Yes

**Primary Address**

Address	CNC	CD
1309 S PACIFIC AVE 90731	Central San Pedro	15

[View All Addresses](#)

**Project Description:** PROPOSED MIXED USE DEVELOPMENT IN THE COMMERCIAL DESIGNATED AREA OF THE PACIFIC CORRIDOR REDEVELOPMENT PLAN AREA.  
**Applicant:**  
**Representative:**  
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Approved Documents		Initial Submittal Documents	
1 Approved Documents found for Case Number: DIR-2020-5031-RDP			
Type	Scan Date	Signed	
Initial Actions ( 1 )			
Withdrawal Request Response Ltr	11/6/2020	Yes	<a href="#">View</a>

Screenshot 06/13/2020

As we noted in our June 1, 2021 letter, the proposed project would inhibit the City’s ability to comply with Section 33413 of the Health and Safety Code (HSC), which requires that:

(2) (A) (i) Prior to the time limit on the effectiveness of the redevelopment plan established pursuant to Sections 33333.2, 33333.6, and 33333.10 **at least 15 percent of all new and substantially rehabilitated dwelling units developed within a project area** under the jurisdiction of an agency **by public or private entities or persons other than the agency shall be available at affordable housing cost** to, and occupied by, persons and families of low or moderate income. Not less than 40 percent of the dwelling units required to be available at affordable housing cost to, and occupied by, persons and families of low or moderate income shall be available at affordable housing cost to, and occupied by, very low income households. (Emphasis added).

The project will result in the construction of 102 new dwelling units, only 12 of which will be affordable and reserved for Very Low-Income household occupancy for a period of 55 years. While this does represent 15% of base units, twelve units represents only 11.7% of the project’s **total** units and HSC 33413(2)(A)(i) requires that 15 percent of **all new dwelling units** developed by “public or private entities other than the agency” be affordable. The proposed project would thus inhibit the City’s ability to comply with this State law requirement.

The 15 percent requirement for private and agency developments is distinct from HSC 33413(b)(1)’s requirement that 30 percent of all new and rehabilitated units developed by an

agency be affordable. The One San Pedro Specific Plan project proposed by the Housing Authority of the City of Los Angeles (HACLA)<sup>10</sup> that would redevelop an existing 478-unit public housing complex known as “Rancho San Pedro” with a 1,390-unit, mixed-income project cited by the applicant’s attorney in their June 1, 2021 letter, would be a project developed by an agency<sup>11</sup> and would be subject to HSC 33413(b)(1) not HSC 33413(2)(A)(i). It therefore does not count against the HSC 33413(2)(A)(i) requirement.

## **Conclusion**

The proposed project would result in significant traffic and air quality impacts requiring mitigation, and therefore does not comply with CEQA Guidelines Section 15332(d), which precludes use of a Class 32 Exemption for projects that would result in significant effects relating to traffic<sup>12</sup>, noise, air quality, or water quality.

In addition, as detailed in our November 4, 2020 Comment Letter, the proposed project is not eligible for a Categorical Exemption pursuant to CEQA Guidelines Sections 15332(b) and 15332(c) due to both impacts associated with unusual circumstances and the potential for cumulative impacts. The City cannot act on the project until the appropriate environmental documentation has been prepared for the project.

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<sup>10</sup> The Housing Authority of the City of Los Angeles (HACLA) was established in 1938 by City of Los Angeles Resolution No. 1241.

<sup>11</sup> Per California Health and Safety Code Section 34173(i); “all land use related plans and functions of the former redevelopment agency are hereby transferred to the city, county, or city and county that authorized the creation of a redevelopment agency.” The Housing Authority of the City of Los Angeles (HACLA) was chartered by the state in 1938 as a result of the 1937 federal Public Housing Act. HACLA is a state-created agency operated by city officials under a cooperative agreement between state and city. The seven commissioners are appointed and removed by the mayor, with the appointment confirmed by the city council.

The Rancho San Pedro project would: demolish and replace the existing 478 public housing units; construct between 422 and 477 new affordable rental units; construct between 300 and 358 new market rate rental units; construct between 40 and 45 new affordable units for homeownership; and construct between 24 and 32 new market rate units for homeownership. Once approved, the development and construction of One San Pedro is anticipated to happen in 11 phases - and given relocation and financing constraints along with construction and infrastructure sequencing - over the course of up to 16 years following a three-year environmental review process. Construction activities are anticipated to occur from 2024 to 2037. Initial phases would focus on replacement and expansion of the aging housing stock with the later phases dedicated to expansion of affordable units, community amenities, and services. The opening year for the first constructed buildings is expected to occur in 2025. The One San Pedro project would thus result in a temporary loss of affordable housing in the San Pedro area and would not be completed until after expiration of the Pacific Corridor Redevelopment Plan.

NOP for One Sant Pedro Specific Plan available at: [https://files.ceqanet.opr.ca.gov/267047-2/attachment/tkSjIrxnq-csIOXLCCsEKb0xx1pEOB7wRax1ZII5MIJtS9fdVpEIZfe\\_ZMNj0hJbY\\_3UpN3qB30ms90P0](https://files.ceqanet.opr.ca.gov/267047-2/attachment/tkSjIrxnq-csIOXLCCsEKb0xx1pEOB7wRax1ZII5MIJtS9fdVpEIZfe_ZMNj0hJbY_3UpN3qB30ms90P0)

One Sant Pedro Specific Plan available at: <https://onesanpedro.org/wp-content/uploads/2020/03/FINAL-One-San-Pedro-Transformation-Plan-2.28.2020.pdf>

<sup>12</sup> See discussion in Section VI regarding the project’s potential to result in neighborhood traffic impacts.

I may be contacted at 310-982-1760 or at jamie.hall@channellawgroup.com if you have any questions, comments or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jamie T. Hall', written in a cursive style.

Jamie T. Hall

#### ATTACHMENTS

- A. SWAPE Comments on the 1309-1331 South Pacific Avenue Project (ENV-2019-4909-CE), dated May 28, 2021, Air Quality, Health Risk and Greenhouse Gases
- B. Infrastructure Group, Inc., Comments on The Traffic Study for 1309-1331 South Pacific Avenue, dated May 31, 2021
- C. Pages L4-1 to L4-4 L.A. CEQA Thresholds Guide – Neighborhood Intrusion Impacts
- D. RK Engineering Group, Inc., 1309-1331 South Pacific Avenue Noise Impact Review, dated April 14, 2021
- E. Development Project Area – Pacific Corridor – Administrative Review and Referral 1309-1331 S. Pacific Avenue
- F. City of Los Angeles Letter dated November 4, 2020 re Applicant's Withdrawal of Case No. DIR-2020-5031-RDP