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November 22, 2022

VIA E-MAIL

Los Angeles City Council
c/o City Clerk
200 N Spring Street, Suite 415
Los Angeles, CA 90012

**Re: 1022-1066 La Cienega (City Council File No. 22-1098) - Response to Channel Law Group
Comment Letter dated November 21, 2022**

Dear President Krekorian and Members of the City Council:

This firm represents 1050 La Cienega, LLC, the applicant for a mixed-use project located at 1022-1066 S. La Cienega Boulevard ("Project Site") in the City of Los Angeles ("City"). The project would construct 290 residential units, including 29 extremely low income units, and 7,500 square feet of restaurant use in a 28-story building with 426 vehicle parking spaces, 184 bicycle parking spaces (164 long-term and 20 short-term) and 54,540 square feet of open space, as well as an approximately 4,500 square-foot publicly accessible pocket park ("Project").

The Project qualifies for streamlined processing under the California Environmental Quality Act ("CEQA")¹ and the CEQA Guidelines² pursuant to Public Resources Code Sections 21155 and 21155.2(b) ("SCEA Statute"). The Sustainable Communities Environmental Assessment ("SCEA") prepared for the Project (Case No. ENV-2022-2280-SCEA) ("Project SCEA") demonstrates with ample substantial evidence³ that the Project qualifies as a Transit Priority Project ("TPP") and incorporates all applicable mitigation from previously certified Environmental Impact Reports ("EIRs"), including the EIR for the Southern California Association of Governments ("SCAG") 2020-2045 Regional Transportation Plan / Sustainable Communities Strategy ("RTP/SCS"), and other mitigation as necessary to avoid or lessen any potentially significant impacts to less-than-significant levels. On November 1, 2022, the Planning and

¹ Pub. Res. Code § 21000 *et seq.*

² 14 C.C.R. § 15000 *et seq.*

³ Unlike mitigated negative declarations, which are subject to the less deferential "fair argument" standard, SCEAs are subject to the highly deferential "substantial evidence" standard. (*Sacramentans for Fair Planning v. City of Sacramento* (2019) 37 Cal.App.5th 698, 722 ["We review the City's decision to analyze and approve a transit priority project through an SCEA under the substantial evidence standard. (Pub. Resources Code, § 21155.2, subd. (b)(7).) We do not exercise our independent judgment on the evidence but only determine whether the agency's decision is supported by substantial evidence considering the whole record. (Pub. Resources Code, § 21168.1)"])

Land Use Management (“PLUM”) Committee of the City Council recommended approval of the Project to the full City Council.

This letter responds to new comments made by the Channel Law Group on behalf of Friends of South Carthay in a letter dated November 21, 2022 (“Friends of South Carthay Letter”), which was submitted to the City only hours before the Project is to be considered by this Council. Our previous response letter dated November 1, 2022 (“Previous Project Response Letter”) adequately responds to comments and refutes allegations contained in the letter previously submitted by the Channel Law Group on behalf of the Friends of South Carthay on October 21, 2022 (“Previous Friends of South Carthay Letter”). Further, as mentioned in our Previous Project Response Letter, although the Friends of South Carthay Letters include technical assertions that the Project would result in significant environmental impacts, they provide no technical analysis prepared by a qualified expert. In contrast, the Project SCEA is supported by technical analyses prepared by dozens of qualified experts, which are contained in the incorporated appendices. Additionally, expert supplemental reports and analyses have been prepared and submitted in response to the historic, traffic, air quality/health risk assessment, hazards and noise related comments on the Project SCEA, and have been submitted to administrative record prior to today’s City Council hearing.

As demonstrated in the Project SCEA and responses to comments, including this letter, the Project SCEA was prepared in full accordance with the requirements of CEQA and we therefore respectfully request that the City Council adopt the Project SCEA and allow the Project to move forward with the entitlement process.

I. The Friends of South Carthay Letter cites to inapplicable and irrelevant statutory requirements for a Sustainable Communities Project Exemption under Pub. Res. Code Section 21155.1.

The Friends of South Carthay Letter states: “[T]he proposed Project is not eligible for use of an Sustainable Communities Exemption in part because the Project contains too many residential units, **is not** 15 percent more energy efficient than required by Chapter 6 of Title 24 of the California Code of Regulations and the buildings and landscaping are **not** designed to achieve 25 percent less water usage than the average household use in the region... A SCEA or EIR is therefore required for the proposed Project” (emphasis original).

However, the Friends of South Carthay Letter confuses the statutory requirements for a Sustainable Communities Project Exemption (“SCPE”) pursuant to Pub. Res. Code Section 21155.1, for those of a SCEA. A SCPE is a full CEQA exemption and therefore increased environmental measures and a cap of 200 units are baked into the statutory criteria for qualification. The SCEA, authorized by Pub. Res. Code Section 21155.2 on the other hand, offers streamlined CEQA analysis but not a full exemption, and does not contain either a unit cap (200 units or otherwise) or a requirement that the Project’s buildings be 15 percent more energy efficient than required by Chapter 6 of Title 24 of the California Code of Regulations or 25 percent more water efficient than the average household use in the region. Accordingly, the standards referenced by the Friends of South Carthay Letter are irrelevant to a SCEA and the Project.

II. The Project is consistent with the SCAG 2020-2045 RTP/SCS general use designation, density, building intensity, and applicable policies specified for the Project area.

The Friends of South Carthay Letter reiterates its previous allegations about the Project being inconsistent with the 2020-2045 SCAG RTP/SCS due to inconsistent growth assumptions underlying that document and the City's 2021-2029 Housing Element. The Friends of South Carthay Letter continues to confuse and conflate Senate Bill 375 and state law governing the RTP/SCS.

The Project SCEA demonstrates with substantial evidence that the Project is consistent with the SCAG 2020-2045 RTP/SCS general use designation, density, building intensity, and applicable policies for the Project area.⁴ The Project Site and surrounding area are located within the following identified Priority Growth Areas ("PGAs") within the SCAG 2020-2045 RTP/SCS: Job Center, Transit Priority Area ("TPA"), High Quality Transit Area ("HQTA"), Neighborhood Mobility Area, and Livable Corridor. As discussed in exhaustive detail in the Project SCEA, the Project's 290 housing units, including 29 units affordable to extremely low income households, would contribute to the SCAG 2020-2045 RTP/SCS's regional planning goals to reduce GHG emissions by concentrating growth in identified PGAs. Further, the increase in housing units and population associated with the Project was assumed and adequately accounted for in both the 2020-2045 SCAG RTP/SCS and the City's 2021-2029 Housing Element. In other words, the Project's 290 new units and associated population increase – near transit and job - is consistent with the 486,379 new units assumed for the City between 2021 and 2029 under the City's Housing Element and the 426,000 new units assumed for the City between 2016 and 2045 under the SCAG 2020-2045 RTP/SCS. The comments in the Friends of South Carthay Letter provides no evidence that the City has approved more units than that assumed in the 2020-2045 SCAG RTP/SCS (i.e., 426,000) since 2016. The fact that the recently revised 2021-2029 Housing Element assumes more growth than the 2020-2045 SCAG RTP/SCS does not make the Project's housing units concentrated in various PGAs inconsistent with the SCAG RTP/SCS. Instead, it merely indicates that the next update to the SCAG RTP/SCS will assume greater increases in units and population for the City as the SCAG RTP/SCS assumptions are based on local zoning and other considerations contained in local housing elements.⁵

Finally, in arguing that the Project does not meet the definitions of a HQTA and or a Livable Corridor because it does not provide context sensitive densities, the Friends of South Carthay Letter 1) ignores the fact that the Project Site is unambiguously located within these areas as shown on the maps contained with the 2020-2045 SCAG RTP/SCS, 2) confuses aspirational goals with mandatory ones, and 3) provides no evidence that the Project does not provide context sensitive densities. First, the 2020-2045 SCAG RTP/SCS identifies that the Project Site is located within the following PGAs according to: Job Center per Figure 3.6; TPA per Figure 3.7; HQTA per Figure 3.8; Neighborhood Mobility Area per Figure 3.9; and Livable Corridor per Figure 3.10. Second, nothing in the 2020-2045 SCAG RTP/SCS *requires* that projects within these PGAs provide context sensitive densities to qualify as within a PGA. In discussing HQTA's the RTP/SCS only states that "[a]ctive transportation and new developments *should* be context-sensitive, responding to the existing physical conditions of the surrounding area. Sensitively designed [Transit-Oriented Developments] *can* preserve existing development patterns and neighborhood character while providing a balance of modal and housing choices."⁶ However, to actually qualify as a

⁴ See Section 3 and Section 5 of the Project SCEA.

⁵ Gov. Code § 14522.1(b)(2)(J); Gov. Code § 65080(b)(2)(K); *Sacramentans for Fair Planning v. City of Sacramento* (2019) 37 Cal.App.5th 698, 723.

⁶ SCAG RTP/SCS, p. 51.

HQTA, a site must only be located within one half mile of an existing or planned fixed guideway transit stop or a bus transit corridor where buses pick up passengers at a frequency of every 15 minutes (or less) during peak commuting hours. The Project satisfies this criteria due to its proximity to light rail and multiple bus lines as noted in the SCEA and its technical appendices. Finally, there is nothing to suggest the Project is not “context sensitive.” The Project Site is 100 percent consistent with the City’s zoning and the Transit Oriented Communities (“TOC”) Program, which is specifically designed to promote increased density near transit. The Project is a high-rise with ground floor commercial uses to activate the street level along a major commercial corridor outside of the South Carthay Historic Preservation Overlay Zone (“HPOZ”). The Project SCEA contains substantial evidence that the Project would not create a direct or indirect impact on the neighboring historic district and would mitigate all other environmental impacts as well. None of the other PGAs which support the Project’s consistency with the SCAG RTP/SCS general use designation, density and building intensity (i.e, Job Center, TPA, Neighborhood Mobility Area and Livable Corridor) mention context sensitive densities. Therefore, contrary to the Friends of South Carthay Letter allegation, the SCEA demonstrates the Project is consistent with the SCAG 2020-2045 RTP/SCS general use designation, density, building intensity, and applicable policies.

III. The Project is exempt from analysis of aesthetic impacts and would not result in significant historic or aesthetic impacts.

Residential and mixed use infill developments located in TPAs such as the Project are exempt from aesthetic impacts (including shade/shadow impacts) under Senate Bill (“SB”) 743.⁷ However, SB 743 specifies that the general exemption for aesthetic impacts does not extend to impacts to historic resources. The Previous Friends of South Carthay Letter argued that the Project cannot utilize the SB 743 exemption because shading and shadows cast by the Project would result in an impact to the neighboring HPOZ. Our firm’s response included expert evidence from Jenna Snow, a reputable historic consultant, demonstrating that the Project would not impact the adjacent historic resource because the building’s shade and shadows would not negate any of the HPOZ’s character defining features or render the HPOZ ineligible for historic designation.

The Friends of South Cathay Letter now claims that the Project’s shade and shadows would be purely an aesthetic impact, and that general Appendix G language and the City’s 2006 CEQA shade shadow thresholds must therefore apply. This is entirely inconsistent with SB 743 which clearly exempts residential/mixed-use projects in TPAs from shade shadow analysis – unless the Project’s shading would impact a historic resource, which the record clearly demonstrates it would not. Mere proximity to a historic resource – without actually creating an impact – does not waive the SB 743 statutory protection which in this case renders the Project’s aesthetic impacts (including shade shadow impacts) less than significant as a matter of law. The Friends of South Carthay Letter’s reference to the Sportsmen’s Lodge Project (another SCEA pending in the City) is not analogous or relevant given that particular development does not rely on SB 743 to exempt aesthetic impacts, and as a result, that SCEA includes a more detailed shade shadow analysis based on the City’s 2006 Thresholds.

The Friends of South Carthay Letter also curiously cites Wilshire Community Plan Goal 5, which promotes open space and recreational areas, to suggest that shade shadow impacts must be evaluated notwithstanding SB 743. Goal 5 is not a land use regulation that requires a shade shadow analysis. In

⁷ Gov. Code § 21099.

fact, Goal 5 does not even mention shading or shadows (unlike other City land use regulations such as some Specific Plans, not applicable at the Project Site). Instead, Goal 5 includes four distinct policies all which promote open space and recreational areas. For example, Policy 5.1.4 states:

5-1.4 Unused or underutilized public lands should be considered for open space and recreational purposes. Program:

Encourage the development of Neighborhood Parks and Pocket Parks along public right-of-ways and vacant public parcels. (Emphasis added).

The Project directly promotes this policy of Goal 5 by including a purely **voluntary** publicly accessible pocket park at the ground level. In fact, is the very proposed tower configuration and Project site planning, which concentrates the Project's floor area in a taller building rather than spreading the building mass across the entire Project Site, thus allowing public open space to be provided at the ground floor in furtherance of Goal 5. The Project is both consistent with this Goal, as well as the vast majority of other plan and policy goals as outlined in the Project SCEA, and in no way does this Goal 5 override SB 743's exemption of the Project's aesthetic and shade shadow impacts.

IV. The Project SCEA was available on the City's website.

Despite the Friends of South Carthay Letter's allegations to the contrary, the City properly circulated the Project SCEA for a full 30-day public comment period pursuant to Pub. Res. Code Section 21092. The video linked in the attachment to this letter (**Attachment A**) clearly demonstrates that the link on the City's website provides the Project SCEA and all associated documents in a readily accessible format. This video demonstrates the ease of access to the Project SCEA and all associated documents, requiring just a few clicks. The Friends of South Carthay Letter's allegations of an "endless loop between the City's SCEA page and the NOA" is simply inaccurate.

V. There was no prejudicial lack of notice as made apparent by the submittal of the Friends of South Carthay Letter.

The Friends of South Carthay Letter argues that the City's failure to provide notice to the Channel Law Group violates the Friends of South Carthay's due process rights. However, the Friends of South Carthay Letter clearly received notice of the hearing as demonstrated by its second comment letter on the Project. Further, members of the Channel Law Group's client, the Friends of South Carthay (who are comprised of South Carthay neighbors), received notice by virtue of being adjacent to the Project, and also submitted additional comments on the Project. Finally, the Channel Law Group was aware of the Council File Number for the Project and, as experienced land use counsel in the City, is aware (or should be aware) of the City's Council File System, which provides documentation for projects being considered by the City Council. Finally, the responses in our Previous Project Response Letter do not introduce substantial new information, but instead clarify what was already stated in the Project SCEA. Therefore, the Channel Law Group was not prejudicially deprived of an opportunity to respond to newly presented information.

VI. The City Council has adequately considered public comments on the Project SCEA.

The Friends of South Carthay Letter argues that the PLUM Committee failed to consider and review the comments prior to recommending approval to the City Council and argues a staff report should have been prepared. First, there is no requirement in the SCEA statute or otherwise that City staff prepare a staff report for a SCEA. Staff presented the SCEA at the PLUM hearing as is customary. Second, all of the public comments submitted in connection with the Project SCEA, including the Previous Project Response Letter, have been available as part of the public record for weeks in the City Council File. Finally, as evidence that the public comments were considered during the PLUM Committee hearing, the Committee made a specific recommendation to revise a Project design feature in response to public comments. Specifically, a letter from the Coalition for Responsible Equitable Economic Development Los Angeles (“CREED LA”) dated November 1, 2022 alleges (without substantial evidence to support) that the Project would result in potential impacts associated with the construction haul route due to the alleged failure of the Project SCEA to identify the route. The Project SCEA did in fact assume a specific haul route and the PLUM Committee – in response to this comment – made the recommendation to revise PDF-TRANS-1 to clarify the Construction Traffic Management Plan’s haul route assumed in the Project SCEA analysis (underlined text are additions):

PDF-Trans-1: Prepare a haul truck route program that specifies the construction truck routes to and from the Project site that minimizes travel on local streets. Construction trucks would take the most direct route and travel along La Cienega Boulevard between the Project Site and the I-10 ramps.

These revisions are evidence that that PLUM Committee considered and reviewed the public comments and even modified the recommendation to the full Council in response to those comments.

VII. The Project SCEA can be properly considered prior to the underlying Project entitlements.

The Friends of South Carthay Letter challenges the approval of the SCEA by the City Council prior to and separate from the Project entitlements as a violation of CEQA. However, nothing in the SCEA Statute requires that a SCEA be approved at the same time by the same decision-makers as the underlying project approvals. In fact, if anything, CEQA requires that environmental review precede project approval.⁸ The SCEA Statute requires that the CEQA document be approved by either the jurisdictions legislative body or a Planning Commission. Here the Project SCEA is properly being considered by the City Council (i.e., the City’s legislative body) before the Director of Planning acts on the Project’s TOC and Site Plan Review entitlements. This approval sequencing ensures a proper CEQA clearance – consistent with the SCEA’s statutory requirements – for the Planning staff to utilize and rely on before any discretionary actions are considered or approved as required by CEQA.

VIII. The PLUM Committee, a committee of the City Council, is authorized to hold public hearings on SCEAs.

The Friends of South Carthay Letter argues that either the City Council or the Planning Commission must hold the required public hearing to consider SCEAs pursuant to Pub. Res. Code Section 21155.2(b)(6), but not the PLUM Committee of the City Council. Nothing in Pub. Res. Code Section

⁸ *POET, LLC v. California Air Resources Board* (2013) 217 Cal.App.4th 1214; CEQA Guidelines, § 15004(a).

21155.2 nor the City's Municipal Code prohibits a committee of the City Council from holding the required public hearing to consider a SCEA. This is obviously a standard procedure for legislative bodies of large cities such as Los Angeles. Therefore, the public hearing held by the PLUM Committee on November 1, 2022 fulfills the statutory obligation that a SCEA be considered by the legislative body at a public hearing.

The Project SCEA was prepared in full accordance with the requirements of CEQA and we therefore respectfully request that the City Council adopt the SCEA and allow the Project to move forward with the entitlement process.

Sincerely,

A handwritten signature in cursive script that reads "Dave Rand".

Dave Rand
Partner
of RAND PASTER & NELSON, LLP

DR:smd

cc: Oliver Netburn, City Planning (Oliver.Netburn@lacity.org)
Dylan Sittig, Council District 5 (Dylan.sittig@lacity.org)

EXHIBIT A

1050 La Cienega Boulevard Project

planning.lacity.org/development-services/environmental-review/scea/1050-la-cienega-boulevard-project

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1050 La Cienega Boulevard Project

Case Number: ENV-2022-2280-SCEA
Related Case Number: DIR-2022-2279-TOC-SPR-VHCA
Project Location: 1022, 1024, 1028, 1034, 1036, 1038, 1044, 1048, 1054, 1056, 1060, 1066 S. La Cienega Boulevard, Los Angeles, CA 90035

Council District: 5 - Koretz
Community Plan Areas: Wilshire

[Link to SCEA](#)

PROJECT DOCUMENTS: SCEA with Appendices

Project Description: The Project would construct a mixed-use development with 290 residential units (36 studio units, 158 1-bedroom units, and 96 2-bedroom units) and 7,500 square feet of restaurant commercial use in a 28-story, 297,690-square-foot building. The Project would include a total of 426 vehicle parking spaces, 184 bicycle parking spaces (164 long term and 20 short term), and 54,540 square feet of open space, as well as an approximately 4,500 square-foot publicly accessible pocket park located at the northern portion of the Project Site.

ANTICIPATED SIGNIFICANT ENVIRONMENTAL EFFECTS: Pursuant to PRC Section 21155.2 a Project evaluated as a SCEA shall not have significant and unavoidable impacts. Based on the analysis included in the SCEA, the Project would not result in significant and unavoidable impacts. All potential impacts would be less than significant or mitigated to less-than-significant levels. Further, pursuant to PRC Section 21155.2(b), the SCEA has considered all possible impacts and incorporated Mitigation Measures for the following impact areas: Cultural Resources, Geology and Soils, Hazardous Materials, and Noise.

FILE REVIEW AND COMMENTS:

Coronavirus (COVID-19) Update

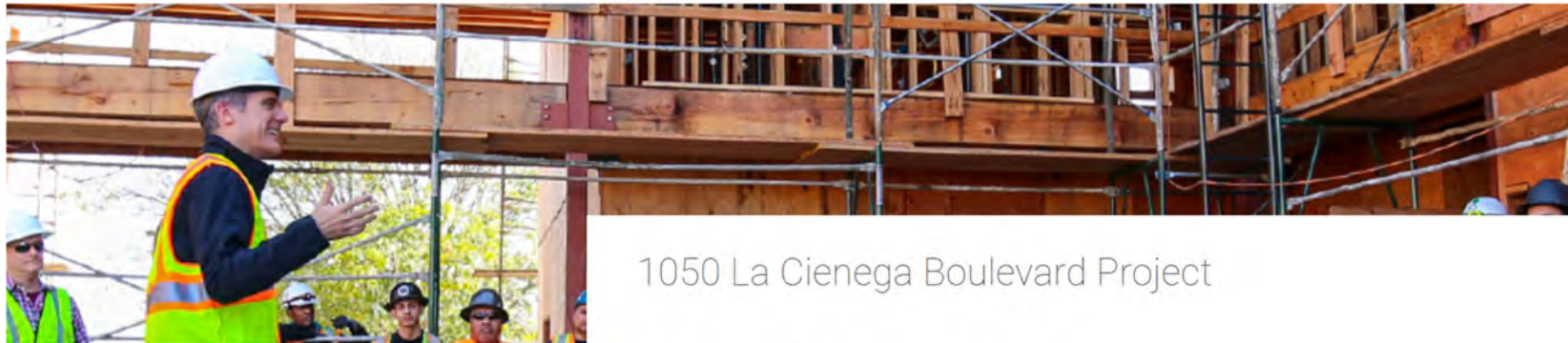
Los Angeles City Planning recognizes the unprecedented nature of COVID-19, and having been identified as an essential City service, continues to work and respond to all inquiries pertaining to our ongoing efforts to process entitlement applications and study updates to our community plans and citywide policies.

The SCEA is available online at Los Angeles City Planning's website at <https://planning.lacity.org/development-services/environmental-review/scea/1050-la-cienega-boulevard-project-0>



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ABOUT ZONING **DEVELOPMENT SERVICES** PLANS & POLICIES HISTORIC PRESERVATION RESOURCES CONTACT



1050 La Cienega Boulevard Project

Sustainable Communities Environmental Assessment Sections:

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Appendices:

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HELPFUL LINKS

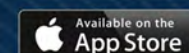
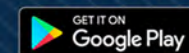
City of Los Angeles
City Departments, Agencies, and Bureaus
2020 Census
Community Resource Guide
Site Map

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PLANNING TOOLKIT



Link to video:

<https://carmelpartners.sharefile.com/d-s463be021967a4e359cfb306fd7b72fc4>