Attachment D

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Subject: Responses to Appeal submitted by Doug Haines on the HPMC Building Project Addendum, Case Numbers: APPCC-2020-1764-SPE-SPP-SPR and ENV-2015-310-MND-REC1

Dear Mr. Hernandez,

Meridian Consultants has been providing environmental planning consulting services to public agencies and private sector clients throughout southern California for the past decade. Meridian's expertise includes preparation of a broad range of environmental documents to meet the requirements of the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). Our team has consistently been at the forefront of emerging issues, such as climate change and water supply sustainability, and we are regularly sought out for our CEQA and NEPA expertise and technical capabilities to address complex projects.

In addition, Meridian Consultants is on the City of Los Angeles Department of City Planning's list of consultants approved to provide Environmental Consulting Services for Development Projects in the City of Los Angeles. Our firm has prepared numerous environmental review documents, including Environmental Impact Reports (EIRs), Sustainable Community Environmental Assessments (SCEAs), Categorical Exemption Findings, Mitigated Negative Declarations (MNDs), Negative Declarations (NDs) and Addendums to NDs, MNDs and EIRs for a wide range of projects throughout the City.

Meridian Consultants assisted the Department of City Planning with the preparation of the HPMC Building Project Addendum (Case Number: ENV-2015-310-MND-REC1). Meridian has reviewed the appeal letter on this project that was dated December 6, 2021 from Doug Haines. The attached provides our responses to the points made in this appeal letter. As noted in the attached responses, no changes in the conclusions of the Addendum are merited in response to the appeal letter, and the points made in the letter are without merit.

Please contact me if you have any questions on these responses.

Sincerely,

Meridian Consultants LLC

Tony Locacciato, AICP
Partner

Comment No. 1 [p. 1, Introduction]

This is an appeal of the Central Area Planning Commission's October 26, 2021 approval to allow the addition of three floors of office space on top of a recently completed, 43-foot tall, 562-stall parking structure. The parking garage was previously approved in 2015 under Case Number DIR-2015-309-SPPA-SPP. The proposed new use would add 95,995 sq. ft. and 56 feet to the height of the new parking garage, for a total height of 96 feet, four inches.

The site is part of the 6-acre Hollywood Presbyterian Hospital campus, which lies in Subarea C of the Vermont/Western Transit Oriented District Specific Plan (also known as the Station Neighborhood Area Plan, or SNAP). The project received the following entitlements: 1) a Specific Plan Exception to all zero additional parking stalls in lieu of the 192 parking stalls otherwise required; 2) an Exception waiving the requirement for a Pedestrian Throughway; 3) a Project Permit Compliance Review; 4) a Site Plan review; and 5) an Addendum to the original project's 2015 Mitigated Negative Declaration (MND).

As noted, in 2015 the applicant received approval to construct a 654-stall parking structure on the site (subsequently reduced to 562 stalls). In 2016, the applicant further received approval under Case Number DIR-2016-3207-SPP-SPR to develop an 85-foot-tall, 5-story, 134,750 sq. ft. hospital addition, for a total development of the hospital campus of 784,356 sq. ft. The applicant then requested and received approval in 2018 under Case Number DIR-2017-5247-SPP for the demolition of two 100-year-old duplexes and a change of use from residential to ancillary parking in order to develop a 20-stall surface parking lot.

All of these cases involved separate Mitigated Negative Declarations (MND) for environmental review, resulting in improper piecemeal development of the Hollywood Presbyterian Hospital campus, in violation of the California Environmental Quality Act (CEQA) requirement that analysis be of the "whole of the action." The applicant now seeks to further evade CEQA for the proposed office development by utilizing an addendum to the 2015 MND for the parking garage. Furthermore, the city has improperly granted the applicant two exceptions to the requirements of the specific plan that fail to meet the necessary findings of hardship, in addition to inadequate findings for site plan review and project permit compliance review. The approvals must therefore be reversed, and proper environmental review be conducted within an environmental impact report (EIR).

Response to Comment No. 1 [p. 1, Introduction]

In this comment, Appellant introduces the Project and other separate and independent projects for which the Hollywood Presbyterian Medical Center ("HPMC") has sought approval from the City. Subsequently, Appellant argues that HPMC has engaged in piecemealing and argues that environmental review must be conducted via an environmental impact report ("EIR"). These and other points will be addressed in detail in subsequent responses.

Comment No. 2A [p. 2-3, Section I]

1. THE CITY'S FINDINGS DO NOT JUSTIFY AN EXCEPTION ALLOWING ZERO PARKING STALLS IN LIEU OF THE 192 PARKING STALLS REQUIRED

The Hollywood Presbyterian Hospital site contains a total of 784,356 sq. ft. of medical buildings. The total number of parking stalls currently serving the hospital campus is 1,346 spaces in two parking structures and a surface parking lot. Under SNAP, the hospital is required to retain the existing parking for the existing buildings. With the addition of the proposed 95,995 sq. ft. of office space, 192 more parking stalls are required.

The applicant received a Specific Plan Exception to provide zero additional parking stalls in lieu of the requirement that the 95,995 sq. ft. office space addition provide two parking stalls per 1,000 sq. ft., of commercial space, or 192 parking stalls total. Yet the five findings required for the exception provide no evidence of hardship or precedent to grant such a required.

First, it is not proper for the applicant to seek an "exception" to evade an office parking requirement, especially when a portion of the property is in the R4 residential Zone and the office tower abuts residential structures to the south. The purpose of an exception, which is the same as a variance, is to remedy a disparity, not to circumvent established and universal parking regulations. As explained in Topanga Association for a Scenic Community v. County of Los Angeles (1974) 11 Cal. 3d 506, 509.

> *"In the absence of an affirmative showing that a particular parcel in a certain zone differed substantially and in relevant aspects from other parcels therein, a variance granted with respect to that parcel amounted to the kind of 'special privilege' explicitly prohibited by Government Code §65906, establishing criteria for granting variances."*

Second, the purpose of a variance is to make the property in question equal to the surrounding properties and not to grant special privileges or permit a use that is inconsistent with other nearby properties. California statutory law and the Los Angeles City Charter also require that an exception from a zoning ordinance must show that the applicant would suffer practical difficulties and unnecessary hardships that are not shared by other properties in the area, and that the exception is necessary to bring the applicant into parity with other property owners in the same zone and vicinity.

*As explained by the California Supreme Court with reference to the standards for granting variances under Government Code Section 65906: "That section permits variances '*only *when, because of* special *circumstances applicable to the property. . . . the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.'" Topanga,* supra *at 520 (italics in original), quoting Gov. Code § 65906.*

Crucially, the City's approvals disregard the core values underpinning our zoning system. As the California Supreme Court held in Topanga, a zoning scheme is a contract in which "each party foregoes rights to use its land as it wishes in return for the assurance that the use of neighboring property will be

similarly restricted, the rationale being that such mutual restriction can enhance total community welfare." (Id. at 517).

These principles led the Supreme Court to hold that "self-imposed burdens cannot legally justify the granting of a variance." Broadway, Laguna, Vallejo Assn. v. Board of Permit Appeals of City and County of San *Francisco (1967) 66 Cal.2d at 774, 778.*

As stated in McQuillin: The Law of Municipal Corporations, a leading treatise cited for a related point by the Supreme Court in Broadway, Laguna, supra*, 66 Cal.2d at 775:*

> *"**In order for a landowner to be entitled to a hardship variance, the hardship must originate from circumstances beyond the control of the landowner** and be of a type that does not generally affect other properties in the district**. If the landowner can control the circumstances causing the hardship, then the granting of a variance is improper.** No undue hardship is shown where the landowner could accomplish the same objective without a **variance by changing his or her plans so that they conform to the existing zoning requirements**.*
>
> *"The concept might be better understood, however, by examining what 'practical difficulty' or 'unnecessary hardship' is not. It is not mere hardship, inconvenience, interference with convenience or economic advantage, disappointment in learning that land is not available for business uses, financial or pecuniary hardship or disadvantage, loss of prospective profits, prevention of an increase of profits, or prohibition of the most profitable use of property." (8 McQuillin Mun.Corp. § 25:179.37, 3rd ed. 2010). (Emphasis added).*

Response to Comment No. 2A [p. 2-3, Section I]

In this comment and comments 2B, 2C, and 2D below, Appellant repeatedly and incorrectly mischaracterizes the Specific Plan Exception granted by the Central Los Angeles Area Planning Commission ("CLA APC") as a "variance", a term with a specific meaning in state law, and makes numerous incorrect assertions concerning the Hollywood Community Plan ("Community Plan") and Vermont-Western TOD Specific Plan ("Specific Plan") in order to argue that the findings stated in the Letter of Determination dated November 23, 2021 for Case APCC-2020-1764-SPE-SPP-SPR ("LOD") do not justify the granting of the Specific Plan Exception. By contrast, the findings contained in the LOD contain substantial evidence to support the decision of the CLA APC to grant a Specific Plan Exception for a reduction in required vehicle parking and to allow an existing pedestrian throughway to meet the Specific Plan requirements.

Justification for the establishment of specific plans and the procedures of administration of approvals under, adjustments from, and exceptions to specific plan regulations are stated in LAMC 11.5.7, which was adopted to implement the provisions of the voter-approved City Charter including Section 558, which governs the adoption of specific plan procedures and other land use ordinances. Required findings for a Specific Plan Exception, which are stated at LAMC 11.5.7 F.2, are similar to those for a variance in

many respects, but also have several important differences from the required findings for a variance stated at Section 562 of the City Charter. These differences primarily turn on the fact that a Specific Plan Exception permits deviations from a specific plan, rather than a generally applicable zoning ordinance. A variance, per the Charter, requires that "there are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity." However, for a Specific Plan Exception, LAMC 11.5.7 F.2(b) specifically requires a finding that "there are exceptional circumstances or conditions applicable to the subject property involved *or to the intended use or development of the subject property* that do not apply generally to other property in the specific plan area" (emphasis added). As stated in the LOD for Case APCC-2020-1764-SPE-SPP-SPR, it is the proposed use of the Project – i.e., medical office and specialty clinic space constructed on top of an existing shared parking garage, as a part of the long-established HPMC campus and within walking distance of the Metro B (Red) Line subway – that justifies an exception from the Specific Plan's provisions for medical office parking and pedestrian throughways.

In other words, a Specific Plan Exception is a completely different entitlement than a Variance with a different process, decision-maker and findings, and any arguments or case law that may apply to a Variance do not necessarily apply to a Specific Plan Exception. Contra Appellant's assertions, the City was justified in determining that the Project met the findings for a Specific Plan Exception, and Appellant provides no valid arguments to the contrary.

Comment No. 2B [p. 3-4, Section I]

FINDINGS

There are five findings required for an exception and in order to grant the variance, all five findings must be made. If even a single finding cannot be made, the exception must be denied.

Required Finding No. 1

The first finding requires that the strict application of the polices, standards and regulations of the specific plan to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Plan.

The first finding relates to practical difficulties or unnecessary hardships if the variance is not granted. The fact that the owner may be able to make more money with a variance is not an unnecessary hardship. The question is whether, without the variance, he cannot make a reasonable return on the property. In considering – and overturning – another variance granted by the City in Stolman v. City of Los Angeles (2003) 114 Cal.App.4th 916, 926, the Court held that:

> *"If the property can be put to effective use, consistent with its existing zoning without the deviation sought, it is not significant that the variance sought would make the applicant's property more valuable, or that it would enable him to recover a greater*

income . . . . Abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in light of the whole record."

*No such substantial evidence has been provided by the applicant or is documented within the first finding. Nor is the City to guess about the missing evidence. The burden is on the applicant to submit sufficient materials to support his application – and to have submitted it prior to or at the public hearing. Instead, the city has accepted at face value claims by the applicant that the existing number of parking stalls is "*more than enough to satisfy any future patient needs*," and that visitors to the medical offices will use public transit.*

No evidence is presented to support such claims, which ring especially hollow when considering that people seeking medical attention suffer physical infirmities that limit their transportation options. The first finding further offers confusing and nonsensical commentary that adding the required parking spaces would surpass the maximum allowed parking stalls permitted under SNAP. Yet the applicant seeks to increase the site's floor area by 95,995 sq. ft., meaning that maximum allowed parking also increases. Furthermore, the applicant has treated the parking structure as an "off-site" development in order to evade proper environmental analysis of the hospital complex as a whole.

Nothing in the finding provides evidence of a practical difficulty or hardship that isn't self-imposed. Therefore, the first finding cannot be made and the exception must be denied.

Response to Comment No. 2B [p. 3-4, Section I]

Appellant cites to *Stolman v. City of Los Angeles* (2003) 114 Cal.App.4th 916 (*Stolman*) to argue that these circumstances do not constitute a "practical difficulties or unnecessary hardship" required for a variance. Even charitably assuming that Appellant meant to analogize from the requirements for a variance, currently codified at in Section 562 of the City Charter, to the required findings for a Specific Plan Exception at LAMC 11.5.7 F.1, *Stolman* is inapposite to the present case. In *Stolman*, the real party at interest owned a gas station located on residentially zoned property in a residential area, which was subject to various restrictions on associated activities due to its legal nonconforming status. The owner obtained a variance to permit additional activities that were not permitted by the existing zoning, such as auto detailing. The court overturned this variance, determining that the City's findings – that the variance was necessary to correct disparities with similarly zoned properties in the vicinity and permit recovery of the owner's costs – were not supported by substantial evidence. These facts are not analogous to the present case, where the proposed medical office and specialty clinic use is permitted for the property by the Community Plan and the Specific Plan (Section 9.A) and the Specific Plan permits certain limited exceptions, which do not impede the Specific Plan's goals.

Comment No. 2C [p. 4-5, Section I]

Required Finding Number 2

The second finding requires that there are exception circumstances or conditions that are applicable to the subject property or to the intended use or development of the subject property that do not generally apply to other properties within the specific plan area.

The "special circumstances" finding required for an exception involves distinguishing the property from other properties in the same zone and vicinity. Per California case law, special circumstances are typically limited to unusual physical characteristics of the property, such as its size, shape, topography, location, or surroundings that restrict its development.

No distinction is made in this finding to differentiate the subject property and surrounding properties. Here the subject property is a level, roughly rectangular, corner property facing De Longpre Avenue. Nothing distinguishes the parcels' size, shape, topography, location, or surroundings from other property in the same zone and vicinity.

*The Determination Letter fails to even reference the property in this finding, instead repeating the same commentary from the first finding that the existing parking is "*more than enough to satisfy any future patient needs,*" and that adding the required parking somehow surpasses the maximum parking permitted under SNAP.*

There are no special circumstances that justify this finding, as nothing distinguishes the subject lot generally from other parcels in the same zone and vicinity. The second finding therefore cannot be made and the exception must be denied.

Required Finding Number 3

Required finding number 3 relates to whether the exception is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other properties in the same zone and vicinity, but which, because of special circumstances and practical hardships, is denied the property in question.

This required finding ties findings numbered 1 and 2 together: Are the special circumstances found in finding number 2 the cause of the hardship found in finding number 1? Is the variance necessary to bring the property owner into parity with other properties in the same zone and vicinity?

Conversely, California Government Code §65906 specifies that the exception cannot grant a special privilege:

> *"Any variance granted shall be subject to such conditions as will assume that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated,"*

*The commission failed to property address this finding. The finding states that "*the community has voiced their concerns regarding vehicle congestion and additional parking spaces would increase

vehicle trips from and to the existing facilities," *without referencing when the "community" voices such concerns (certainly not during the public hearing or in written testimony) and how providing parking for physically infirm patients seeking medical therapy during the weekday would unduly increase vehicle trips that would impact surrounding residents and businesses.*

The finding further states that the exception to completely waive the 192-stall parking requirement "is a right possessed by other Subarea C projects within the SNAP" and that "the exception is necessary for the preservation and enjoyment of a substantial property right" without referencing what other property owners possess such a right.

No other property owner has received the right to develop a 100,000 sq. ft. office project with zero parking. The third finding cannot be made, and the exception therefore must be denied.

Required Finding Number 4

This finding requires a showing that granting the exception will not be materially detrimental to the public welfare and injurious to the property or improvements adjacent to or in the vicinity of the subject property.

*Again, the commission fails to properly address the finding, instead reiterating the same commentary from findings 1 to 3, and adding that the "*country has been facing a crisis with the pandemic that has caused a shortage in hospital space.*" This statement has no relevance to the proposed use, which will be office space, not hospital beds, surgical rooms or intensive care units. As stated at page F-6, "*the project does not propose patient beds as part of the project.*"*

Failing to provide adequate parking for commercial office spaces means that patients and workers will park in the adjacent residential neighborhoods, creating impacts that will be materially detrimental to the public welfare and injurious to the property or improvements adjacent to or in the vicinity of the proposed development. The findings therefore cannot be made and the exception must be denied.

Response to Comment No. 2C [p. 4-5, Section I]

Appellant refers to the conclusions in the findings regarding the reduction in required parking requested through the Specific Plan Exception and asserts without evidence that purportedly insufficient parking will lead to patients and workers parking in the adjacent residential neighborhoods. Appellant also argues that the LOD improperly cited community concerns regarding vehicle congestion and unnecessary parking spaces. However, the Specific Plan, which necessarily reflects the judgment of the community at the time of its original approval in 2001, repeatedly limits allowable parking for hospital and medical uses (Section 9.E.4), permits less parking for other uses than would otherwise be required under the Municipal Code (Section 9.E.3), and provides for further reductions in required parking for projects that, like the Project, are within walking distance of a Metro B (Red) Line station (Section 6.M).

The findings in the LOD reference this language, stating that "the [Specific Plan] has specific language pertaining to vehicle parking that is meant to keep proposed projects from being overparking

[sic] while maintaining existing parking spaces." The LOD also states, in reference to other approvals determining the minimum and maximum parking spaces for the HPMC campus as a whole based on the number of licensed patient beds, per Section 9.E.3, that requiring additional parking for the Project's proposed office and clinic uses could cause the HPMC campus to exceed allowable parking under the Specific Plan. Accordingly, contrary to Appellant's previous description of these findings in Comment No. 2B above as "confusing and nonsensical", the CLA APC correctly determined that the special circumstances of the Project – namely, its construction on top of an existing shared parking garage as a part of the long-established HPMC campus and within walking distance of the Metro B (Red) Line subway – justify an exception from the Specific Plan's provisions for medical parking, and would not be materially detrimental to the neighborhood.

Comment No. 2D [p. 5-6, Section I]

Required Finding Number 5

There are eleven elements of the General Plan. Each of these elements establishes policies that provide for the regulatory environment in managing the City and for addressing environmental concerns and problems. The majority of the policies derived from these elements are in the form of Code requirements of the Los Angeles Municipal Code. The Land Use Element of the City's General Plan divides the city into 35 Community Plans. The Hollywood Community Plan designates part of the subject property for Multiple Dwelling land use with the corresponding zone of R4.

The General Plan specifically does not allow or encourage commercial or retail uses in a residential zone. The granting of the variance to allow a commercial office use in the R4 Zone is therefore inconsistent with the intent of the Hollywood Community Plan, and as such would adversely affect the Land Use Element of the General Plan.

Thus, required finding number 5 simply cannot be made and the exception must be denied.

Response to Comment No. 2D [p. 6, Section I]

Lastly, Appellant incorrectly states that the property is designated as "Multiple Dwelling" under the Hollywood Community, and misleadingly asserts that a "variance" is required for a commercial office use in an R-4 residential zone. In fact, all parcels that make up the Project site are designated "Neighborhood Office Commercial" in the Community Plan, and all are located within Subarea C of the Specific Plan, which specifically permits medical office and clinic uses (Specific Plan, Section 9.A) and which specifically supersedes the uses and development standards otherwise required by the underlying zoning (Specific Plan, Section 3.B). As such, it is disingenuous to state that the granting of a Specific Plan Exception, solely for parking and pedestrian throughway standards, in order to facilitate the development of a long-existing medical center would "adversely affect the Land Use Element of the General Plan". In fact, as noted in finding 1.e of the LOD, the project would support multiple objectives of the Community Plan and Specific Plan pertaining to the development of the hospital core in East Hollywood.

In accordance with responses to comments No. 2A – 2D above, the findings of the CLA APC granting the Specific Plan Exception are supported by substantial evidence, and the Appellant's arguments to the contrary are mistaken or without foundations.

Comment No. 3 [p. 6-7, Section 2.A]

2. AN ENVIRONMENTAL IMPACT REPORT IS REQUIRED

A. The project description does not reflect the property's history of piecemeal development and environmental review.

As noted, in 2015 the applicant received approval under Case Number DIR-2015-309-SPPA-SPP of a 654-stall parking structure (subsequently reduced to 562 stalls). In 2016, the applicant received approval under Case Number DIR-2016-3207-SPP-SPR to develop an 85-foot-tall, 5-story, 134,750 sq. ft. hospital additional for a total site development of 784,356 sq. In 2018 the applicant received approval under Case Number DIR-2017-5247-SPP for the demolition of two 100-year-old duplexes and a change of use from residential to a surface parking lot. All of these cases involved separate Mitigated Negative Declarations for environmental review. Now the applicant seeks to further develop the new parking structure by adding a three level, 95,995 sq. ft. office complex that would raise the building's height from 43 feet to 96 feet, 4 inches, plus roof attachments.

Yet under CEQA, the City was required to consider all components of the applicant's development of the hospital campus as one project, and to not allow such development to be piecemealed.

*Environmental analysis under CEQA must include all project components comprising the "whole of the action," so that "*environmental considerations do not become submerged by chopping a large project into many little ones, each with a potential impact of the environmental, which cumulatively may have disastrous consequences." *Burbank-Glendale Pasadena Airport Authority v. Hensler (1991) 233 Cal.App.3d 577, 592.*

Failure to effectively consider the environmental impacts associated with the "whole" project constitutes a piecemeal approach to cumulative impact analysis. Such segmentation is expressly forbidden under CEQA.

*Development of the 6-acre Hollywood Presbyterian Hospital site is one project under CEQA. Under CEQA a "project" "means the whole of an action." Guidelines § 15378. CEQA's "*requirements cannot be avoided by chopping up proposed projects into bite-size pieces which, individually considered, might be found to have no significant effect on the environment or to be only ministerial.*" Plan for Arcadia, Inc. v. City Council of Arcadia (1974) 42 Cal.App.3d 712, 726. "Such conduct amounts to 'piecemealing,' a practice CEQA forbids." Lincoln Place Tenants Ass'n v. City of Los Angeles (2007) 155 Cal.App.4th 425, 450; see also Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora (2007) 155 Cal.App.4th 1214, 1231 [The Court invalidating an MND because of a City's failure to consider a retail development and adjacent road project as one single project for the purposes of CEQA. "City violated CEQA by treating them as*

separate projects to separate environmental reviews."] Lighthouse Field Beach Rescue v. City of Santa Cruz (2005) 131 Cal.App.4th 1170, 1200 [The city's failure to consider the whole of the project compelled the Court to overturn the city's adoption of a negative declaration.]

Here, the City has refused to acknowledge the new office building, the parking garage and the expansion of the hospital as one project, the "whole of an action."

As noted in CEQA Guidelines Section 15165:

> *Where individual projects are, or a phased project is, to be undertaken and where the total undertaking comprises a project with significant environmental effect, the Lead Agency shall prepare a single program EIR for the ultimate project as described in Section 15168. Where an individual project is a necessary precedent for action on a larger project, or commits the Lead Agency to a larger project, with significant environmental effect, an EIR must address itself to the scope of the larger project. Where one project is one of several similar projects of a public agency, but is not deemed a part of a larger undertaking or a larger project, the agency may prepare one EIR for all projects, or one for each project, but shall in either case comment upon the cumulative effect.*

The office building and parking garage projects are two pieces of one overall development by one entity, combined the applicant's significant expansion of the medical facilities. CEQA requires that the City consider the three projects as one to property review the "whole of an action."

The City has failed to proceed in a manner prescribed by law and consequently must initiate proper re-review of the environmental impacts associated with development of the entire site. The City cannot claim that expansion of a parking garage into an office building, plus the significant expansion of medical facilities, are unrelated projects when undertaken by the same applicant.

Response to Comment No. 3 [p. 6-7, Section 2.A]

In this comment, Appellant describes a sequence of separate and independent projects undertaken by HPMC, asserts that separate approval of these projects constitutes "piecemealing" under CEQA, and argues that an environmental impact report should have been prepared for all the projects together. However, appellant offers no substantive analysis under the CEQA statute, CEQA Guidelines, or case law to support an allegation of piecemealing.

In reviewing the environmental impacts of a project, Section 15003(h) of the CEQA Guidelines states, citing *Citizens Assoc. For Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, that "[t]he lead agency must consider the whole of an action, not simply its constituent parts, when determining whether it will have a significant environmental effect." More specifically, *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376 (*Laurel Heights I*) states that an environmental impact report "must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial

project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects." In the case of the Project, neither prong of the *Laurel Heights I* test supports Appellant's accusation of piecemealing.

HPMC is continually seeking to modernize and improve its facilities within the boundaries of its existing campus as funding becomes available. At the time of the original Approved Project (Case DIR-2015-309-SPPA-SPP), HPMC sought to address a preexisting deficiency in modern, centralized parking for the hospital campus, which had historically relied on a number of dispersed surface lots, including the lot on which the Approved Project has subsequently been constructed. HPMC later obtained approval for a replacement emergency department through Case DIR-2016-3207-SPP-SPR due to the ongoing requirements to develop new, seismically reinforced facilities under the Alquist Hospital Safety Act, and subsequently obtained approval for an auxiliary surface parking lot nearby through Case DIR-2017-5247-SPP as the need became apparent in refining the final design of the replacement emergency department.

In 2019, HPMC identified a need for additional medical office and specialty clinic space in order to better serve the surrounding community and free up space within older hospital buildings, and the parking structure originally approved by DIR 2015-309-SPPA-SPP appeared to provide an opportunity for this addition without additional acquisition of property in the surrounding neighborhood. Accordingly, HPMC submitted an application for the Project on March 13, 2020. However, the proposed new office space was not a "reasonably foreseeable consequence" of the parking structure at the time of the Approved Project. *Laurel Heights I* dealt with the question of how to analyze a future expansion of pharmacy research facilities where the future use was known, but the timing of the expansion of the use was unclear; in HPMC's case, it would have been speculative at the time of the Approved Project to describe office space as part of that project, as there were no plans for that future expansion at that time. Accordingly, the current Project's addition of office space to an existing parking structure could not have been considered a "reasonably foreseeable consequence" of the original project; therefore, the first required element of the *Laurel Heights I* test does not apply to the Project.

For the second element, as demonstrated in the Addendum, further elaborated in a letter from Meridian Consultants responding to comments provided on behalf of the Coalition for Responsible Equitable Economic Development Los Angeles and dated October 21, 2021 (the "CREED-LA Response") and reaffirmed in Responses to Comments 4-8, below, the current Project would not result in new significant environmental effects that would require a subsequent MND or EIR. Importantly, the Project would not significantly "change the scope or nature of the environmental effects" originally analyzed in the "Approved Project" (i.e., the parking structure originally constructed pursuant to Case No. DIR-2015-309-SPPA-SPP). Moreover, each individual approval for the sequence of projects initiated by HPMC has included a full consideration of any potential environmental effects of nearby related projects, including other HPMC-initiated projects.

Appellant cannot, and does not, cite to any specific environmental impacts that have resulted or could result from alleged piecemealing as HPMC has appropriately obtained separate approvals for various improvements. Nor, as noted in Response to Comment 1 above, can Appellant state that the

Project or any other recent project for which HPMC has sought approval has been found to be out of keeping with the goals of the Community Plan and the SNAP to foster the ongoing development of the hospital core in proximity to the Metro B Line subway station. Instead, HPMC's actions represent valid efforts to respond to changing circumstances and seek opportunities to modernize and improve the level of care provided to the community as resources become available. Recent closures of St. Vincent Hospital and Olympia Medical Center, as well as the COVID-19 pandemic, have highlighted the urgent need in the community for medical space that was not apparent at the time of the Approved Project, and which has only intensified since the submittal of the Project for consideration.

Comment No. 4 [p. 8, Section 2.B]

B. An Addendum to the six-year-old MND is improper

The Project approvals and entitlements are all illegal based upon the attempted use of an addendum to a six-year-old MND. An addendum is improper and an EIR is required where, as here, there are more than simply "minor technical changes or additions which o not raise important new issues about the significant effects on the environment. Ventura Foothill Neighbors v. County of Ventura (2015) 232 Cal.App.4th 429, at 426.

The Ventura Foothill case explains that a "subsequent or supplement EIR is required" when: "(1) substantial changes are proposed in the project, requiring 'major revisions' in the EIR; (2) substantial changes arise in the circumstances of the project's undertaking, requiring major revisions in the EIR; or (3) new information appears that was not known or available at the time of EIR was certified."

It should be noted that the Court in Ventura Foothill reviewed a project whose height had changed and increased from 75 to 90 feet, a tiny fraction of the height and mass increase proposed here. The applicant's project proposed in 2015, for which the city approved an MND, was for a 43-foot-tall parking garage. The applicant's revised project would increase the height by 56 feet, or an increase of 130 percent above what was previously approved in the original project, and introduce a new office use.

In Ventura Foothill Neighbors v. County of Ventura, the Court affirmed the trial court finding that "the 20 percent increase in the building's height, from a maximum of 75 feet to 90 feet, was a 'material discrepancy' and 'a violation of CEQA.' Major revisions [of the EIR] are required since the entire building height/view-shed analysis in the 1993 EIR was gauged and analyzed for a [75-foot-high] building."

Substantial changes in the project and the surrounding environment with its changed baseline conditions trigger preparation of an EIR. These substantial changes relate, inter alia*, to land use and compatibility impacts, and traffic and parking impacts. As noted in objections entered into the record by counsel for CREED LA, the Project, which is much larger than the project approved in 2015, will generate significantly more traffic and noise, and implicates significant land use impacts related to the existing imitations on the property.*

In American Canyon Community United for Responsible Growth v. City of American Canyon (2006) 145 Cal.App.4th 1062, 1066, the City of American Canyon sought to approve the expansion of a proposed retail development that would increase the square footage of the project 6.5% through the use of an addendum to a MND. The Court explained that an increase in the size of a development project is a substantial change triggering environmental review. Id at 1077. As that Court noted, "the most significant change in the Project was the increase in the square footage," and the City's determination that the change in size did not have a significant environmental effect requiring supplemental environmental review was an abuse of discretion. Id. at 1075-1078.

An addendum is improper and violates CEQA. A significant in the project has occurred, requiring proper environmental review.

Response to Comment No. 4 [p. 8, Section 2.B]

Appellant cites to multiple cases to argue that the Addendum was improper and that an EIR is required. However, all of Appellant's cited cases are inapposite to the present situation or apply irrelevant legal standards.

In *Ventura Foothill Neighbors v. County of Ventura* (2015) 232 Cal.App.4th 429 (*Ventura Foothills*), the court determined that an addendum to a previously published EIR – not a previously published MND – was inadequate for a project because, after the original 1993 EIR analyzed the aesthetic impacts of a proposed structure, including those attributable to both its height and its location, the addendum determined that there would be no new substantial aesthetic impacts from changing the location of the proposed structure without properly disclosing or analyzing new substantial impacts from changing its height. Ultimately, the addendum in *Ventura Foothills* was found to be deficient because it entirely failed to disclose information regarding the altered height of the proposed project.

This case is not analogous to the Project. Unlike the project described in *Ventura Foothills*, the Addendum in the present case fully disclosed the change in height from the original Approved Project, and included information and analysis concluding that, like the Approved Project, the Revised Project (as the Project is referred to in the Addendum) would comply with the provisions of the SNAP, including the 100-foot height limit for hospital and medical uses in Subarea C and other development standards related to signage, architectural colors, and building form. The Addendum included this analysis despite the fact that the Revised Project was not required to consider aesthetic impacts pursuant to Public Resources Code section 21099(d)[1], which states, "Aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area (TPA) shall not be considered significant impacts on the environment." As noted in the Addendum[2], the Revised Project qualifies as an employment center project and is located on an infill site within a TPA. Accordingly, the Revised Project was found in the Addendum to be statutorily exempt from consideration of aesthetic impacts.

[1] The cited code section was originally passed as Senate Bill 743 (2013)
[2] Addendum p.26

Nonetheless, all relevant information pertaining to aesthetic impacts was fully disclosed in the Addendum, and no new substantial impacts requiring a subsequent MND or EIR were found.

In *American Canyon Community United for Responsible Growth v. City of American Canyon* (2006) 145 Cal.App.4th 1062, 1066 (*American Canyon*), the court found the defendant city's environmental review inadequate because, after preparing an MND for a multi-phase development project with nonspecific placeholders for the second phase, the city approved a second phase that differed significantly in both type (i.e., one single big-box store rather than multiple retail pads) and floor area without conducting any subsequent CEQA review. In contrast to the present case, where the potential environmental effects of the Revised Project were analyzed in the Addendum and carefully scrutinized for any new significant environmental effects that would require a subsequent MND or EIR, the city in American Canyon approved a project permit after asserting without evidence that no further CEQA documentation beyond the original MND was required. Accordingly, American Canyon is not analogous to the present case.

As noted in the Addendum and in the CREED-LA Response, pursuant to Section 15164 and 15612(a) of the CEQA Guidelines, no subsequent EIR or MND is required to be prepared unless a revised project would create new significant environment impacts, a substantial increase in the severity of identified effects, or a change in mitigation of previously identified effects. In the present case, the conclusion in the Addendum – that the changes to the Approved Project will not result in new or substantially more severe impacts – is supported by substantial evidence. Neither Appellant's comments nor the referenced comments submitted by counsel for CREED-LA, which have already been addressed in the CREED-LA Response, provide substantial evidence to support a fair argument that a subsequent MND or EIR is required. Appellant argues without specifics that additional impacts related to traffic, noise, or land use would result, but, as noted in case law, a fair argument must be supported by substantial evidence proffered by the Appellant. "Substantial evidence 'shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts'…'Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.'" *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927-928. "Complaints, fears, and suspicions about a project's potential environmental impact likewise do not constitute substantial evidence." *Joshua Tree Downtown Business Alliance v. County of San Bernardino* (2016) 1 Cal.App.5th 677, 690.

Comment No. 5 [p. 9-10, Section 2.C]

C. Legal basis for an EIR

The major premise behind the establishment of the California Environmental Quality Act of 1970 was to require public agencies to give serious and proper consideration to activities which affect the quality of our environment, to find feasible alternatives in order to prevent damage to the environment, and to provide needed information to the public. Public Resources Code § 21061.

A strong presumption in favor of requiring preparation of an EIR is built into CEQA. This is reflected in what is known as the "fair argument" standard, under which an agency must prepare an EIR whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. Laurel Heights Improvement Association v. Regents of the University of California (1993) 6 Cal.4th 1112, 1123; No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 75.

Under CEQA and CEQA Guidelines, if a project may cause a significant effect on the environment, the lead agency must prepare an EIR. Pub. Res. Code §§ 21100, 21151. A project "may" have a significant effect on the environment if there is a "reasonable probability" that it will result in a significant impact. No Oil, Inc. v. City of Los Angeles, supra*, 13 Cal.3d at 83. If any aspect of the project may result in a significant impact on the environmental, an EIR must be prepared even if the overall effect of the project is beneficial. CEQA Guidelines § 15063(b)(1).*

This standard sets a "low threshold" for requiring preparation of an EIR. Citizen Action To Serve All Students v. Thornley (1990) 222 Cal.App.3d 748, 754. If substantial evidence supports a "fair argument" that a project may have a significant environmental effect, the lead agency must prepare an EIR even if it is also presented with other substantial evidence indicating that the project will have no significant effect. No Oil, Inc. v. City of Los Angeles, supra; Brentwood Association for no Drilling, Inc. v. City of Los Angeles (1982) *134 Cal.App.3d 491.*

The CEQA Guidelines at 14 Cal. Code Regs. § 15384(a) defined "substantial evidence" 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…" Under Pub. Res. Code §§ 21080€, 21082.2(c), and CEQA Guidelines §§ 15064(f)(5) nd 15384, facts, reasonable assumptions predicated on facts, and expert opinions supported by facts can constitute substantial evidence.

"Under the fair argument approach, any *substantial evidence supporting a fair argument that a project may have a significant environment effect would trigger the preparation of an EIR." Communities for a Better Environment v. California Resources Agency (2002) 103 Cal.App4th 98, 113 (italics in original).*

Communities for a Better Environment is also significant because it clarifies that agency "thresholds of significance" are not necessarily the threshold that may be used in determining the existence of a "significant" impact. A significant impact may occur even if the particular impact does not trigger or exceed an agency's arbitrarily set threshold of significance.

An agency must prepare an EIR whenever it can be fairly argued on the basis of substantial evidence that a project may have a significant environmental impact. If there is substantial evidence both for and against preparing an EIR, the agency must prepare the EIR.

> *"The EIR has been aptly described as the heart of CEQA. 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. [T]he ultimate decision of whether to approve a project, be that decision right or wrong, is a nullity if*

based on an EIR that does not provide the decision-makers, and the public, with the information about the project that is required by CEQA. The error is prejudicial if the failure to include relevant information precludes informed decision making and informed public participation, thereby thwarting the statutory goals of the EIR process." Napa Citizens for Honest Government v. Napa County Board of Supervisors *(2001) 91 Cal.App.4th 342, 355-356 (italics in original).*

Response to Comment No. 5 [p. 9-10, Section 2.C]

This comment presents an overview of the environmental review requirements defined in CEQA and case law, including the "fair argument" standard for preparation of an EIR. However, the comment fails to correctly state the legal standard of review applicable to subsequent approvals for activities that have been previously analyzed under CEQA through an MND. As noted in the CREED-LA Response, a local agency may analyze a revised project under CEQA's subsequent review provisions upon a determination by the local agency that "the original document retains some informational value". (*Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (*San Mateo Gardens I*), 1 Cal.5th 937, 952 (2016)) Whether an initial environmental document remains relevant despite changed plans or circumstances is "a predominantly factual question…for the agency to answer in the first instance," which a court may review to determine whether the agency's determination "is supported by substantial evidence." Here, the City logically determined that as the Revised Project (as the Project was referred to in the context of the Addendum) would be constructed on top of the parking structure studied in the Approved Project's MND, the MND retained informational value for analyzing the Revised Project and the appropriate pathway for review of the Revised Project is through CEQA's subsequent review provisions. The question addressed by the Addendum, therefore, is whether the addition of three floors of medical office space on top of the parking garage analyzed in the Approved Project will result in new significant environmental effects or other changes described in Section 15162(a) of the CEQA Guidelines. As noted in the Addendum and the CREED-LA Response, substantial evidence supports the conclusion that the changes to the Approved Project will not result in new or substantially more severe impacts, and Appellant has not provided substantial evidence to support a fair argument that a subsequent MND or EIR is required.

Appellant also cites *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98 (*CBE*) for the proposition that "a significant impact may occur even if the particular impact does not trigger or exceed an agency's arbitrarily set threshold of significance." However, this overstates the holding of *CBE*, which merely reaffirmed the "fair argument" standard by stating that a previous provision of the CEQA Guidelines could not mandatorily direct an agency to determine that no significant environmental effect would occur, "regardless of whether other substantial evidence would support a fair argument" simply because a project would comply with an adopted regulatory standard. *CBE* explicitly reaffirmed CEQA Guidelines section 15064.7, which encourages public agencies to develop thresholds of significance for determining the significance of a project's environmental effects and promoting consistency in significance determinations. Appellant has not offered substantial evidence to support a fair argument that, in this particular project, the City's adopted thresholds of significance are inadequate

for determining whether the Project would result in a new significant impact requiring a subsequent MND or EIR. In fact, the Appellant has failed to provide any evidence of a significant environmental impact that would result from the proposed Project.

Comment No. 6 [p. 10, Section III]

III. THE APPLICANT HAS NOT SATISFIED THE RIGOROUS FINDINGS REQUIRED FOR APPROVAL OF THE SITE PLAN REVIEW AND PROJECT PERMIT COMPLIANCE REVIEW

The Project does NOT consist of an arrangement of buildings that is or will be compatible with existing and future development on neighboring properties. The proposed 96-foot-tall structure is significantly taller than other development in the area and will tower over residential housing to the south.

The Project does NOT incorporate feasible mitigation measures to lessen its significant impacts. Instead, the applicant has evaded proper environmental analysis and mitigation.

The Project is NOT consistent with the Hollywood Community Plan or the Specific Plan, in that it is under-parked, and establishes precedents.

Response to Comment No. 6 [p. 10, Section III]

As noted in the above responses to Section I of the Appellant's justification, the Project is fully compliant with the goals and policies of the Hollywood Community Plan and the development standards and design guidelines of the SNAP, except where the unique characteristics of the Project Site – specifically, its construction on top of an existing parking structure shared with the broader Hollywood Presbyterian Medical Center campus – would make those requirements inapposite. Furthermore, as noted in the above responses to Section II of the Appellant's justification and the CREED-LA Response, the Project has been fully analyzed under CEQA by the Addendum, which found that, as all potentially significant environmental effects had been analyzed for the prior Approved Project and have been avoided or mitigated, no subsequent MND or EIR is required.

Comment No. 7 [p. 10-12, Section IV]

IV. THE APPLICANT HAS BEEN IN VIOLATION FOR THREE YEARS OF ITS CONDITIONS OF APPROVAL FOR DEVELOPMENT OF 1279 N. LYMAN PL.

In 2018, Hollywood Presbyterian Hospital received approval under Case Number DIR-2017-5247-SPP to demolish two duplexes (circa 1910 and 1916) at 1269-1279 N. Lyman Place, in order to construct a 20-stall paved surface parking lot. The city's approval was conditioned to require: 1) buried utility lines; 2) wrought iron perimeter fencing; 3) 22 shade trees within the parking lot and additional shrubs and shade trees on the public right of way; 4) a decorative buffer wall between adjacent residential buildings; and 5) no on-site structures.

The Director's approval was appealed to the Central Area Planning Commission, which denied the appeal at its July 10, 2018 meeting. The century-old duplexes were quickly demolished, but instead of abiding by its conditions of approval, Hollywood Presbyterian Hospital has for 3 years illegally used the dirt lot for modular office buildings, which are surrounded by a chain link fence topped by barbed wire.

[image]

Photo above: Illegal modular office building operated by Hollywood Presbyterian

[image]

Hollywood Presbyterian was required to record a covenant to comply with the terms of the 2018 approval. They are in clear violation of the law, and therefore must not receive any further approvals until there is proof of compliance.

Response to Comment No. 7 [p. 10-12, Section IV]

HPMC identified the need for additional surface parking after approval of the replacement emergency department, approved through Case DIR-2016-3207-SPP-SPR. This surface parking will form an integral part of the HPMC campus, as noted in the final approved plans for the replacement emergency department (LADBS permit no. 18016-10000-26596) once this structure is completed. The approvals for DIR-2017-5247-SPP are currently tolled pursuant to the Mayor's public order dated March 21, 2020, "Tolling of Deadlines Prescribed in the Municipal Code", and HPMC will continue to diligently pursue them to completion.

Due to the ongoing impacts of the COVID-19 pandemic, construction work at HPMC, as on other projects, has experienced substantial delays. Construction trailers necessary for the ongoing construction of the replacement emergency department were placed on 1269-1279 N. Lyman Pl. by the project's contractor in 2019. Due to an error on the contractor's part, although the contractor obtained a permit for a temporary electric utility connection, the trailers themselves were installed without obtaining LADBS sign-off. Upon being informed of the error, the contractor promptly submitted applications for temporary permits on November 14, 2019 under LADBS permit nos. 19010-10000-05136 and 19010-10000-05137. HPMC will continue to pursue any necessary actions related to this temporary use.

Comment No. 8 [p. 12, Section V]

V. CONCLUSION

The Project's addendum characterizes many environmental effects that will be caused by the project as "insignificant," "less than significant impact," or "no impact," such that few or no serious mitigation measures are allegedly necessary. Many such determinations are unsupported by facts, or premised on inadequate facts, or utterly lacking of any true analysis of the facts, or consisting of a superficial "analysis" which for the most part simply assumes its conclusion.

The Project as proposed would create a myriad of significant adverse environmental impacts upon this community. It is respectfully submitted that in its current form, the Project's approvals must be overturned.

Thank you for your courtesy and attention to this matter.

Response to Comment No. 8 [p. 12, Section V]

As noted in the prior responses to Comments No. 4-7 and the CREED-LA Response, the Project has been fully analyzed under CEQA by the Addendum, which found that, as all potentially significant environmental effects had been analyzed in the Approved Project and have been avoided or mitigated, no subsequent MND or EIR is required. Appellant has offered no substantial evidence to support a fair argument to the contrary.