DEPARTMENT OF CITY PLANNING

COMMISSION OFFICE
(213) 978-1300

CITY PLANNING COMMISSION

MONIQUE LAWSHE
PRESIDENT

MICHAEL R. NEWHOUSE
VICE-PRESIDENT

MARIA CABILDO
CAROLINE CHOE
MARTINA DIAZ
PHYLLIS KLEIN
KAREN MACK
JACOB SAITMAN
ELIZABETH ZAMORA

CITY OF LOS ANGELES
CALIFORNIA

KAREN BASS
MAYOR

EXECUTIVE OFFICES
200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801
(213) 978-1271

VINCENT P. BERTONI, AICP
DIRECTOR

KEVIN J. KELLER, AICP
EXECUTIVE OFFICER

SHANA M.M. BONSTIN
DEPUTY DIRECTOR

HAYDEE URITA-LOPEZ
DEPUTY DIRECTOR

ARTHI L. VARMA, AICP
DEPUTY DIRECTOR

LISA M. WEBBER, AICP
DEPUTY DIRECTOR

May 21, 2025

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Attention: PLUM Committee

Dear Honorable Members:

REPORT RELATIVE TO THE APPEAL FILED BY AN AGGRIEVED PARTY FOR CASE NO. CPC-2022-8609-ZC-HD-SPE-SPP-CU-SPR; COUNCIL FILE No. 24-1609 FOR THE PROPERTY LOCATED AT 21101 VENTURA BOULEVARD

On November 19, 2024, the City Planning Commission approved a requested Zone Change and Height District change, requests for Specific Plan Exceptions, Specific Plan Project Permit Compliance, Conditional Use, and Site Plan Review for a proposed self-storage project (CPC-2022-8609-ZC-HD-SPE-SPP-CU-SPR). The City Planning Commission also heard and denied a concurrent subdivision appeal (Case No. AA-2022-8610-PMLA-1A), sustaining the Deputy Advisory Agency's approval of a subdivision of one lot into two lots, associated with the proposed storage development. On December 9, 2024, an appeal was filed by the West Valley Alliance for Optimal Living, appealing the entirety of the decision. Per LAMC 13B.1.4.G.1.b of Chapter 1A, appeals of a Zone Change and Height District Change are only appealable by the applicant if denied. The remainder of the entitlements are appealable by the applicant or an aggrieved party.

APPEAL SUMMARY

The appellant contends that the City's Mitigated Negative Declaration is not appropriate. The appellant also contends that the City improperly approved the Zone Change, Height District Change, Specific Plan Exception, Project Permit Compliance Review, Conditional Use, and Site Plan Review.

PROJECT SUMMARY

The project is located at 21101 West Ventura Boulevard in the Canoga Park-Winnetka-Woodland Hills-West Hills Community Plan area. The project site is currently improved with a 65,545-square foot hotel with associated surface parking lot and outdoor swimming pool, built in 1966. The property is presently zoned C4-1LD and P-1LD with a land use designation of General Commercial, which permits various commercial, retail, and parking uses.

The project includes minor improvements to an existing hotel, which would include the configuration of hotel parking areas, demolition of the existing hotel swimming pool, and

construction, use, and maintenance of a new pool and ancillary structures to the eastern portion of the hotel project site and the construction, use, and maintenance of a six-story, 112,204-square foot self-storage facility, including approximately 111,173 square feet of self-storage for household goods with an 804-square foot associated office and support space, with loading areas, and surface parking. The requested entitlements include a Zone Change and Height District Change, Specific Plan Exception, Specific Plan Project Permit Compliance, Conditional Use, and Site Plan Review.

Project Chronology

On May 30, 2024, the Deputy Advisory Agency issued a Letter of Determination that adopted mitigated Negative Declaration, ENV-2022-8611-MND, as the environmental clearance and the Mitigation Monitoring Program, and approved the Preliminary Parcel Map, AA-2022-8610-PMLA, subject to Conditions of Approval.

On June 14, 2024, an appeal of the Deputy Advisory Agency's Determination was filed by West Valley Alliance for an Optimal Living, represented by Jamie Hall of Channel Law Group, LLP. The appeal challenges the entire decision of the Deputy Advisory Agency as well as the Project's environmental clearance.

On October 24, 2024, at the City Planning Commission, the Commission considered the appellant's justifications and voted to deny the appeal and sustained the Advisory Agency's decision and approved the project, AA-2022-8610-PMLA, with conditions. At this meeting the City Planning Commission also approved CPC-2022-8609-ZC-HD-SPE-SPP-CU-SPR which included a Zone Change and Height District Change, Specific Plan Exception, Specific Plan Project Permit Compliance, Conditional Use, and Site Plan Review.

On November 19, 2024, the City Planning Commission issued an approval letter for the project permitting a minor improvement to an existing hotel site with reduction on the landscape buffer and parking spaces and development of a self-storage facility with a maximum height of 80 feet 4 inches and a floor area ratio of 3.7:1 and reduction of landscape buffer, a Project Permit Compliance Review, Conditional Use Permits, and a Site Plan Review.

Subsequently On December 9, 2024, one appeal was filed to the City Planning Commission by West Valley Alliance for an Optimal Living, represented by Jamie Hall of Channel Law Group, LLP, objecting to the City's determination per CPC-2022-8609-ZC-HD-SPE-SPP-CU-SPR and presenting the similar issues and points in the appeal to the City Planning Commission, to the Planning Land Use Management Committee now. The appellant has made a long list of claims against the project's environmental clearance and entitlements. The Appellant continues to raise similar claims against the project's environmental clearance, and generally argues that the project's environmental impact has not been adequately analyzed.

A. APPEAL ANALYSIS

Appellant's main claims against the project are:

1. **Appellant Claim**

   This firm represents West Valley Alliance for an Optimal Living ("Association" or "Appellant"). The Association is an organization dedicated to the protection of both the community and the environment in the West Valley. This letter outlines the bases for the

appeal[1] for the Woodland Hills Self-Storage Project ("Project") located at 21101 West Ventura Boulevard in the City of Los Angeles at the corner of Clarendon St. and Alhama Drive. At its meeting on October 24, 2024, the Los Angeles City Planning Commission ("Planning Commission") approved a fatally flawed Mitigated Negative Declaration ("MND"), made findings, and approved numerous exceptions and variances of development regulations. The Planning Commission's approvals were based on flawed baseline assumptions and conflated facts or omissions, and were therefore fatally flawed and unsupported, as discussed below. Two[2] LOD") were issued by the City on November 19. 2024. Association hereby appeals all of the permits/entitlements that are further appealable to the Los Angeles City Council, including, but not limited to, the Specific Plan Exceptions, the Specific Plan Project Permit Compliance Review, two Conditional Use Permits, and the Site Plan Review.

In approving these permits/entitlements, the Planning Commission violated several state laws and local regulations, including, but not limited to, the following: (1) California Environmental Quality Act ("CEQA"); (2) Los Angeles Municipal Code ("LAMC"); (3) City of Los Angeles's ("City") General Plan & California Planning and Zoning Law; (4) Ventura-Cahuenga Boulevard Corridor Specific Plan ("Specific Plan"); (5) the Sherman Oaks-Studio City-Toluca Lake-Cahuenga Pass Community Plan ("Community Plan"); and (6) California Constitution. The Planning Commission also violated the Subdivision Map Act in approving AA-2022-8610-PMLA-1A, but that action is not further appealable. Appellant nonetheless challenges the environmental clearance document for the Project, including the environmental clearance for the subdivision approval that is not further appealable.

Staff Response

The Appellant has submitted no substantial evidence as it relates to violations of above-mentioned state laws and local regulations.

[1] Association also appeals the adoption of the Mitigated Negative Declaration for the Project pursuant to Public Resources Code Section 21151(c) ("PRC"). PRC section 21151(c) states as follows: "If a nonelected decision-making body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decision making body, if any."

[2] Per its LOD-1 (see attached at Exhibit 1) issued on November 19, 2024, on October 24, 2024, the Planning Commission denied the Association's appeal and sustained the Advisory Agency's Determination dated May 30, 2024, approving subdivision of "the parcel map No. AA- 2022-8610-PMLA composed of one lot, located at 21101 Ventura Boulevard, for a maximum of two lots" and further adopting the MND for the Project. Per its November 19, 2024 LOD-2 (see attached at Exhibit 2), the Planning Commission also "Found, based on the independent judgment of the decision-maker, after consideration of the whole of the administrative record, the Project was assessed in Mitigated Negative Declaration, No. ENV-2022-8611-MND, adopted on November 19, 2024; and pursuant to CEQA Guidelines, Sections 15162 and 15164, no subsequent EIR, negative declaration, or addendum is required for approval of the Project"; and approved Case No.: CPC-2022-8609-ZC-HD-SPE-SPP-CU-SPR, *inter alia,* approving and recommending for approval to the City Council "a Zone Change and Height District Change from C4-1LD and P-1LD to (T)C2-2"; and further approving at least *five* (5) exceptions or rather variances and deviations from the Specific Plan and General Plan regulations, and Conditional Use Permits, and made respective findings.

2. Appellant Claim

The Association brings this appeal because the Association and its members have a direct and substantial beneficial interest in ensuring that City complies with laws relating to environmental protection. Further, the Association and its members are adversely affected by City's failure to comply with CEQA, State Planning and Zoning Law, local laws, and California Constitution in approving the Project. The Association and its members' environmental interests are directly and adversely affected by the City's approval of the Project.

Staff Response

The Appellant has submitted no substantial evidence that there will be an adverse direct or indirect impact caused by the project on the Association and its members.

3. Appellant Claim

The Planning Commission's Approval of the Mitigated Negative Declaration Violates CEQA as a Matter of Law.

A public agency must prepare an Environmental Impact Report ("EIR") whenever substantial evidence supports a "fair argument" that a proposed project "may have a significant effect on the environment." (Pub. Res. Code §§ 21100, 21151; Guidelines §§ 15002(f)(1) & (2), 15063; *No Oil, Inc. v. City of Los Angeles* ("*No Oil*") (1974) 13 Cal.3d 68, 75; *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 111-112.) "Said another way, if a lead agency is presented with a fair argument that a project may" – [not "will"] – "have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect." (Guidelines §§ 15064(f)(1) & (2) (emph. added); *No Oil, supra*, 13 Cal.3d at 75.)

Fair argument standard is a "low threshold" test for requiring the preparation of an EIR. (*No Oil*, *supra*, at 84; *County Sanitation Dist. No. 2 of Los Angeles County v. County of Kern* (2005) 127 Cal.App.4th 1544, 1579 (*"County Sanitation"*).)

CEQA allows MNDs, in lieu of EIRs, where: (1) impacts are reduced "to a *point where clearly no* significant effect on the environment would occur"; *and* (2) "there is no substantial evidence in light of the *whole* record before the public agency that the project, as *revised, may* have a significant effect on the environment." (Pub. Res. Code § 21064.5 (emph. added).)

Moreover, CEQA specifically requires mandatory findings of significance and preparation of an EIR where, as relevant here, there is a fair argument that the Project may have significant cumulative impacts, as well as adverse health impacts on human beings. (CEQA Guidelines § 15065(A)(3)-(4).)

As discussed below, the MND's approval here is improper since the MND is flawed, since there is a fair argument that the Project may have significant impacts, and since there are impacts requiring mandatory findings of significance - all requiring the preparation of an EIR.

Staff Response

The Appellant has submitted no substantial evidence (fair argument) that the project may have a significant effect on the environment and therefore the lead agency needs to prepare an EIR. As such an MND is legally adequate.

4. Appellant Claim

The MND and Related Approvals Are Based on an Inconsistent and Unstable Project Description, Making Any Findings Legally Flawed.

For a CEQA document or clearance to be legally adequate, the Project description therein must be accurate, stable, and finite. "The requirement of an accurate, stable, and finite project description as the *sine qua non* of an informative and legally sufficient EIR has been reiterated in a number of cases since *County of Inyo*." (*Stopthemillenniumhollywood.com v. City of Los Angeles* (2019) 39 Cal.App.5th 1, 17.) Whether the EIR's project description is adequate is reviewed *de novo.* (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 729–730 ["the selection and use of a 'truncated project concept' violated CEQA"].) "The DEIR, the FEIR, and the final approval must describe substantially the same project." (*Washoe Meadows Community v. Department of Parks & Recreation* (2017) 17 Cal.App.5th 277, 288-289 ("*Washoe Meadows*").)

The accurate project description requirement applies not only to EIRs, but to all CEQA documents, including MNDs, as here, and even CEQA exemptions. (*McCann v. City of San Diego* (2021) 70 Cal.App.5th 51, 85 [MND context]; *Los Angeles Dept. of Water & Power v. Cnty. of Inyo* (2021) 67 Cal.App.5th 1018, 1040-1041 [whole of the project, for CEQA exemptions].)

Staff Response

During the planning process, certain details of projects may be refined to show compliance with State laws and local regulations. The Letter of Determination (LOD) provides an accurate project description and conditions the project to be bound by the conditions of approval. The approved project would have less impacts than the project description analyzed in the MND. The Project's MND analyzes an 804-square foot ancillary office as part of the self-storage facility, and as currently proposed. The Project description as described in the initial EAF Form submitted at filling of the Project has since been superseded by the revised project plans. These plans were reviewed by the Planning Commission and approved on November 19, 2024.

5. Appellant Claim

As the Advisory Agency's decision dated May 30, 2024 ("Decision") shows, the Project that was approved and considered is significantly different from the Project described in other Project documents. In fact, the discrepancies suggest that there is a reasonably foreseeable expansion of the Project, which, however, is not disclosed at this time. To name a few examples:

the MND's and Approval decision's Project description mentions "an 804-square foot associated office and support space, with loading areas and an associated parking lot." (Exhibit 3 - Decision, p. 20, emph. added; MND, p. 1, LOD-2, p. 1.) However, per the Project Applicant's Environmental Assessment Form ("EAF") in 2022, and the City's letters sent to the Tribes for the EAF, the Project includes "6,774 SF of office" space. (Exhibit 4 - EAF, p. 2; Exhibit 5 - March 2, 2023 City Letter, p. 1.) The same 6,774 sf number appears in the MND's Plans at Appendix H, at p. 3, as shown in the graphic here.



Notably, per the City's own March 2, 2023 letter to Tribes, the Project is a "mixed-use" involving self-storage and office space. (Exhibit 5, March 2, 2023 City Letter, p. 1.) But, per the Decision and LODs, the only office space is 804 sf, which is simply the associated office and support space for the storage-place – it is not a mixed use or commercial office space on its own and separate from the purported self-storage facility.

Critically, there is a significant difference between a 6,774 sf mixed-use office space and 804 sf. support office space for self-storage facility, which difference is unaccounted for in the MND. Thus, if the office space is indeed 6,774 sf, then it is certainly not needed for just support or office of the self-storage facility and may be actually planned and used for various independent purposes, which are not disclosed. For example, the vaguely identified and subsequently concealed 6,774 sf. ground-floor space may be used for *other* commercial purposes, such as retail, banquet, restaurant, meeting room, auditorium, etc.

Staff Response

The plans and environmental review are consistent. The Appeal asserts that while the Project's MND analyzes an 804-square foot office as part of the self-storage facility, Project plans show a 6,774-square foot office, and then makes various statements regarding the potential environmental impacts of a larger office. The Appeal simply misreads an initial document submitted at an early stage of the Project, which refers to the size of the entire ground floor. The actual approved documents, stamped as Exhibit A sheets A.1.1, A1.1a, and A1.1b, clearly show an 804-square foot office that is ancillary to the overall self-storage use. At any point, if the project requests larger office space or different commercial use on the site other than the approved project, the project would need to apply for additional entitlements in the future. As such, the environmental review properly analyzed the approved plans.

6. Appellant Claim

In fact, Conditions for the Parcel Map Approval (p. c-2) mention parking for "hotel and restaurant" in Condition 6(e). (Exhibit 1 – LOD-1, p. C-2 [pdf p. 4].) And yet, the present description of the existing hotel does not mention about a separate "restaurant," other than The Bistro and coffee-bar for hotel guests. (Exhibit 6 [Marriott Hotel Info at 21101 W Ventura Blvd.].)

Staff Response

No restaurant use is proposed as a part of this project. The Appeal references Condition 6(e) from the Parcel Map Approval, which is a Department of Building and Safety condition and states "Required parking spaces are required to remain for the remaining structure on the site. Show the location of all parking spaces (47 parking spaces as required by permit 1965VN75360 for the hotel and restaurant) and access driveways to be within Proposed Parcel B. Provide copies of permits and final inspection cards, for any new parking layout." The condition simply provides an exact description on the permit and as the appellant states, it does not discuss a separate restaurant.

7. Appellant Claim

Critically, depending on the type of the *actual* uses contemplated on the 6,774 sf ground floor of the Project, the Project may have *far more* impacts, including water, sewage, air pollution, greenhouse gas emissions ("GHG"), power consumption, or fire hazards, as compared with what was studied and disclosed in the MND and to the decision-making body vis-à-vis the Project where the entire ground floor is used for storage but for its service and support office of 804 sf. Use of more water, power, or gas in a 6,774 sf. commercial space will, in turn, translate into more air pollution, greenhouse gas emissions, and further put a strain on utilities (water supply, sewage, etc.) and public services (fire, police, medical emergency).

Furthermore, the use of a 6,774 sf. space for office or any *other non*-storage commercial use may induce *more* traffic and also require *more* parking. And yet the entire MND and the LOD-1 and LOD-2 presumed that the impacts of the Project will be less mostly because storage facility by definition produces less impacts and less traffic than other uses: "Self-storage is a unique commercial land use in that it does not generate a high number of trips and is generally less intense per square foot compared to retail or restaurant use.". (See Exhibit 2 – LOD-2, p. F- 11 [pdf p. 32].)

Thus, the ambiguous or undisclosed use of the ground floor of the Project makes the project description in the MND unstable, inaccurate, and non-finite, suggests more impacts due to a lack of disclosure or study, and thereby taints the entire impact and mitigation analysis and findings in the MND making it both legally inadequate as a CEQA clearance, and also increasing the fair argument that the Project may have significant impacts. "Deficiencies in the record may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences." (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311; see also *Christward Ministry v. Superior Court* (1986) 184 Cal.App.3d 180, 197, 228 Cal.Rptr. 868 [fact that initial study checklist was incomplete and marked every impact "no" supported fair argument that project would have significant environmental effects]; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1378–1379 [lack of study enlarges the scope of the fair argument which may be made based on the limited facts in the record. *Id*. at 1382.]

Staff Response

The Appeal asserts that while the Project's MND analyzes an 804-square foot office as part of the self-storage facility, the Project plans show a 6,774-square foot office, and then makes various statements regarding the potential environmental impacts of a larger office. The Appeal simply misreads an initial document submitted at an early stage of the Project, which refers to the size of the entire ground floor. The actual approved documents, stamped as Exhibit A sheets A.1.1,

A1.1a, and A1.1b, clearly show an 804-square foot office that is ancillary to the overall self-storage use. At any point, if the project requests larger office space or different commercial use on the site other than the approved project, the project would need to apply for additional entitlements in the future. As such, the plans and environmental review are consistent. The Project's MND analyzes an 804-square foot ancillary office as part of the self-storage facility. The Project description as described in the initial EAF Form submitted at filling of the Project has since been superseded by the revised project plans. These plans were reviewed by the Planning Commission and approved on November 19, 2024.

8. Appellant Claim

The MND and the Decision inconsistently mention about "removing 17 non- protected trees from the site, encroachment of two (2) trees, and one (1) tree located within the public right-of-way." (Exhibit 3 - Decision, p. 21, emph. added; MND, p. 1 ["The 17 non- protected trees on the project site and one (1) street tree would be impacted/removed and replaced in accordance with the City's tree replacement requirements."].)

Per the Arborist's report at Appendix B of the MND, there are 44 trees on the Project site. (MND App. B, p. 1, pdf p. 9.) However, the Arborist's report mentions: "Furthermore, should a City street tree(s) die or require removal as a result of project-related impacts, the Department of Urban Forestry will require that the tree(s) be replaced at a 1:1 replacement ratio with 48-inch box or larger trees." (MND App. B, p. 23, pdf p. 31, emph. added.) As such, the Arborist's report concedes that *more* street trees may be affected than the 1 tree disclosed in the MND. Also, the Arborist's report contemplates about a *bigger 48-inch box or larger* tree to replace any street-tree that may be impacts by the Project.

That the Project may affect more trees is further confirmed by the fact that the Decision notes about the need to construct sewers to serve each parcel, which have to be connected to the City's main sewer and will require work in the public right-of way: "The construction of mainline and house connection sewers within suitable easement may be required to serve the parcel." (Decision, p. 22.) The Decision further contemplates that there may be a need for and an exception to allow "street improvement/sewer/storm drain/water" in the public right-of-way. (Decision, p. 7.)

Staff Response

The Appeal references part of findings of the parcel map LOD (p. 22) which states "As required by LAMC Section 12.03, the project site has a minimum of 20 feet of frontage along Ventura Boulevard, Alhama Drive, and Clarendon Street, which are public streets. The project site consists of a parcel identified as Lot 11 of TR 29776 Tract and is identified by the Assessor Parcel Map No. 2167-001-010. There are no known easements acquired by the public at large for access through or use of the property within the proposed subdivision, as identified on the parcel map. Necessary easements for utilities will be acquired by the City prior to the recordation of the proposed parcel map. The construction of mainline and house connection sewers within suitable easement may be required to serve the parcel." And condition 7 of the parcel map LOD (p. 7) which is related to Bureau of Sanitation and states" Wastewater Collection Systems Division of the Bureau of Sanitation has inspected the sewer/storm drain lines serving the subject tract and found no potential problems to their structure or potential maintenance problem, as stated in the memo dated February 23, 2023. Upon compliance with its conditions and requirements, the Bureau of Sanitation, Wastewater Collection Systems Division will forward the necessary clearances to the Bureau of Engineering. (This condition shall be deemed cleared at the time the

City Engineer clears Condition No. S-1. (d).). Both condition and finding require the project to comply State laws and local regulations.

The project proposes the removal of 16 non-protected trees on the project site and one (1) street tree and replacement of the trees in accordance with the City's tree replacement requirements. If any additional trees were to be impacted, existing regulations would require adequate replacement. The project would comply with regulatory compliance measures that are intended to replace any trees removed in the public right of way, although to clarify, only one tree is contemplated to be removed at this time. The project will replace one (1) street tree and provide ten 30-inch box tree on the self-storage project site and seven 30-inch box trees on the hotel surface parking lot. As such, the appellants argument that trees were not properly analyzed is flawed.

9. Appellant Claim

And, rather than clarify or resolve such discrepancies or omissions, the City's November 19, 2024 LOD-1 and LOD-2 make things even more inconsistent. The LOD-2 provides: "The Project will provide eight (10) 36-inch box-size trees on the project site which includes 29 car parking spaces…" (Exhibit 2 - LOD 2, p. F-22, emph. added [pdf p. 46].)

In addition, both LOD-1 and LOD-2 provide: "Project shall preserve all healthy mature street trees whenever possible. All feasible alternatives in project design should be considered and implemented to retain healthy mature street trees. A permit is required for the removal of any street tree and shall be replaced 2:1 as approved by the Board of Public Works and Urban Forestry Division." (Exhibit 1 – LOD-1, p. C-7, emph. added [pdf p. 9]; see also Exhibit 2 – LOD-2, p. T-5 [pdf p. 10].)

And the same-day issued LODs provide *inconsistent* tree sizes for *on-site* trees. For example, LOD-1, p. C-8 [pdf p. 10] provides: "The landscape plan shall identify tree replacement on a 1:1 basis by a minimum of 24-inch box trees for the unavoidable loss of desirable trees on the site. Failure to comply with this condition as written shall require the filing of a modification to this tract map in order to clear the condition." Emph. added.

And yet, LOD-2, p. C-1 [pdf p. 12] provides: "a. The project shall provide ten 30-inch box trees on the project site parking lot. The trees shall be shade-producing trees, no less than 10 feet in height at maturity with a minimum tree canopy of 50 percent of the height of the tree. These trees shall be evenly distributed throughout the parking lot." (Emph. added.)

Staff Response

The appeal erroneously conflates tree replacement requirements under two different circumstances. LOD-1 refers to the Parcel Map case that split the one existing lot into two lots. LOD-1 includes a condition from Urban Forestry (Condition No. 14 – Page 8) regarding street tree replacement requirements pursuant to LAMC. LOD-2 refers to the City Planning Commission (CPC) case and contains a Planning condition related to Specific Plan Project Permit Compliance (Condition No. 6 – Page C-1 & C2), which is related to on-site tree planting and replacement requirements. As such, the requirements are not contradictory, as they are requirements for different types of trees (public right of way vs. private property) and both types of trees are required.

10. Appellant Claim

As strange as it may sound, the LOD-2, p. C-2 [pdf p. 13] further provides: "b. The project shall provide additional seven (7) 30-inch box trees on the surface parking lot. The trees shall be shade-producing trees, no less than 10 feet in height at maturity with a minimum tree canopy of 50 percent of the height of the tree. These trees shall be evenly distributed throughout the parking lot." (Emph. added.) It is only fair to ask why would the conditions of approval in the LOD-2 *separate* the 17 replacement trees into a group of 10 and an additional 7, and whether the "additional" trees are precisely considered only "additional" to be later disregarded in entirety.

Staff Response

The Appeal further references part of condition 6.b of CPC case LOD (p. C-1). The reason that the required trees are conditioned separately is that the specific plan regulates the size and placement of the trees on the project site's parking area differently than the trees that are not located within the parking lot. As such there is no inconsistency or ambiguity and the project is conditioned appropriately to comply with Specific Plan requirements.

11. Appellant Claim

There is also scarce detail about the removal or replacement of *street*-trees in the LODs, but none of the LOD conditions meets the Arborist's reported 46-inch-box size in the MND's Appendix B. And while the LODs or the MND – to show minimal impacts from the Project – boast with the Project's compliance with the streetscape and misleadingly suggest a multitude of street trees that will be planted by the Project, the LODs do not mention *how many* street-trees will be planted, if at all. For example, LOD-2, p. C-4 [pdf p. 15] provides for *street* trees:

"The trees are to be planted in a reasonably straight line down the boulevard, in order to continue and unify the general streetscape theme while still working with an informal sidewalk layout. They are to be planted approximately 40 feet on center, according to the general requirements. No deliberate attempt should be made to vary their spacing or placement, but neither should the spacing be rigidly applied. Instead, the sidewalk should appear to weave in and out among the "straight" line of trees. The minimum size is a 36 inch box. The trees are to be planted unstaked, and are to be self-supporting. Size standards are listed in the Valley Crest Nursery catalog. The trees are to be untopped." (Emph. added.)

As such, the MND's or LOD's description about the street and on-site trees to be impacted and replaced by the Project is unstable, inaccurate, and non-finite. Should more trees be impacted or should they be replaced with little saplings at the ratio of 1:1, the Project will necessarily impact biological resources by impacting their habitat. In turn, their replacement translates into more GHG and other impacts, as discussed further below.

Staff Response

The Appeal claims that the Arborist's report suggests that the number of trees to be affected by the Project (out of total 44) may exceed the reported 17 trees. However, nowhere does the Arborist report state, assume, or suggest that additional trees (other than the trees called out for removal) would die or be harmed by activities from the Project. The arborist report does states

that if a city street tree(s) die or requires removal as a result of project-related impacts, the Department of Urban Forestry will require that the tree(s) be replaced at a 1:1 replacement ratio with 48-inch box or larger trees which is in compliance with the existing regulations. As such, no further trees are proposed for removal and the project will comply with the existing regulations of the street tree removal, replacement, and citing. If, for an unforeseen reason, accidental damage requiring removal of a street tree occurs, additional CEQA analysis will be required.

Further, street tree placement will be determined during the final permitting phase by Urban Forestry. Street trees will need to meet Urban Forestry's siting and placement requirements and are again, determined at the permitting phase.

12. Appellant Claims

The Decision, LODs, and the MND are unclear about the baseline and the required parking spaces for the Project in light of the existing baseline and all applicable City regulations. Thus, the Decision provides:

"The self-storage portion of the project will provide 29 automobile parking spaces, including 20 standard automobile parking spaces and nine (9) EV parking spaces of which two (2) are ADA-compliance automobile parking spaces, 16 long-term bicycle parking stalls, and 16 short-term bicycle parking stalls…. The hotel portion of the project will provide 99 automobile parking spaces, including 61 standard automobile parking spaces, 38 compact automobile parking spaces, 12 long-term bicycle parking stalls, and 12 short-term bicycle parking stalls." (Decision, pp. 20- 21, emph. added; MND, p. 1.)

The Decision further mentions that the "required" parking for the hotel and restaurant is 47. (Decision, p. 2.) This information, however, does not provide the actual parking count at the Project site *before* the Project, or the actual and applicable parking requirements under the Specific Plan (which supersedes all other regulations and LAMC), and the full extent of the parking exceptions that the Project seeks.

Thus, per the Applicant's filed EAF supplemental information:

"The Project proposes 34 automobile parking spaces. Pursuant to LAMC Section 12.21 A.4, the Project is required to provide parking at one space per 500 square feet for the first 10,000 square feet, in addition to one per 5,000 square feet for the remaining building area, for a total of 40 parking spaces for a building of approximately 112,204 square feet. Pursuant to LAMC Section 12.21 A.4, the Project proposed to replace up to 20% - or 8 stalls – with bicycle parking as the Project Site is located within 1,500 feet of a major transit stop1. The Project has elected to provide 34 spaces. In accordance with LAMC Section 12.21.A.16(c), the Project is required to provide 14 new long term and 14 new short term bike parking spaces, in addition to the 44 spaces required for the replacement of automobile parking spaces noted above. The Project will provide 72 new on-site bicycle parking spaces."

(EAF Supp., p. 5, emph. added.)

And, per the EAF information, the Project requests a parking reduction, "pursuant to LAMC Section 12.24.S, for a 20% decrease in the amount of required parking." (*Ibid*. p. 9, emph. added.)

What the MND and Decision fail to note is the baseline: the existing 122-room hotel at the Project site has 144 parking spaces, which are about to be reduced to 98, per the 10-26-2022 plans and Appendix H in the MND, as shown below:

Exhibit 7 - Appendix H of the MND, p. 2

EXISTING PARKING:
149 PARKING STALLS EXIST, INCLUDING 143 REGULAR STALLS AND 6 ADA STALLS

ACCESS NOTE:
VEHICULAR & PEDESTRIAN ACCESS IS FROM CLARENDON STREET, ALHAMA DRIVE, AND VENTURA BOULEVARD, ALL PUBLIC RIGHTS-OF-WAY.

ENCROACHMENTS:
NONE

Notably, the MND and the LODs do not disclose that the *applicable* parking requirements for the self-storage facility or hotel are not what is required under the LAMC, but what is required under the superseding and controlling Specific Plan. And the Applicant's Project plans at Appendix H show those two requirements as if equal and optional, as shown in the screenshot from p. 3 of Appendix H below:

HOTEL			
TOTAL ROOMS			122 UNITS
PARKING REQUIRED PER VCBCSP:			
1 SPACE/UNIT:			122 STALLS
1 EMPLOYEE SPACE/10 UNITS			12 STALLS
SUB-TOTAL:			**134 STALLS**
PARKING REQUIRED PER LAMC REQUIREMENTS:			
1ST 30 GUESTROOMS,	1 SPACE/UNIT:		30 STALLS
2ND 30 GUESTROOMS,	0.5 SPACE/UNIT:		15 STALLS
REMAINING GUESTROOMS.	0.3 SPACE/UNIT:		23 STALLS
SUB_TOTAL			**68 STALLS**
PARKING PROVIDED (PER LAMC REQUIREMENTS)			
STANDARD:			61 STALLS
COMPACT:		38%	38 STALLS
TOTAL			**99 STALLS**
HOTEL REQUIRED ACCESSIBLE			4 STALLS
HOTEL PROVIDED ACCESSIBLE			5 STALLS

SELF STORAGE			
PARKING REQUIRED:			
1ST 10K	1/500 SF		20 STALLS
10K over	1/5000 SF		20 STALLS
SUB-TOTAL			40 STALLS
20% C.U.P. REDUCTION			(-8 STALLS)
			32 STALLS
20% BICYCLE SWAP REDUCTION			(-6 STALLS)
TOTAL PARKING REQUIRED			26 STALLS
PARKING PROVIDED:			
STANDARD			20 STALLS
COMPACT		31%	9 STALLS
TOTAL			**29 STALLS**
SELF-STORAGE REQ, ACCESSIBLE			2 STALLS
SELF-STORAGE PROVIDED ACCESSIBLE			2 STALLS
GRAND TOTAL PARKING PROVIDED		HOTEL	99 STALLS
		SELF-STORAGE	29 STALLS
			128 STALLS

EV PARKING
SEE SHEET A1.1a

Compounding the problems, the LOD-1 (for Parcel Map), provides that the Project will provide only 95 parking spaces for the *hotel* area: "The hotel portion of the project will provide 95 automobile parking spaces, including 61 standard automobile parking spaces, 38 compact automobile parking spaces, 12 long-term bicycle parking stalls, and 12 short-term bicycle parking stalls." (Exhibit 1- LOD-1, p. F-3 [pdf p. 21].) And the LOD-2 does not disclose or contain any parking requirement.

Neither do the Decision or the MND explain whether or how the Project can qualify for a 20% parking reduction or bicycle swap under LAMC (EAF Supplemental, pp. 9-13), or whether the Project is indeed within 1500 feet of a "major transit stop" as claimed by the EAF to qualify for such parking reduction. The EAF's sole support for its "major transit stop" claim is: "The Project Site is located less than 1,500 feet from the intersection of Ventura Boulevard and De Soto Avenue where there is a major transit stop or bus line with 15-minute frequency during peak periods for Metro Bus Line 601 Warner Center." (EAF Supp., p. 5, emph. added.) But a *single* bus line is not enough to constitute a major transit stop – a "major transit stop" is, by definition, an "intersection of two or more major

bus routes…." (CEQA Guidelines § 15191(i); Pub. Res. Code § 21064.3; see also City's Methodologies[3].)

Nor does the bus route for Bus Line 601[4] show a 15-minute frequency during peak hours, as claimed. "SCAG and OPR Methodology: Peak Periods are considered to be between 6:00 to 9:00 AM and 3:00 to 7:00 PM. Bus routes must have a service frequency of 15 minutes or less for the entire duration of the peak hour periods." (LA City's TOC Guidelines, February 26, 2018.)

Also, assuming the Project is indeed a 6-story self-storage site for household goods, as claimed – and it does not include the 6,774 sf. commercial space as discussed above – then bicycles would *not* be feasible means to transport goods to/from the Project site. The Project's *added* 6-story building for self-storage would need sufficient space for automobile parking, which should not interfere with the operation of the hotel next door.

Compounding the identified discrepancies above, the LOD-2 suggests that the existing hotel's current parking count is "legally non-conforming":

Considering that the hotel is legally non-conforming as it was constructed prior to the adoption of the Specific Plan, the hotel property has conditions applicable that do not apply to other properties in the specific plan area. The Project is requesting relief from the hotel parking conditions required by the specific plan, in lieu of the LAMC parking requirements, as that was the governing code under which the hotel was first constructed. Due to the site constraints mentioned above, there are practical difficulties that necessitate a parking increase for the proposed Project. This necessitates the request for parking reduction requests. These mandatory design features preclude the operation of existing hotel use at the site without relief from the Specific Plan limit.

(Exhibit 2 – LOD-2, p. F-13, emph. added [pdf p. 34].)

But the parking count of an existing hotel – even if *more* than the present LAMC or Specific Plan *"require"* does not make the hotel legally non-conforming. To be clear, the LAMC or Specific Plan requires the *minimum* required parking, but does not control or regulate the *maximum* parking that an applicant can provide. The hotel here was built with 149 parking spaces, which is more than what LAMC or the actually applicable and superseding Specific Plan requires, and does not become legally non-conforming because of that excess parking.

Because the Decision, LODs, or the MND fail to disclose the accurate baseline and the accurate parking requirements and requested reductions, they fail to consider the Project's parking and related traffic, air, GHG, noise, and other impacts. This omission is even more problematic in light of the surrounding residential uses and the significant densification of land uses proposed on the Project Site.

---

[3] See February 26, 2018 TOC Guidelines, pp. 6, 16-17, available at https://planning.lacity.gov/ordinances/docs/toc/tocguidelines.pdf; also see April 16, 2024 New Methodology re Major Transit Stops, available at https://planning.lacity.gov/odocument/c908cda7-6291-4c0f-834c- 4109e920bd5a/Methodology_for_Determining_Bus_Transit_MEMO.pdf

[4] See https://cdn.beta.metro.net/wp-content/uploads/2022/10/19112216/601_TT_10-23- 22.pdf

Staff Response

The project provides code compliant parking. The Appeal makes various claims about the Project's parking, and again relies on initial documents that have long been superseded by the plans that were approved by the City Planning Commission. The Appeal repeatedly focuses on the Project's environmental assessment form (EAF), which is a short document submitted with a project's initial filing that is meant to provide a general approximation of a project so that the City, along with assessing other relevant factors, can determine the appropriate level of environmental review. Projects routinely change through the review process to arrive at a project that is beneficial to the community and aligns with City policies and requirements. In addition, parking is not considered a CEQA impact. The project will be required to provide parking pursuant to LAMC and Specific Plan requirements as determined by the Department of Building and Safety.

The EAF incorrectly stated that the project is located within 1,500 feet of a Major Transit Stop, but this background information is irrelevant to the EAF analysis and project approval. The EAF and project does not rely on any development benefits that are afforded to sites located within 1,500 feet of a Major Transit Stop. The Project's EAF stated the Project would provide 34 parking spaces. The actual project assessed and approved will provide 29 spaces, which is more than the required amount pursuant to LAMC section 12.21 A.4 when combined with the Project's approved request to reduce parking by 20 percent and the replacement of a certain number of stalls with bicycle parking, as provided for in LAMC section 12.21 A.16(c), and unrelated to proximity to a Major Transit Stop, which this site is not. The stamped Exhibit A sheets reflect the proposed and approved parking spaces. The Appeal also erroneously claims that the Ventura-Cahuenga Boulevard Corridor Specific Plan governs parking for the Project, but the Plan is silent as to a parking requirement for the Project's proposed use, and thus the LAMC governs.

The Appeal also appears to argue that the provision of parking is a CEQA issue, as it repeatedly refers to a parking "baseline." As stated previously, parking is a code-compliance issue, not a CEQA issue. The Project's letter of determination provides a detailed discussion of the required parking for the Project. The project will provide required parking spaces per the Specific Plan and LAMC.

13. Appellant Claim

The Decision, LODs, and the MND are unclear about and conflate the applicable local development standards and requirements and the Project's sought increases as to the Floor Area Ratio ("FAR") and Height and misstate and understate those. As a result, the MND understates the impacts of such requested deviations from the applicable development regulations, which, in turn, were put in place to mitigate the impacts of bigger mass and scale developments. Thus, per the Decision, "The "1L" Height District designation allows a maximum height of 75 feet and 6 stories, and a maximum floor area ratio ("FAR") of 1.5:1. The P zone only allows parking and parking-related uses. The site is located within the boundaries of the Ventura-Cahuenga Boulevard Corridor Specific Plan with a Land Use designation of Community Commercial, which establishes numerous use and development regulations that, when they are more restrictive from the LAMC, will supersede the LAMC's regulations. The Community Commercial Land Use designation limits the height to a maximum of 45 feet and a maximum FAR of 1.25:1. Therefore, to permit the Project's proposed uses, the Project has requested a Zone Change from C4-1LD and P-1LD to C2-2." (Exhibit 3 - Decision, p. 19, emph. added.)

However, the Applicant's EAF admits to further restrictions under the *Specific* Plan: "Specific Plan Exception (SPE), pursuant to LAMC Section 11.5.7 F, to permit the following exceptions from the VCBCSP:

To allow a minimum 18" landscape buffer in lieu of the required 10 feet where surface parking at street;

To allow a maximum building height of 80 feet in lieu of the 45 feet maximum building height;

To allow an increase in the maximum Floor Area Ratio (FAR) of 3.44:1 in lieu of the maximum FAR of 1.0:1…" (EAF, Supp., p. 1, emph. added.)

As to the height increase, per the EAF Supp., the required height is not 45, but 37 feet, since the Project is within 500 feet of residential uses:

"The Applicant requests, pursuant to LAMC Section 12.24.F in conjunction with a Conditional Use Permit, to permit a maximum allowable building height of 80 feet 4 inches in lieu of the otherwise required maximum of 37 feet pursuant to LAMC 12.17.6.A.10, for a self-storage building located within 500 feet of a residential zone or use. The Subject Property is currently zoned C4-1LD and P-1LD, and is requesting a Zone Change to the C2-1 zone. The C2-1LD zone per the "D" condition has a height limit of 45 feet and 3-stories, as well as a FAR limit of 1.25:1. The building is three-stories with a height of 80 feet 4 inches, and an FAR of 3.44:1."
(*Ibid*. p. 21, emph. added.)

The above-noted description, of course, is at odds with the LODs' description that the proposed self-storage facility is a *six-story* building, or that the allowed maximum height is 45 feet under the Specific Plan and 75 feet under the LAMC:

The "1L" Height District designation allows a maximum height of 75 feet and 6 stories, and a maximum floor area ratio ("FAR") of 1.5:1. The P zone only allows parking and parking-related uses. The site is located within the boundaries of the Ventura-Cahuenga Boulevard Corridor Specific Plan with a Land Use designation of Community Commercial, which establishes numerous use and development regulations that, when they are more restrictive from the LAMC, will supersede the LAMC's regulations. The Community Commercial Land Use designation limits the height to a maximum of 45 feet and a maximum FAR of 1.25:1. Therefore, to permit the Project's proposed uses, the Project has requested a Zone Change from C4-1LD and P-1LD to C2-2.
(LOD-1, p. F-1 [pdf p. 19], emph. added.)

The noted discrepancy in the number of stories also shows that the reported 3.44:1 FAR purportedly requested by the Project for the *self-storage facility* at Subdivided Parcel A is in fact based on the reported *3-story* building, whereas the self-storage facility is *80 feet* and 4 inches and *six* stories, suggesting a much higher FAR. Moreover, the FAR increase is presented as if being from 1.25:1 or 1.5:1 to 3.44:1, whereas in fact the FAR increase is sought on the lot zoned P (parking), which means *no* other uses of *any* kind can be accommodated. As such, the increase in the FAR is not the *difference* between the underreported 3.44:1 and 1.5:1 or 1.25:1, but rather the entire FAR that is to be *added* to the Project Site's self-storage area Subdivision Parcel A, which is described as "a 32,019 square-foot lot pre-dedication and 30,343 square-foot post- dedication for the proposed self-storage building site" (LOD-1, p. F-2 [pdf p. 20]) and on which "a six (6)-story, 112,204

square feet self-storage for household goods building" is proposed to be constructed. (LOD-1, p. F-3 [pdf p. 21].)

Notably, under LAMC 12.03[5] definitions, *floor area* and *floor area ratio* are defined as:

FLOOR AREA. The area in square feet confined within the exterior walls of a Building, but not including the area of the following: exterior walls, stairways, shafts, rooms housing Building-operating equipment or machinery, parking areas with associated driveways and ramps, space dedicated to bicycle parking, space for the landing and storage of helicopters, Outdoor Dining Areas, and Basement storage areas. Buildings on properties zoned RA, RE, RS, and R1, except properties in the Coastal

Zone which are not designated as Hillside Area, are subject to the definition of Residential Floor Area. (Amended by Ord. No. 188,073, Eff. 1/31/24.)

FLOOR AREA RATIO (FAR). A ratio establishing relationship between a property and the amount of development permitted for that property, and is expressed as a percentage or a ratio of the Buildable Area or Lot size (example: "3 times the Buildable Area" or "3:1"). (Added by Ord. No. 181,624, Eff. 5/9/11.)

And, based on the aforementioned definition, adding six stories and building 112,204 sf facility on a 30,343 sf. lot of Parcel A post-dedication will amount to a ratio of 3.7:1 (112,204 sf divided by 30,343 sf; see also MND reporting 3.69:1, and LOD-1, p. F-15) and that *entire* FAR, rather than the difference between 3.7:1 and 1.25:1 must be considered as being asked for the Project approval.

As such, while the MND lists the requested deviations from the LAMC and the Specific Plan, by conflating the LAMC and Specific Plan requirements, the MND fails to provide an accurate description of the extent of deviations from the applicable baseline and regulations and fails to adequately inform about their impacts.

The above-noted examples of the MND's and Decision's baseline assumptions are illustrative and not exhaustive. They, however, confirm that the MND is based on an inaccurate, unstable, and non-finite project description and is therefore legally inadequate as a CEQA document to support that the Project would have no impacts. Further, the noted inaccuracies and omissions create a fair argument of various impacts, including on traffic, related noise, air quality, GHG, and impacts on human beings, which further preclude the use of an MND under CEQA.

Staff Response

The Appeal makes various claims about the Project's height, story, and floor area ratio, and again relies on initial documents that have long been superseded by the plans that were approved by the City Planning Commission. The Appeal repeatedly focuses on the Project's environmental assessment form (EAF), which is a short document submitted with a project's initial filing that is meant to provide a general approximation of a project so that the City, along with assessing other relevant factors, can determine the appropriate level of environmental review. Projects routinely change through the review process to arrive at a project that is beneficial to the community and aligns with City policies and requirements. Per LADBS, the FAR is calculated pre dedication which

[5] See LAMC 12.03 at https://codelibrary.amlegal.com/codes/los_angeles/latest/lapz/0-0-0-886

is 3.54:1. Here, the Project's MND analyzed the FAR post dedication which is 3.69. This does not result in any change on the overall floor area of the project. The Project's letter of determination provides a detailed discussion of the proposed and approved height, story, and floor area ratio for the Project.

14. Appellant Claim

The Decision (and the MND) are silent about the extent of changes to the Hotel area of the Project, upon subdivision. The Decision and LOD define those as "minor improvements to an existing hotel site, including the *configuration* of hotel parking areas, demolition of the existing hotel swimming pool, and construction, use, and maintenance of a new pool and ancillary structures." (Decision, p. 21, emph. added; see also, LOD-2, p. F-15 [pdf p. 36] ["The Applicant proposes minor improvements to an existing hotel on the site, which would include the *configuration* of *hotel parking* areas, demolition of the existing hotel swimming pool, and construction, use, and maintenance of a new pool and ancillary structures to the eastern portion of the hotel project site and a six-story, 112,204-square foot self-storage facility, including approximately 111,173 square feet of self-storage for household goods with an 804- square foot associated office and support space, with loading areas, and surface parking."].)

What is described as the "configuration of hotel parking" in the Project description is in reality a significant decrease of the *hotel's existing* 149 parking spaces (See Exhibit 7 – MND Appendix H, p. 2 ["EXISTING PARKING: 149 PARKING STALLS EXIST, INCLUDING 143 REGULAR STALLS AND 6 ADA STALLS"]) to only *95* (LOD-1, p. F-3 [pdf p. 21]; see also MND p. 15, Table 2 – Summary of Parking Stalls reporting *99* parking stalls for the hotel [pdf p. 26]). Such reduction of parking for the hotel from 149 to 95 will have impacts that are left unmitigated and are not studied in the MND.

Neither do the MND or LODs or Decision clearly report that the hotel presently has 149 parking stalls that are reported in the Project plans at Appendix H to the MND and that are to be removed by the Project. Instead, only LOD-2 misleadingly and ambiguously mentions about the *displacement* of 68 parking stalls and improperly presents the existing parking count as a "legally non-conforming" feature:

The reduction in proposed parking spaces as part of the project results in 95 spaces for the hotel site in lieu of the required 134. The proposed project will displace a total of 68 parking spaces with a total of 95 parking spaces to remain. Since the hotel was constructed prior to the implementation of the Specific Plan, it is legally existing non-conforming in regard to parking.
(LOD-2, p. F-17 [pdf p. 38], emph. added.)

In sum, the MND fails to provide an accurate description of the Project's changes to the hotel area and instead understates those with flawed characterizations or omissions of information. This lack or omission of accurate information, in turn, leads to the Project's inaccurate baseline and leads to an inaccurate description of changes against the actual baseline. For example, that the Project requires removal of hotel's existing parking stalls *and* also addition of a different use on the Project Site for a six-story self-storage building, the ground floor of which (over 6,774 sf.) may be used for *non-storage* purposes suggests that the Project site may result in inadequate parking and cause secondary traffic, air, noise, and GHG impacts due to the traffic congestion, idling of vehicles searching for parking and other issues. As earlier noted, that the Project proposes bicycle spaces for the hotel or storage area does not conclusively suggest that less automobile parking is

proper or that the reduction of the hotel's existing parking stalls will be proper for the hotel. There is no evidence that the hotel patrons or the self-storage facility patrons and employees necessarily can or will use bicycles on all days, for all purposes, and for all types of weather.

Moreover, that Fehr & Peers performed a study dated January 25, 2023, for parking uses and occupancy of the hotel on site (see LOD-2, p. F-17 [pdf p. 38]) does not conclusively establish that the parking reduction of 54 parking stalls (149 existing stalls to 95 parking stalls under the approved LOD-2 conditions) is a "minor improvement" of the hotel parcel, as reported or presented by LODs, or that such changes will lead to no significant impacts, where such reduction of parking violates the terms of the very Specific Plan, which supersedes all other LAMC provisions.

Staff Response

The Appeal again appears to argue that the provision of parking is a CEQA issue, as it repeatedly refers to a parking "baseline." However, car and bicycle parking is a code-compliance issue, not a CEQA issue. Fehr & Peers performed a parking demand study dated January 25, 2023 which indicates that the maximum parking need with 100 percent room occupancy is 98 spaces (0.8 spaces per room), including a 10 percent contingency factor. The Project's letter of determination provides a detailed discussion of the required parking for the Project.

15. Appellant Claims

The MND's project description is further not accurate, stable or finite, as it fails to study and mitigate the impacts of 5-foot street dedications and improvements requested by the Advisory Agency along Ventura Blvd., Alhama Dr., and Calderon St. and the associated physical changes to the Project, which were approved and further imposed by the Planning Commission as conditions of approval, including but not limited to providing a *single* vehicular access to the Project site from the south side of the Clarendon street, as compared with the existing accesses from Clarendon, the removal of driveway access. (LOD-2, p. F-29 [pdf p. 50 ("The project will take vehicular access from a single driveway on the south side of Clarendon Street"); compare with MND Appendix H at Exhibit 7, p. 2 ("ACCESS NOTE: VEHICULAR & PEDESTRIAN ACCESS IS FROM CLARENDON STREET, ALHAMA DRIVE, AND VENTURA BOULEVARD, ALL PUBLIC RIGHTS-OF-WAY"; Decision, pp. 1-2; LOD-2, pp. F-28-29
[pdf pp. 49-50].)

Staff Response

The Appeal appears to argue that the provision of right of way dedications and driveway access as a CEQA issue. However, dedications and access are regulatory compliance matters. The project's required dedication would make Ventura Boulevard, Alhama Drive, and Clarendon Street will make the respective streets compliant with the Mobility Plan's Street standards. The Bureau of Engineering detailed these requirements, and they were included as Conditions of Approval. The project is required to dedicate and improve sidewalk widening along the street frontages with no roadway widening proposed. Sidewalk widening would result in minor landscaping removal along the perimeter of the site, which is to be replaced with new landscaping as shown on the approved plans.

With regards to driveway access, the site's curb cuts are being modified to fulfill the needs of the proposed project. The City's Complete Streets Design Guide stresses the benefit of fewer

driveways reducing the risk of collisions between vehicles and modes, additional space for street furniture and landscaping. Vehicular access to the project site would be provided by two (2) new driveways, one on Clarendon Street for access to the self-storage site, and one on Alhama Drive, that would provide access to the existing hotel site, both leading to internal parking spaces for both accessible and passenger vehicles. The two (2) existing driveways from Ventura Boulevard and Alhama Drive are to remain with access to the existing hotel site. The self-storage project site and hotel sites will share emergency access internally through secure gated access. An existing driveway at the northeast corner of the site on Clarendon Street is proposed to be removed. Pedestrian access to the self-storage building would be provided directly from the sidewalk on Alhama Drive. Pedestrian access to the hotel building would be provided by a pedestrian path leading to the entrance from Ventura Boulevard. The applicant has provided no substantial evidence that the provision of required dedication and realignment of driveways would result in a significant environmental impact.

16. Appellant Claims

The MND's project description is also inaccurate, unstable and not-finite because it fails to duly disclose the applicable Specific Plan requirements and the fact that they *supersede* all LAMC and other requirements, including as to FAR, height, setbacks, buffers, landscape, etc. Instead, the MND – and also the LODs, in turn – make references to *both* the Specific Plan *and* the LAMC requirements making those look like "optional," where in fact only one (Specific Plan requirements) of those controls.

Thus, pursuant to Section 3 of the Ventura Specific Plan (pdf p. 26):

Section 3.
RELATIONSHIP TO OTHER PROVISIONS OF THE LOS ANGELES MUNICIPAL CODE
Relation To Los Angeles Municipal Code.

The regulations of the Specific Plan are in addition to those set forth in the planning and zoning provisions of Los Angeles Municipal Code (LAMC) Chapter I, as amended, and any other relevant ordinances and do not convey any rights not otherwise granted under the provisions and procedures contained in that chapter and other relevant ordinances, except as specifically provided here.

Wherever this Specific Plan contains provisions which require different setbacks, restricted yards, lower densities, lower heights, restricted uses, greater parking requirements or other greater restrictions or limitations on development than would be allowed pursuant to the provisions contained in LAMC Chapter I, the Specific Plan shall prevail and supersede the applicable provisions of that Code.

(Ventura Specific Plan[6], pdf p. 36, emph. added.)

[6] See the current Ventura Specific Plan – https://planning.lacity.gov/odocument/472adbf8-4942-4e2f-8603-820ca76881d8/VenturaCahuenga_Boulevard_Corridor_Specific_Plan.pdf; see also the March 15, 2024 proposed amendment of the Specific Plan at https://planning.lacity.gov/odocument/f5d30342-f013-4878-92cb- 480e2614f333/Exhibit%20B%20Proposed%20Ordinance%20and%20Maps.pdf

Staff Response

The Appeal assumes that the specific plan requirements supersede all LAMC and other requirements. However, it only states that wherever the Specific Plan contains provisions which require different setbacks, restricted yards, lower densities, lower heights, restricted uses, greater parking requirements or other greater restrictions or limitations on development than would be allowed pursuant to the provisions contained in LAMC Chapter I, the Specific Plan shall prevail and supersede the applicable provisions of that Code, not ALL LAMC requirements. Where the Specific Plan is silent, or where the LAMC is more restrictive, the LAMC would prevail. Per LADBS, the FAR is calculated pre dedication which is 3.54:1. The project analysis the FAR post dedication which is 3.69. This does not result in any change on the overall floor area of the project.

17. Appellant Claims

The LAMC, Chapter 1A, LAMC 13b.4.1.A-B confirm this hierarchy between specific plans and LAMC provisions, stating:

A. Purpose

1. A specific plan is a regulatory land use ordinance specifically designated in the ordinance as a specific plan. A specific plan shall provide by ordinance regulatory controls or incentives for the systematic execution of the General Plan and shall provide for public needs, convenience and general welfare.

2. This Division:

a. Establishes uniform citywide procedures to review applications for projects within specific plan areas in accordance with applicable specific plan requirements and the City Charter; and

b. Establishes uniform citywide standards and criteria for processing applications for exceptions from and interpretations of specific plans.

B. Relationship to Provisions of Specific Plans

1. If any procedure established in a specific plan conflicts with any procedure set forth in this Division, the provisions of the specific plan shall prevail.

2. If a specific plan establishes a ministerial process and specifically references the Administrative Review process described in *Sec. 13B.3.1. (Administrative Review)* of this Chapter, the provisions of *Sec. 13B.3.1. (Administrative Review)* apply.

3. If a specific plan refers to a "Project Permit Compliance," it shall mean Project Compliance.

4. If a specific plan refers to a "Project Permit Adjustment," it shall mean Project Adjustment.

5. If a specific plan refers to a "Specific Plan Exception," it shall mean Project Exception. (Emph. added.)

Accordingly, by disregarding this undisputed hierarchy and by presenting *both* standards under the LAMC and Specific Plan, the MND and the LODs mislead the public and decisionmakers and failed to provide a stable Project description of what changes the Project seeks as to height, setbacks, parking, FAR, etc., and hence also understates the impacts of such changes.

Staff Response

The Appeal assumes that the project was filed under Chapter 1A and needs to comply with the Chapter 1A provisions. It was filed prior to January 2024 and thus must comply with Chapter 1 provisions.

18. Appellant Claims

The MND's and LODs' project descriptions are unstable in that they expand and contract the Project. (See, *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 190 ["The EIR, however, discusses proposals far broader than the initially described project. Indeed, the project concept expands and contracts from place to place within the EIR. These conceptual fluctuations are particularly distinct in an EIR section entitled 'Recommended Project.' This section opens by focusing on the EIR's initial, narrow project description."]; see also, *Washoe Meadows Community v. Department of Parks & Recreation* (2017) 17 Cal.App.5th 277, 288–289 ["[W]hen an EIR contains unstable or shifting descriptions of the project, meaningful public participation is stultified." (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 656, 57 Cal.Rptr.3d 663 [project description in DEIR regarding mine expansion was unstable and misleading because it suggested both that no increase in mine production was sought and that mine production would substantially increase if project was approved].)"])

For all these reasons, the MND is fatally flawed and legally inadequate as an informational document and fails CEQA's informational, accountability, good-faith disclosure and mitigation purposes. (CEQA Guidelines § 15002(a).)

The MND Is Fatally Flawed in Light of Piecemealing and/or Failure to Consider the Whole of the Action.

CEQA mandates that "the lead agency must consider the whole of an action, not simply its constituent parts, when determining whether it will have a significant environmental effect." (CEQA Guidelines § 15003(h); see also § 15378(a)&(c).) As a corollary, CEQA forbids "piecemealing." (*Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1208.) Piecemealing is reviewed *de novo.* (*Paulek v. Department of Water Resources* (2014) 231 Cal.App.4th 35, 46.) Our Supreme Court has defined piecemealing as "chopping a large project into many little ones – each with a minimal potential impact on the environment – which cumulatively may have disastrous consequences." (*Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 283-284.) "'Project' is given a broad interpretation in order to maximize protection of the environment." (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730.)

The MND, the Decision, and LODs fail to consider the "whole" of the action proposed by the Project and therefore fail to disclose, consider and mitigate the Project's impacts.

There is a fair argument and it is reasonably foreseeable that the Project proposes subdivision into two lots – Parcel A (self-storage) and Parcel B (hotel) - in order to later develop Parcel B. The Project's Parcel Report shows Case No. CPC-2017-2393-ZC-CU-SPR-PAB-SPP-SPPA, proposing to add 105 hotel units, along with various conditional use permits for alcohol use and sale, height increase, and amendment to the Specific Plan: "PURSUANT TO LOS ANGELES MUNICIPAL CODE SECTION 12.32K, A ZONE CHANGE FORM P-1LD TO C4- 1LD, FOR THE ADDITION OF 105 HOTEL ROOMS TO

AN EXISTING HOTEL….” (Exhibit 8, p. 5 [ZIMAS parcel report for 21101 W Ventura Blvd.]) The *new* hotel project was also supposed to have alcohol permits. (Exhibit 9 [case information and project permit applications for the new 105 unit hotel].) The listed project Applicant for that case was WH Hotel, LLC. (*Ibid.*) Pursuant to a later withdrawal letter from the City, the Applicant withdrew its application in 2021.[7] (Exhibit 10 [Withdrawal letter].)

The Project’s 10-26-2022 plans for *self-storage* facility list Woodland Hills Hotels, LLC as borrower, in the Survey Certification portion (Exhibit 11, p. 2), as shown below:

SURVEY CERTIFICATION

TO BMO HARRIS BANK, N.A., AS LENDER, WOODLAND HILLS HOTELS, LLC, AS BORROWER, AND FIRST AMERICAN TITLE COMPANY, ITS SUCCESSORS AND ASSIGNS, AS TITLE COMPANY:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 2, 3, 4, 5, 6(a), 6(b), 7(a), 7(b)(1), 7(c), 8, 9, 11(VISIBLE EVIDENCE ONLY), 14, 16, 17, 18 AND 19 OF TABLE A THEREOF. THE FIELDWORK WAS COMPLETED ON FEBRUARY 22, 2021.

DATE OF PLAT OR MAP: APRIL 30, 2021.

Ofer Shapira

4-30-21
DATE

OFER SHAPIRA
LICENSE NO.: L.S. 7123
EXPIRES: 12/31/2022

A0.2

This is substantially the *same* as the Applicant on the 105-hotel-room addition case, which permit applications were pending before the City since 2017 and were later “withdrawn” in 2021.

Staff Response

As Appeal states, the name of the applicant for the hotel expansion project and storage project is the same because the site is owned by Woodland Hills Hotel LLC.

19. Appellant Claims

Further, the Project seeks to develop the rear side of the Project site. But if development of the rear part of the existing site is the only development plan on that site, then why subdivide the lot into Parcel A and Parcel B? Simply put, the development of the self-storage facility could happen on Parcel A without any subdivision.

[7] See City Letter of May 21, 2021: https://planning.lacity.gov/pdiscaseinfo/document/NzAzMg0/1823a02c-5d95-4003-95c4- 258347c32f18/pdd

Staff Response

It is the right of the property owner to apply to subdivide their legal lot into multiple legal lots, pursuant to applicable regulations. The subdivision was approved because the project meets the Subdivison Map Act requirements for the creation of a legal lot. It is a moot point to argue that the storage project could be constructed without the requested subdivision, as the appellant is not the property owner and does not have decision making authority over the property.

20. Appellant Claims

As such, there is a fair argument that the *subdivision* of the Project's *single* lot into *two* lots seeks to later develop Parcel A into yet another hotel as sought since 2017, instead of what is now presented as merely a six-story self-storage facility.

Staff Response

It is pure conjecture to make an assumption that this proposed storage project will result in the development of an additional hotel. Any proposed development of an additional hotel would be subject to the rules and regulations, which may trigger discretionary review and additional CEQA review for the independent project. The project, at present, is for a new self-storage facility at the rear of the site. No development of an additional hotel is being proposed at this time.

21. Appellant Claims

As our Supreme Court had once noted in an analogous context of subdivision and annexation: "This is not the case of a rancher who feels that his cattle would chew their cud more contentedly in an incorporated pasture. No one makes any bones about the fact that the impetus for the Bell Ranch annexation is Kaiser's *desire* to *subdivide* 677 acres of agricultural land, a project apparently destined to go nowhere in the near future as long as the ranch remains under county jurisdiction." (*Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 281, emph. added.)

Moreover, there are no guarantees that further expansion or development of Parcel B or Parcel A will not be proposed or occur upon lot subdivision proposed by the Project; neither did the Decision or LODs impose *any* conditions upon the Applicant, precluding such further expansion or development. To the contrary, the Conditions of Approval in LODs – including for trees to be planted on-site – are ambiguous and amorphous suggesting certain concealed features and omissions, as noted earlier.

Since the Project's lot subdivision *enables* further development of the new Parcel A with 105 additional hotel-rooms along with alcohol sale/use as pursued since 2017, the MND fails to disclose the potential impacts of such subdivision and development, violating CEQA's mandate to study the "whole" of an action or piecemeaing prohibition. (*Arviv Enterprises, Inc. v. South Valley Area Planning Com.* (2002) 101 Cal.App.4th 1333.)

Conversely, if the City presumes that the proposed lot subdivision does not enable further development of Parcel A or Parcel B, then any and all Project approvals, including subdivision, Parcel Map, or CEQA document (MND here), should restrict such further expansion and development or else study its impacts. The MND, LOD, or the Decision take neither of those actions, and violate CEQA.

Staff Response

The Appeal asserts that the Project proposes the addition of 105 hotel rooms, referencing an older project, case number CPC-2017-2393-ZC-CU-SPR-PAB-SPP-SPPA, submitted on June 15, 2017, and subsequently withdrawn on May 21, 2021. As such, the referenced project is not related to the instant application. In the future, if an applicant considers proposing the expansion of the hotel project or any other project, a planning case needs to be filed. Subsequently the project's environmental impact will be analyzed.

The Appeal also claims that because the Project's subdivision theoretically enables some future, undefined development, the MND is flawed. The Appeal does not explain what future development the MND should have analyzed, as there is no such proposed future development. The project's CEQA clearance analyzed both the proposed subdivision of one lot into two lots and the proposed Zone and Height District Change, Specific Plan Exception, Specific Plan Project Permit Compliance, Conditional Use, and Site Plan Review. The project will maintain the existing hotel use on the newly created lot fronting Ventura Boulevard and will add a new storage use to the rear parcel fronting Alhama Drive. As such, the proposed project and its accompanying environmental review adequately analyzes the whole of the action.

22. Appellant Claims

For all reasons mentioned in Section I.A.1*, supra*, the MND or the Decision fail to disclose and consider the whole of an action and the scope of all deviations sought by the Applicant. As noted above, while the MND lists the requests by the Applicant (MND, pp. 17-18; pdf pp. 28-29), it fails to duly disclose the *extent* of the requested deviations (FAR/height increases, parking reductions, changes imposed by the Decision as to street improvements/drain/sewage/water and other issues with further impacts). And the Decision and LODs fail to acknowledge the full scope of changes proposed after *subdivision* of the lot and Parcel Map, including all the conditional use permits sought by the Applicant.

To be clear, the Applicant's own applications disclose the following actions or entitlements that are requested:

ACTIONS REQUESTED

Zone Change (ZC), pursuant to LAMC Section 12.32 F, from existing C4 and P Zone to the C2 Zone;

Conditional Use Permit (CUP), pursuant to LAMC Section 12.24 W.50 for a storage building for household goods in the C2 Zone within 500 feet of an R Zone;

Project Permit Compliance (SPP), pursuant to LAMC Section 11.5.7 C, for compliance with the Ventura Cahuenga Boulevard Corridor Specific Plan (VCBCSP);

Specific Plan Exception (SPE), pursuant to LAMC Section 11.5.7 F, to permit the following exceptions from the VCBCSP:

- To allow a minimum 18" landscape buffer in lieu of the required 10 feet where surface parking at street;
- To allow a maximum building height of 80 feet in lieu of the 45 feet maximum

building height;

o To allow an increase in the maximum Floor Area Ratio (FAR) of 3.44:1 in lieu of the maximum FAR of 1.0:1; and,

Site Plan Review (SPR) pursuant to LAMC Section 16.05, for a development project that results in 50,000 gross square feet or more of non-residential floor area.

California Environmental Quality Act (CEQA) Class 32 Exemption, pursuant to Section 15332 of the State CEQA Guidelines, for an Urban Infill development.

SUBDIVISION ACTIONS

Preliminary Parcel Map (PMLA), pursuant to LAMC 17.50, to permit the subdivision of the Subject Property into two (2) ground lots. As permitted by the authority of the Advisory Agency under LAMC Section 17.52.E, the Applicant requests the following:

o Relief from potential physical improvements as may be required by the Bureau of Engineering on all street frontages including Ventura Boulevard and Alhama Drive and Clarendon Street.

(See Exhibit 12 [EAF Supplemental Info, Attachment A].)

Moreover, the Decision, LODs, and the MND fail to acknowledge some of the changes requested by the Applicant. As an example, the Applicant seeks a "Specific Plan Exception (SPE), pursuant to LAMC Section 11.5.7 F, …. [t]o allow a minimum 18" landscape buffer in lieu of the required 10 feet where surface parking is located along a street." (Exhibit 12, EAF Supp., p. 18, emph. added.) The Decision and the LODs are silent on this issue altogether. The MND, however, provides different information: "5 feet landscape buffer pre dedication or zero feet after dedication in lieu of 10 feet as permitted in the Specific Plan Section 7.D 1.b …. 3 feet landscape buffer pre dedication or zero feet after dedication in lieu of 10 feet as permitted in the Specific Plan Section 7.D 1.b; and," (MND, p. 95; pdf p. 106, emph. added.)

Staff Response

The Appeal makes various claims about the Project's features, and again relies on initial documents that have long been superseded by the plans that were approved by the City Planning Commission. The Appeal repeatedly focuses on the Project's environmental assessment form (EAF), which is a short document submitted with a project's initial filing that is meant to provide a general approximation of a project so that the City, along with assessing other relevant factors, can determine the appropriate level of environmental review. Projects routinely change through the review process to arrive at a project that is beneficial to the community and aligns with City policies and requirements. The Project's letter of determination provides a detailed discussion of the proposed and approved landscape buffer for the Project.

23. Appellant Claims

The LODs, in turn, understate and mislead on the requested and approved changes presenting the 18-inch buffer as the minimum required and suggesting that that the Project is indeed complying with that minimum requirement:

> Section 7A: Yards. For lots in the Community Commercial designation, the front yard setback requirement is an 18-inch minimum and 10-foot maximum. The building will provide a minimum landscaped front yard setback of 18 inches and maximum 10 feet pre-dedication and 6 feet 2 inches post dedication.
> The side yard setback requirement for a corner lot is an 18-inch minimum and 15 feet maximum. The building will provide a minimum landscaped side yard setback of 11 feet 2 inches pre-dedication and 6 feet 11 inches post dedication along Clarendon Street.
> The project is condition [sic.] to provide zero feet side yard setback along the southerly property line.
> (E.g., LOD-2, p. F-21, emph. added [pdf p. 42].)

It is also improper to present and conflate *pre-* and *post-dedication* measurements for setbacks, because setbacks are measured from the *new* property lines *after* dedication. "When highway dedication is required, BOE should make sure the dedication line (new property line) is shown on the plans. Building setback, encroachments, and acceptable driveway grades must be determined based on the *new* property line." (Exhibit 13, p. 1, emph. added [LA Information re Dedications].[8])

The MND, however, fails to analyze the impacts of such landscape or setback reductions whatsoever, apart from noting those as part of the Project's sought requests. For example, under LAMC Section 12.24.X.28(b), to allow a reduction in setbacks, the City has to find that "That the reduction in yards will not be materially detrimental to the public welfare or injurious to the adjacent property or improvements."[9]

Staff Response

The Appeal again appears to argue that the provision of setback is a CEQA issue. However, setback and landscape buffer within the setback is generally code- and specific plan compliance issues, not a CEQA issue. The Project's letter of determination provides a detailed discussion of the required and provided reduced setback and landscape buffer within the setback, if any, for the Project.

24. Appellant Claims

Here, while the Project is purportedly consistent with setbacks, it nonetheless fails to provide the necessary landscaped buffers akin to setbacks. Yet, the Project is next to the 101 Freeway, and residential/hotel uses. Landscape buffers provide benefits not only for visual aesthetic appeal but also to ensure clean air circulation, privacy, and to protect from various emergency situations (e.g., accidents on freeway, earthquakes, etc.)

Notably, the Project is located in Liquefaction Area (Decision, p. 20, ZIMAS Parcel Report) with "poorly constrained slip type." It is also close to (11 km from) Malibu Coast Fault. For example, in case of an earthquake, the 84-feet self-storage facility proposed by the Project – or the 105-room new hotel as sought by the 2017 permit applications – may collapse

[8] Available at https://engpermitmanual.lacity.org/building-safety-clearances/technical-procedures/clearance-summary-worksheet-clearances/02-highway#:~:text=The%20authority%20for%20this%20dedication,of%20the%20existing%20property%20line.

[9] See LAMC § 12.24 at https://codelibrary.amlegal.com/codes/los_angeles/latest/lapz/0-0- 0-7378

and detrimentally affect the nearby 101 freeway, the adjacent residential properties, the adjacent existing 122-room hotel next door at Parcel B, and the commercial uses around.

As such, the MND is fatally flawed as it fails to consider the whole of the Project in light of the reduced landscape buffers and the potential new uses on the newly subdivided Parcel A and Parcel B. Moreover, there is a fair argument that the enormous reduction of landscape buffers proposed by the Project may have significant air, safety, and other impacts on the surrounding land uses and the environment at large.

Staff Response

The Appellant has submitted no substantial evidence that there will be an adverse impact caused by the reduced yard setbacks and landscape buffer within the side yard setbacks of the project as it related to impacts on air, safety, and other impacts on the surrounding land uses and the environment at large. The findings were made in the affirmative to reduce the Specific Plan's landscape buffer requirements. As such, the project is able to have the reduced buffer.

25. Appellant Claims

As a separate issue, the MND also fails CEQA's informational mandates since it fails to accurately report the applicable conditions and development regulations to the Project Site and understates and misstates those instead.

Staff Response

The project description in the MND is accurate and appropriately describes the proposed project.

26. Appellant Claims

The MND is Inadequate and Unsupported Since There Is a Fair Argument the Project May Have Unmitigated Impacts.

An MND is proper only where all the potential Project impacts are *clearly* reduced to insignificant levels and there is no substantial evidence on the whole of the record that the Project may have impacts. (Pub. Res. Code § 21064.5.) That is not the case here.

First and foremost, the MND's impact findings are flawed in light of its fatal failures to provide an *accurate* project description and consider the *whole* of an action. (See Section I.A.1- 2.)

Second there is a fair argument that the MND understates the Project's impacts as follows:

Air Quality/GHG impacts and related adverse impacts on public health and human beings, as well as related cumulative impacts, requiring mandatory findings of significance and preparation of an EIR: The MND claims that the Project will not have significant air quality, GHG, human health, and cumulative impacts on the environment and that the Project does not violate any state or federal rules. Not so. Per the Environmental Permitting Specialists' ("EPS") expert analysis, the Project does indeed violate both state and federal rules particularly during its construction phase. (Exhibit 14 [EPS Expert Report & Figures].) Specifically, EPS reviewed the Sections 4.3 (Air Quality) and 4.8 (Greenhouse Gas Emissions) of the MND for both the construction and operational (occupancy) phases and found two problems: (1) violation of applicable standards of NOx; and (2) significant public

health risks due to diesel particular matter (or DPM).

On the violation of NOx standards, the EPS report states, in pertinent parts:

The EPS analysis found that NOx emissions during the construction phase as reported in the MND's Appendix A (15.7585 lbs/day, or 1.9698 lbs/hr over an 8-hour workday) would violate the federal 1-hour ambient air quality standard. The analysis shows 1-hour NOx impacts to be 5 times the state standard and 9 times the federal standard. When added to the background concentration, the cumulative impact is significant. See Table 1.

The fact that both project level and cumulative impacts are significant is especially troubling as the region has been classified as "Extreme" non- attainment for the 8-hour ozone standard. NOx is one main precursor to regional ozone formation. High concentrations of ozone lead to increased levels of asthma and other respiratory diseases. The very young and the elderly are most at risk from these air pollutants.
(Exhibit 14, p. 2, emph. added.)

On the issue of public health risks from Diesel Particulate Matter or DPM, the EPS report provides, in pertinent parts:

One of the major toxic air pollutants released during the construction phase is diesel particulate matter (DPM). DPM is regulated as a carcinogen[10] that affects individuals living or working near the emitting source. Impacts from exposure to DPM is evaluated in terms of cancer risk. A cancer risk above 10 in a million is considered significant[11]. A copy of the thresholds of significance is provided in Exhibit 1.

The MND asserted that public health risks for the construction phase are insignificant due to its short duration (1 year instead of 30 years). As discussed in subsequent sections of this Memorandum, SCAQMD adopted state Guidelines on the evaluation of public health risks for projects of varying duration (1 year to 30 year). Therefore, the Applicant could have easily quantified the cancer risks associated with the construction phase of this project.

Using procedure in the state Guidelines, and an annual DPM emission rate of 0.0471 tons per year reported in Appendix A, EPS estimates the offsite cancer risk in excess of 10 cancers in a million at nearby business. The offsite residential cancer risk also exceeds 10 in a million, however, this is limited to areas adjacent to the project and does not extend to nearby homes. The spatial distribution of cancer risk around the project site is provided later in this Memorandum.

(Exhibit 14, pp. 2-3, emph. added.)

And even though the EPS concludes no cancer risk to nearby homes, it should be noted that the Project site contains a hotel, which is a residential use. Hence, construction of the

[10] SCAQMD (2014): "Classification of Diesel PM as a Carcinogen". Available at: https://www.aqmd.gov/home/rules-compliance/compliance/toxic-hot-spots-ab-2588/iws- facilities/dice/dice-b2

[11] SCAQMD (2023): "Toxic Air Contaminants Thresholds". Available at: https://www.aqmd.gov/docs/default-source/ceqa/handbook/south-coast-aqmd-air-quality- significance-thresholds.pdf?sfvrsn=25

self- storage facility on site will necessarily *also* affect hotel patrons, apart from construction workers, and increase cancer risks to people.

Indeed, DPM is a complex mixture of pollutants visible in the emissions of diesel exhaust that has the potential to cause cancer and other serious health problems. Primary sources of DPM emissions in the project area are diesel powered vehicles traveling on nearby state highways and arterial roadways. Emergency generators are another source of DPM.

The fact that the MND failed to duly account for NOx and DPM and mitigate their impacts, as well as the fact that both the NOx and DPM were found by an air quality and GHG expert EPS to cause adverse effects to human health, the Project may have significant adverse air and GHG impacts, which, in turn, translate into significant adverse impacts on human beings and cumulative impacts, create a fair argument that the Project may have significant and yet undisclosed and unmitigated impacts that preclude the use of an MND in this case. Pursuant to CEQA Guidelines section 15064(f)(2),

If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment, the lead agency shall prepare an EIR (*Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988). Said another way, if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68).

If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment but the lead agency determines that revisions in the project plans or proposals made by, or agreed to by, the applicant would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur and there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment then a mitigated negative declaration shall be prepared.

(Emph. added.)

On a separate but related note, the fact that the Project may affect human health through understated and unmitigated NOx and DPM risks, those risks – individually and cumulatively with the existing hotel, the parking area configuration or rather parking reduction on the Parcel B, as well as the air and GHG impacts from other similar projects – all require a mandatory findings of significance and preparation of an EIR, pursuant to CEQA Guidelines section 15065(a)(3)-(4), which states:

A lead agency shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project where there is substantial evidence, in light of the whole record, that any of the following conditions may occur:

The project has possible environmental effects that are individually limited but cumulatively considerable. “Cumulatively considerable” means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

(Emph. added.)

Staff Response

The Appeal cites a report prepared by a consultant to claim that the Project will violate applicable NOx and Diesel Particulate Matter (DPM) standards. The Appeal is incorrect. As to NOx, the Appeal uses the NAAQS and CAAQS standards for the entire air basin, which are not the appropriate thresholds to evaluate Project-specific emissions. The Project is in the South Coast Air Basin (SCAB), which is managed by the South Coast Air Quality Management District (SCAQMD). As discussed in Section 4.3 of the Initial Study/Mitigated Negative Declaration, SCAQMD has established quantitative thresholds (shown in Table 4.3-1) to determine if an individual project's emission would be cumulatively considerable and contribute to an exceedance of the NAAQS and CAAQS within the SCAB. As shown in Table 4.3-3 and Table 4.3-4, neither the Project's construction nor operational emissions would exceed the SCAQMD's signific thresholds. Therefore, impacts related to the projects criteria air pollutant emissions would be less than significant.

With regards to Diesel Particulate Matter (DPM), the Appeal's report does not identify an air dispersion model or the health risk model or methodology used to determine the cancer risk associated with DPM emissions from construction. The report shows a cancer risk contour but no methodology of how it determined cancer risk. The report's fundamental gaps in methodology and lack of data substantiating its conclusions signifies it cannot be considered as substantial evidence of a potential impact related to DPM emissions from construction.

27. Appellant Claims

Biological Impacts – trees and wildlife: As noted in our prior Appeal Justification letter, the MND fails to incorporate various mitigation measures proposed by the Arborist *pre-* and *post-construction,* creating a fair argument of potential impacts to trees. (*See MND App. B Arborist Report, Section 6.1 Mitigation Recommendations, p.17 & Section 7*).

Moreover, the Decision and LODs (with conditions to make dedications and develop a storm, drain, and street improvements plan) and the Arborist's report suggesting that more trees may die (*Ibid. Section 8, p. 23, pdf p. 31*) suggest that the number of trees to be affected by the Project (out of total 44) may far exceed the reported 17 trees. (Decision, p. 8 ["Project shall preserve all healthy mature street trees whenever possible"]; LOD-2, p. T-5 [pdf p. 10].) As such, there are no mitigation measures proposed to protect trees and prevent biological impacts either in the MND or in the Mitigation Plan – the only binding documents under CEQA.

Moreover, the MND and the Decision and LOD propose a 1:1 replacement ratio for the Project site trees with 24-inch-boxed trees (Decision, pp. 8-9; LOD-1, p. C-8 [pdf p. 10]) and a 2:1 replacement ratio for street trees of ambiguous or *unidentified number* and *size* of street-trees (e.g., LOD-2, p. C-3 [pdf p. 14: "Trees. The applicant shall plant a minimum of 13 (30)-inch box trees, or larger on-site, and one (1) tree in the public right-of-way along Ventura Boulevard, pursuant to LAMC Section 12.21 G.3. Street trees shall be provided to the satisfaction of the Urban Forestry Division."], compare with LOD-2, p. C-4 [pdf p. 15 "No deliberate attempt should be made to vary their spacing or placement, but neither should the spacing be rigidly applied. Instead, the sidewalk should appear to weave in and out among the "straight" line of trees. The minimum size is a 36 inch box."]).

And yet, the Arborist's report provides that on-street trees must be replaced at a ratio of 1:1 but with "48-inch box or larger trees." (MND App. B, Section 8, p. 23, pdf p. 31.) The Arborist's report describes the trees as "two carob trees (*Ceratonia siliqua*), six crape myrtle trees (*Lagerstroemia indica*), two ginkgo trees (*Ginkgo biloba*), 17 Mexican fan palms (*Washingtonia robusta*), three olive trees (*Olea europaea*), five palo verde trees (*Parkinsonia aculeata*), and nine queen palms (*Syagrus romansoffianum*)." (*Ibid.* at Section 1, p. 1, pdf p. 9.)

Appendix C of MND Appendix B shows that the trees slated for removal are mature trees, providing shade and food (e.g., 3 olive trees) for wildlife, including birds. Yet, they are proposed to be removed and replaced, if at all, with 24-inch boxed trees of *unidentified* type at a ratio of 1:1 or 2:1.

Staff Response

As stated above, the Appeal claims that the Arborist's report suggests that the number of trees to be affected by the Project (out of total 44) may exceed the reported 17 trees. Nowhere does the Arborist report state, assume, or suggest that additional trees (other than the trees called out for removal) would die or be harmed by activities from the Project. The arborist report does state that if a city street tree(s) die or require removal as a result of project-related impacts, the Department of Urban Forestry will require that the tree(s) be replaced at a 1:1 replacement ratio with 48-inch box or larger trees which is in compliance with the existing regulations. As such no further trees are proposed for removal and the project will comply with the existing regulations of the street tree removal and replacement.

28. Appellant Claims

The proposed removal and replacement ratio/type of trees presents biological impacts, as well as GHG and air impacts that are not addressed in the MND. As noted by Lara Roman, a U.S. Forest Service researcher who studies tree mortality, "planting a massive number of trees is not necessarily a positive investment if not enough of them survive to become mature plants."[12] Further, "there's also a carbon cost to tree-planting, meaning that trees have to survive years before they offset that cost. The largest environmental gain comes when trees mature, sometimes decades after they're planted." *Id*.

Thus, the new trees will not for years, or maybe even ever, mitigate the impacts associated with removing the already mature trees. The City should consider requiring the Project to be amended to maintain the mature trees or, at a minimum, it should require clear and binding mitigation measures to ensure that the Project removes as few mature trees and replaces any removed or damaged or affected tree with an adequate number of trees and further plants those at a site that will ensure the growth of such trees, and guarantee that the newly planted trees must be monitored for health and survival, with additional mitigation for those trees that fail to meet performance thresholds.

Moreover, the replacement ratio of 1:1 or 2:1 may be inadequate depending on the size of the trunk and crown of the removed trees, per the California Department of Fish and

[12] Bloomberg, The Darker Side of Tree-Planting Pledges (June 30 2021), available at https://www.bloomberg.com/news/features/2021-07-30/what-happens-after-pledges-to-plant- millions-of-trees?srnd=citylab

Wildlife ("CDFW") report applicable here.[13] In light of the CDFW report, the City's Ordinance or the MND and the Decision and LOD conditions are insufficient to provide adequate replacement for the trees that will be removed or affected by the Project. A bigger ratio for replacement trees and larger trees are required.

Also, while the mature trees to be removed for the Project may not be protected trees, they may still constitute an invaluable habitat for protected species, birds, and wildlife of California that are peculiar to the Project's area, which species will be adversely impacted by the Project. Tree saplings – regardless of their number – cannot provide the protective cover or mitigate impacts on biological resources, due to their typically small canopy size.[14] Notably, the MND, Decision, or LODs provide no mitigation to birds and erroneously find that the Project will have no impacts on wildlife. (Decision, p. 21.)

Critically, the Project's tree-removal may affect migratory and nesting birds, which is unaccounted for by the MND. Notably, the Arborist's report on which the MND mentions about migratory and nesting birds only once and for background only. (MND App. B, Section 3.3, p. 12, pdf p. 20.) Yet, CDFW recommends to avoid nesting seasons for construction work, as well as to conduct surveys to ensure no nesting birds will be affected by the tree removal.[15] CDFW report, *supra*, provides other mitigation measures, including as to how mitigation of the migratory birds must be conducted. We incorporate those additional CDFW mitigation measures by reference herein and request that the City and the Applicant here ensure that those mitigation measures are incorporated into the MND and Mitigation Monitoring Program before the City may find that all the Project impacts, including biological ones, will be mitigated to the insignificant levels, as claimed in the MND and required under CEQA.

Further, the fact that CDFW proposes additional mitigation measures and does not limit itself to the applicant's compliance with Migratory Bird Act or California Fish and Game Code shows that the MND's referenced regulatory compliance is inadequate to ensure full and complete mitigation, and that specific mitigation and monitoring are required here.

Staff Response

As noted in Section 4.4, Biological Resources of the IS/MND, the existence of ornamental trees could provide nesting habitat for common birds and raptors protected under the Migratory Bird Treaty Act (MBTA) (16 USC 703-712) and the California Fish and Game Code Section 3503, 3503.5, and 3513. The Migratory Bird Treaty Act (1918) prohibits tree removal and potentially disturbing construction activities from occurring during certain time periods to avoid harassment of nesting birds. According to the Migratory Bird Treaty Act, no construction or other disturbing

[13] See, CDFW's 2022 Comment Letter re Tree-Replacement Ratios depending on size of the saplings, esp. pp. 5-7: https://files.ceqanet.opr.ca.gov/275332-1/attachment/0U15QNr0t77eLulU5EZIxSvZxKY3isuAAdh9kOduSlaABCmDmtJeYbItff0h85Y4kIcj4GgTZUeB-D8C0

[14] March/April 2020 Article re "Trees are for the Birds — or Should Be" https://treecareforbirds.com/wp-content/uploads/2021/10/50125201_FTC_MarchApril2020.pdf

[15] See, pp. 6-7 of CDFW report at https://files.ceqanet.opr.ca.gov/275332-1/attachment/0U15QNr0t77eLulU5EZIxSvZxKY3isuAAdh9kOduSlaABCmDmtJeYbItff0h85Y4kIcj4GgTZUeB-D8C0; see also CDFW report re migratory birds https://files.ceqanet.opr.ca.gov/279321-1/attachment/aaGhoad6h92Ad11fRSxXUGeYT- dWX0SuswljTlEJoCLccTfv7Bcym5iHyBc-Tz95okUwnJmpRApc8u2e0

activities can occur within 300 feet of an active bird nest (500 feet for listed species) during a period typically beginning in February and ending in September each year. The project would comply with the regulations of the California Department of Fish and Wildlife (CDFW) and the United States Fish and Wildlife Service (Service).

Additionally, there are 36 trees within the Project site portion of the survey area, and eight (8) that occur within the public right-of-way portion of the survey area. None of the inventoried trees are of protected status, as defined by the City's Protected Tree Ordinance no. 186,873. The eight (8) trees located in the public right-of-way are regulated by the City's Municipal Code Chapter VI, Article 2, Section 62.161 et seq.

The proposed Project is anticipated to result in the removal of 16 trees and the encroachment of two (2) trees on the Project site, as well as the removal of one (1) tree located within the public right-of-way. Since none of the trees located on the Project site are protected, their removals would not require mitigation measures, although as described previously the Migratory Bird Treaty Act would be complied with. The two (2) trees that would be encroached upon would be protected during construction through the implementation of protection measures outlined in the Arborist Report (Appendix B), which include exclusion fencing, worker training to avoid direct impacts, irrigation, and monthly arborist inspections to promote long-term health. Additionally, the proposed removal of a street tree would require that an Application for a Tree Removal Permit be submitted to the City. The City would also require that the street tree be replaced at a 1:1 ratio with 48-inch box or larger trees.

Section 6.1, Mitigation Recommendations of the Arborist Report states: "None of the proposed removals occurring within the project site will require mitigation efforts. However, the proposed tree removal within the adjacent right-of-way is regulated by LAMC VI.2.62.170, and as such may require the planting of a replacement tree specified by the Board of Public Works or its designee." All tree removal and replacement related to Project implementation would comply with the City's Municipal Code and all other applicable regulations. The Code does not require the removed on-site non-Protected trees to be replaced. Any additional measure that may be required by the City would be implemented as Conditions of Approval under the Project's Conditional Use Permit.

29. Appellant Claims

Traffic/Parking and Related Air, GHG, and Noise Impacts from the Project's *Operation* Phase: The Decision and the MND rely on the Traffic Study, which found that "the Project will generate an estimated 163 net new daily trips, ten net new a.m. peak hour trips, and 17 net new p.m. peak hour trips." (MND, p. 103, pdf p. 113.) The LODs similarly presume that the Project – unlike other uses, such as retail, restaurant – will produce less traffic and have less traffic impacts. (LOD-2, p. F-11 [pdf p. 32] ["Self-storage is a unique commercial land use in that it does not generate a high number of trips and is generally less intense per square foot compared to retail or restaurant use."])

This estimate, however, fails to account the potential expansion and development of Parcel A or B upon subdivision, as well as the fact that the Project's description is inconsistent as to the ground floor use of over 6,774 sf. (See Section I.A.1-2, *supra*.)

Staff Response

The project assessed and approved will provide 29 spaces, which is the required amount pursuant to LAMC section 12.21 A.4 when combined with the Project's approved request to reduce parking by 20 percent and the replacement of a certain number of stalls with bicycle parking, as provided

for in LAMC section 12.21 A.16(c). The stamped Exhibit A sheets reflect the proposed and approved parking spaces. Further, parking is not a CEQA issue. Speculative expansion of the project was also not contemplated as a part of the CEQA review because it is not based on any concrete development plans as submitted for review.

30. Appellant Claims

The MND's or LODs' estimate of traffic also relies on bicycle uses and fails to acknowledge that the bicycle uses contemplated by the Project are infeasible and impractical in light of the nature of the Project – a self-storage of household goods. In fact, the MND and LODs fail to acknowledge that the self-storage facility site may involve the use of *large trucks* and *commercial vehicles* and produce both more trips and also more noise, air, GHG, traffic congestion, and other impacts, as compared with other non-commercial vehicles.

Staff Response

Bicycle parking is required by the LAMC under 12.21-A,4. The applicant is also utilizing the code's mechanisms for bicycle parking swap to further reduce vehicular parking requirements. The appellant is making an unfound assertion that the storage use would not result in bicycle trips. This is an irrelevant detail as the bicycle parking requirements are based on LAMC code requirements and not simply based on the perceived thought of bicyclists utilizing the facility. The proposed project is a self-storage facility for household goods and not a major warehouse/distribution use. The speculation that large trucks and commercial vehicles would frequent the site is unfounded. The MND's traffic and GHG analysis relied on ITA trip generation counts that survey storage uses throughout the country and the resulting data is based on those surveys. The MND concluded that there would be no significant environmental impact from the proposed project. The appellant has not included any substantial evidence that refutes that conclusion.

31. Appellant Claims

The MND and LODs also appear to rely on the Project's proximity to transit and assume that people will or can use transit for the self-storage facility, whereas it is impractical to rely on transit to transport household goods for storage purposes and the Project is not near any major transit stop to support such assumptions, as noted above.

Staff Response

The project site is located in an urbanized area along a corridor that is served by transit services. However, the EAF incorrectly stated that the project is located within 1,500 feet of a Major Transit Stop, but this background information is irrelevant to the EAF analysis and project approval. The EAF and project does not rely on any development benefits that are afforded to sites located within 1,500 feet of a Major Transit Stop. Individuals can elect to utilize transit to arrive to the facility. Individuals can also utilize other modes such as walking, bicycling, or ride sharing services to reach the facility. There is no strict requirement that uses must drive to the facility. Customers have the free will to decide how they wish to arrive at the site. Nevertheless, the project's traffic analysis resulted in a finding of less than significant impact. No substantial evidence has been submitted that would refute that conclusion.

32. Appellant Claims

The traffic study also erroneously disregards the number of trips the Project's existing *hotel* will produce, whereas the Project proposes to subdivide the *hotel's* site to develop it further and removes at least 54 existing parking stalls from the Project and further replaces some of those automobile parking spaces with bicycle spaces as if hotel patrons and employees will or may necessarily use bicycles next to the 101 freeway.

The traffic study cannot ignore traffic produced by the hotel and restaurant, or the potential expansion of the Project site into yet additional 105 rooms (as noted earlier and per the 2017 plans), as if it is a separate project, whereas the Project includes the *entire* lot, along with the hotel, and seeks to subdivide that lot to make significant changes to it.

Because the Traffic Study understated the number of Project's trips to be 163, it avoided the City's 250 trip threshold to screen for vehicle-miles-traveled. (DOT Comment, p. 1.)

Staff Response

The hotel use is an existing use and would not generate new trips to the site based on the proposed project. The City of Los Angeles Transportation Assessment Guidelines establishes criteria for project review objectives and requirements, provides instructions and sets standards for preparation of a transportation assessment in the City. The project is screened from conducting a project-specific VMT analysis, as well as a comprehensive transportation assessment, because it falls below the City's threshold of generating a net increase of 250 or more daily vehicle trips. Therefore, the project is screened from conducting a project-specific VMT analysis, and would not conflict with CEQA Guidelines Section 15064.3, subdivision (b). Impacts would be less than significant.

33. Appellant Claims

Moreover, the Project is adjacent to the 101 freeway and will impact it by inducing more and potentially commercial traffic thereon, translating into more congestion, air, GHG, and noise impacts. The Project is also near residential uses, further exacerbating those impacts and also causing adverse impacts on human beings and sensitive receptors, including of the hotel on site.

Staff Response

Per the letter received from DOT (Caltrans) dated April 18, 2024, the Project would not include site improvements that would extend into the public right-of-way or interfere with existing public transit or pedestrian facilities or impede the construction of new or the expansion of such facilities in the future. There are no bicycle facilities within the vicinity of the site. The project would also result in a negligible increase in project-related trips. There would be no impacts to transit, pedestrian, bicycle access, or facilities.

34. Appellant Claims

If the Project chooses to rely on transit or bikes as it claims, then a community- and pedestrian-oriented offset, a bike path, or beacon/pathway are all needed around the property, including an enhanced crosswalk for Ventura Blvd., more trees along streets to make it safer and more inviting to bike or walk, widened sidewalks. Neither the MND nor the LODs provide for such changes and plans, short of amorphous descriptions of

streetscape and landscape the Project will provide along Ventura Blvd, despite mentioning only about *one* single tree that will be removed and replaced with *one* single tree. (E.g., LOD-2, p. F-12 [pdf p. 33 ("Additionally, the proposed project has been thoughtfully designed to incorporate elements of the Woodland Hills Streetscape Plan, including street trees and lighting, which will also serve to minimize the scale and mass of the building")]; compare with LOD-2, p. C-3 [pdf p. 14 (""Trees. The applicant shall plant a minimum of 13 (30)-inch box trees, or larger on-site, and one (1) tree in the public right-of-way along Ventura Boulevard, pursuant to LAMC Section 12.21 G.3. Street trees shall be provided to the satisfaction of the Urban Forestry Division.)])

Staff Response

The project is conditioned and proposed to provide sidewalk improvements per Mobility 2025 standards along the site's street frontages. The right of way improvements will be designed during the permitting process to the satisfaction of the Department of Public Works (BOE, Street Lighting, Urban Forestry, etc). Improvement requirements can include (but are not limited to) repair of broken curb and gutter, repair broken sidewalk, close unused driveways, provide tree wells, provide street lights, widen sidewalk etc.

35. Appellant Claims

Also, the Project should provide more parking spaces – not less, which is what is proposed and approved. As noted earlier, the Project understated and misstated the required and applicable provisions of parking, especially in light of the potential expansion of the Project upon subdivision of the lots into two and addition of another restaurant or commercial space on Parcel A or Parcel B. Provision of less parking will necessarily result in an overspill of parking, idling of cars, traffic congestion, and the associated GHG, air quality, and noise impacts, none of which were duly studied in the MND or mitigated.

Staff Response

As stated above, the Appeal makes various unsupported claims about the Project's parking, and again relies on initial documents that have long been superseded by the plans that were approved by the City Planning Commission. The Appeal repeatedly focuses on the Project's environmental assessment form (EAF), which is a short document submitted with a project's initial filing that is meant to provide a general approximation of a project so that the City, along with assessing other relevant factors, can determine the appropriate level of environmental review. Projects routinely change through the review process to arrive at a project that is beneficial to the community and aligns with City policies and requirements.

The Project's EAF stated the Project would provide 34 parking spaces. The actual project assessed and approved will provide 29 spaces, which is more than the required amount pursuant to LAMC section 12.21 A.4 when combined with the Project's approved request to reduce parking by 20 percent and the replacement of a certain number of stalls with bicycle parking, as provided for in LAMC section 12.21 A.16(c). The stamped Exhibit A sheets reflect the proposed and approved parking spaces. The Appeal also erroneously claims that the Ventura-Cahuenga Boulevard Corridor Specific Plan governs parking for the Project, but the Plan is silent as to a parking requirement for the Project's proposed use, and thus the LAMC governs.

The Appeal also appears to argue that the provision of parking is a CEQA issue, as it repeatedly refers to a parking "baseline." However, parking is generally a code-compliance issue, not a CEQA issue. The Project's letter of determination provides a detailed discussion of the required

parking for the Project. Fehr & Peers performed a parking demand study dated January 25, 2023. The site contains an existing 122-room hotel with access to a total of 145 parking spaces on a surface parking lot. Parking occupancy counts were conducted at the parking lot on three different nights. Three nights of data collection provide a look at how this hotel's parking demand differs when there are different guest types on weekdays and weekends. The hotel was near 100 percent occupancy for each of the three nights. The parking analysis found a peak hotel parking demand rate of 0.73 spaces per occupied room. The maximum observed occupancy by hotel guests and employees was 86 spaces overnight. This indicates that the maximum parking need with 100 percent room occupancy is 98 spaces (0.8 spaces per room), including a 10 percent contingency factor. The project will provide required parking spaces per the Specific Plan and LAMC.

36. Appellant Claims

Moreover, the Project should be designed to ensure the middle section of the parking area is larger to accommodate larger commercial vehicles and to make sure they can maneuver without creating a tight squeeze for vans and other such vehicles (and potential traffic congestion, accidents, or other impacts) that would more likely visit and utilize the proposed self-storage facility.

Staff Response

LADOT and LADBS will review the parking area and driveway layout plan to ensure code compliance. That being said, the project is for self-storage of household goods, which does not generally utilize larger commercial vehicles. The nature of the storage is extra items that may not fit within a customer's primary residence. Most users may elect to drive their own personal automobile to the site or elect to use any other mode such as ride share, walking, or bicycling.

37. Appellant Claims

In sum, the MND's relied upon traffic study for the Project is fatally flawed for being based on flawed assumptions, and there is a fair argument the Project may have related traffic, noise, air, GHG, secondary impacts of parking shortage, and other impacts, absent accurate traffic study and binding mitigation measures.

For all these reasons, too, under the CEQA Guidelines section 15065(a)(3)-(4) and under the section 15064(f)(1)-(2), the MND is improper here and an EIR shall be prepared to reduce impacts to the *clearly* insignificant levels and to eliminate any risks on human health from the *operation* of the Project.

Geotechnical/Soil Impacts: The Project is located in the Liquefaction Area. The Geotechnical Report relied upon by MND (MND App. D, p. 25-26, pdf p. 32-33) indicates that the Project site contains an undocumented artificial fill, and groundwater was encountered at 17 feet. It further provides: "The proposed structure may be supported by a mat foundation system supported on structural compacted fill replacing existing fill soils in which the foundation system is designed to reduce the effects of static and seismically-induced settlement." (*Ibid.*)

And yet, the MND, the Decision, or the LODs fail to provide any mitigation measures to ensure the soil is stable to support the Project's 6-story and 84 feet building, next to the 101 Freeway, hotel, and residential/commercial uses. Moreover, in light of the geotechnical report requiring a replacement of the existing fill soils to reduce liquefaction impacts, the MND's description that the Project involves only "1,000 cubic yards cut and

600 cubic yards fill, net export of 400 cubic yards)" is inaccurate and must be properly adjusted to account for the proposed mat and impacts.

In turn, the MND's report of construction emissions must be adjusted to account for such additional grading and foundation replacement activities, and additional mitigation measures should be imposed to mitigate such emission impacts which, as stated earlier, already violate state and federal regulations.

Staff Response

According to the project's geotechnical report, recommended depths of ground disturbance is between 5 to 8 feet below existing ground surface across the proposed Project site for site preparation activities, including removal of undocumented fill soils and removal of existing improvements (i.e. foundations and underground utilities). The geotechnical report notes that site grading is not expected to require significant cut or fill (Leighton 2022). Additionally, the project site is not located in a designated Alquist-Priolo Earthquake Fault Zone. Pursuant to Sec. 91.7012. Construction Requirements and Limitations, of the City of Los Angeles Municipal Code, the project would incorporate the design recommendations included in its geotechnical report, which will be subject to review and approval by City staff prior to issuance of a grading permit. The project's geotechnical report provides specific design recommendations to ensure the structural integrity of the project in the event that seismic ground shaking is experienced at the project site. These recommendations include performing remedial grading, over-excavating existing soils, and recompacting these soils with structured fill, among other technical design recommendations (Appendix D). Additionally, the project's structures would be designed consistent with the most recent version of the California Building Code, which includes universal standards relating to seismic load requirements. With implementation of the recommendations of the project's geotechnical report, impacts associated with strong seismic ground shaking would be less than significant. Liquefaction occurs when partially saturated soil loses its effective stress and enters a liquid state, which can result in the soil's inability to support structures above. Liquefaction can be induced by ground-shaking events and is dependent on soil saturation conditions. Regional mapping by the California Department of Conservation shows that this site is located in an area of potential liquefaction (California Department of Conservation 2022). However, the geotechnical report prepared specifically for the project site determined there is a low potential for liquefaction to occur (Appendix D). In addition, development of the project itself would not increase the likelihood for liquefaction to occur.

38. Appellant Claims

Hazards Impacts – The MND concludes there are no potential hazards impacts. However, the MND's Appendix E – Phase I ESA provides: "It should be noted that undocumented underground structures, including storage tanks and basements, may be encountered based on our prior experience in the immediate vicinity." (MND App. E, p. 23, pdf pp. 30.) Furthermore, the Phase I ESA shows that the scope of work was limited to reconnaissance-level visit of the site "for evidence of release(s) of hazardous materials and petroleum products and to assess the potential for onsite releases of hazardous materials and petroleum products;" records review, interviews, and preparation of the report. (*Ibid.* at p. 2, pdf p. 9.) This lack of study and the admission that there may be storage tanks on the site creates a fair argument that the Project may have hazards impacts, in light of the demolition and construction of the site, as well as the presence of sensitive receptors at the site (hotel), and near the site (residential uses).

Staff Response

In July 2022, a Phase I ESA was prepared by Leighton Consulting, Inc. to characterize the potential hazards associated with the historical and current uses of the project site and surrounding areas (Appendix E). Historical uses of the project site included agricultural and vacant land from as early as 1920. In 1967 the project-site constructed its present-day hotel building. Currently, the site contains a hotel building, parking areas, and a swimming pool that would be moved to the eastern portion of the project site. Additionally, the project site is listed in the California Hazardous Waste Manifest (HAZNET) and Hazardous Waste Tracking System (HWTS) databases. The Project site address is listed in the HAZNET database maintained by the Department of the Toxic Substances Control (DTSC). According to the EDR database report, the Project site is listed as having disposed of hazardous materials, including but not limited to asbestos containing waste and oil/water separation sludge. These listings are most likely associated with the neighboring hotel building to the south of the Project site. However, after review of the aerial photographs show the Project site as being historically used as a portion of the pool area, landscaped area, and the parking lost associated with the neighboring hotel. The report concluded that observations should be made during any future subject site development for areas of possible contamination such as, but not limited to, the presence of underground facilities, buried debris, waste drums, tanks, stained soil or odorous soils. Should such materials be encountered, further investigation and analysis may be necessary at that time. It should be noted that undocumented underground structures, including storage tanks and basements, may be encountered based on our prior experience in the immediate vicinity. Phase I analysis did not identify that a Phase II analysis was necessary; therefore no additional analysis was conducted.

39. Appellant Claims

Land Use Impacts – The MND finds no land use impacts from the Project. And yet, the Project seeks numerous deviations from the General Plan designation (to build a self-storage facility in what is now zoned for P (parking) use only) and to build within 500 feet of residential area, and exceptions from the applicable Specific Plan, including significant height/FAR increases, setback/parking/buffer/parking reductions, and other similar changes. As the LOD-2 admits, for example, the height limitation of the Specific Plan was put in place to protect sensitive uses from too tall and out-of-scale buildings (LOD-2, p. F-14 [pdf p. 35]). As such, there is a fair argument that the restrictions in the General Plan and Specific Plan, as well as the City's development regulations, have been put in place to mitigate certain impacts. And, because the Project seeks to eliminate such mitigating restrictions, there is a fair argument that the Project may have significant land use impacts on the community. Notably, general plan inconsistencies constitute land use impacts and, in the MND as here, those are reviewed under the fair argument standard. (*Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 934 ("Because the land use policies at issue were adopted at least in part to avoid or mitigate environmental effects, we consider their applicability under the fair argument test with no presumption in favor of the City.")

For all the above-noted reasons, there is a fair argument that the Project may have impacts and further there is a fair argument the Project may impact human health both individually and cumulatively, requiring mandatory findings of significance and an EIR.

Staff Response

The Land Use and Planning Section of the MND analyzes if the project physically divides an established community, which this project does not. Additionally, it is required to analyze if the

project would cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect, which this project does not. As it was explained in detail, while the proposed Project would amend the existing zoning regulations of the site, this change would not result in a significant environmental impact. Furthermore, this Zone Change and Height District Change would not impede the City's ability to achieve its established goals and policies. The proposed exceptions would vary from the established Specific Plan requirements; however, they would not lead to a significant environmental impact as a result of their approval. Additionally, the implementation of the proposed Project would result in the development of self-storage building on underutilized land, which help to meet the needs of the community. The site is not located adjacent to any sensitive uses; to the north is the 101 Freeway, east is a retail development, south is the existing hotel, and west is a car dealership. The Project was determined to be substantially consistent with all of the applicable plans, policies, and regulations associated with the development of the Project Site including: Southern California Associate of Governments (SCAG) 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS); SCAQMD's Air Quality Management Plan; City's General Plan Framework Element, the Canoga Park-Winnetka-Woodland Hills Community Plan Community Plan, the LAMC, and Ventura-Cahuenga Boulevard Corridor Specific Plan. No substantial evidence has been submitted that would refute that conclusion.

40. Appellant Claims

The LOD-2's Reference to CEQA Exemptions under Guidelines Sections 15162 and 15164 Is Improper.

While the November 19, 2024 dated LOD-1 for parcel map approval made a determination on the MND itself and found it adequate, that *same-day* LOD-2 failed to make such determination of the MND's adequacy and instead referenced CEQA exemptions under CEQA Guidelines sections 15162 and 15164, stating:

Found, based on the independent judgment of the decision-maker, after consideration of the whole of the administrative record, the Project was assessed in Mitigated Negative Declaration, No. ENV-2022-8611-MND, adopted on November 19, 2024; and pursuant to CEQA Guidelines, Sections 15162 and 15164, no subsequent EIR, negative declaration, or addendum is required for approval of the Project…
(LOD-2, p. 1, emph. added.)

And yet, reference to CEQA Guidelines Sections 15162 and 15164 – *before* the Project has been approved – is unsupported. CEQA Guidelines Section 15162, by definition, applies *after* the Project was "approved" by the *lead agency* and when *subsequent* approvals are needed by *responsible* agencies. Thus, CEQA Guidelines 15162(c) provides:

Once a project has been approved, the lead agency's role in project approval is completed, unless further discretionary approval on that project is required. Information appearing after an approval does not require reopening of that approval. If after the project is approved, any of the conditions described in subdivision (a) occurs, a subsequent EIR or negative declaration shall only be prepared by the public agency which grants the next discretionary approval for the project, if any. In this situation no other responsible agency shall grant an approval for the project until the subsequent EIR has been certified or subsequent negative declaration adopted.
(Emph. added.)

Here, no *project* approval occurred on October 24, 2024 by virtue of the *parcel map* approval only, or by its respective LOD-1 of November 19, 2024. Instead, by its own terms, LOD-1 (for parcel map approval), Condition 6 provides the *additional* approvals that are needed for the final parcel map to be adopted and recorded; namely:

Provide a copy of CPC case CPC-2022-8609-ZC-HD-SPE-SPP-CU- SPR. Show compliance with all the conditions/requirements of the CPC case as applicable.
Obtain Zone Change to change the zone to the Proposed C2-2 Zone prior to obtaining Zoning clearance.
Obtain City Planning approval for the reduction of project site for the existing hotel site.
(LOD-1, p. C-2.)

Also, LOD-1 provides Condition 16, which states:

That prior to the issuance of the building permit or the recordation of the final map, a copy of the Case No. CPC-2022-8609-ZC-HD-SPE-SPP-CU-SPR shall be submitted to the satisfaction of the Advisory Agency. In the event that Case No. CPC-2022-8609-ZC-HD-SPE-SPP-CU-SPR is not approved, the subdivider shall submit a tract modification.
(LOD-1, p. C-9, pdf p. 11.)

As such, it is wholly inappropriate to presume – and, based on such presumption, to claim – in the LOD-2 that, because of the approval of the parcel map in LOD-1 – subject to the final approvals of the zone, height, exceptions, and specific plan changes yet to be acted upon by the Planning Commission and reviewed and approved by the City Council – the Project, as a whole, was approved and the MND was adopted, and that the LOD-2 only needed to see if *subsequent changes* after project *approval* occurred.

For all these reasons, the City's reference in the LOD-2 of CEQA Guidelines §§ 15162 or 15164 – and the purported suggestion that the Appellant or the public need to show subsequent changes to the project to *reopen* the MND or CEQA – is legally improper and a red herring.

Accordingly, the MND is open to scrutiny for the LOD-2 approvals and, for all reasons mentioned above, it is inadequate and requires an EIR.

Staff Response

The approval of the subdivision, AA-2022-8610-PMLA, does not require the subsequent approval of CPC-2022-8609-ZC-HD-SPE-SPP-CU-SPR. The parcel map would subdivide a legal lot into two legal lots, which is permitted by the Subdivision Map Act. LOD-1 (AA-2022-8610-PMLA) is a stand alone subdivision approval and not a part of the multiple approvals under the CPC case. Because AA-2022-8610-PMLA was issued prior to the initial decision on the CPC case, and thus the Advisory Agency, in approving AA-2022-8610-PMLA, adopted the MND. The CPC subsequently reaffirmed that adoption of the MND when it denied the appeal of AA-2022-8610-PMLA. The CPC appeal denial was final and not further appealable. Thus, the MND was adopted by CPC. In approving CPC-2022-8609-ZC-HD-SPE-SPP-CU-SPR, the Commission relied on the adopted MND as the CEQA clearance for the project and did not need to "re-adopt" it. Specifically the CPC:

Found, based on the independent judgment of the decision-maker, after consideration of the whole of the administrative record, the Project was assessed in Mitigated Negative

Declaration, No. ENV-2022-8611-MND, adopted on November 19, 2024; and pursuant to CEQA Guidelines, Sections 15162 and 15164, no subsequent EIR, negative declaration, or addendum is required for approval of the Project

As the MND analyzed the whole of the project, inclusive of both entitlements, a determination that no subsequent MND/addendum/EIR is required.

AA-2022-8610-PMLA does include standard condition language from LADBS Zoning that specifies that prior to issuances of a building permit, that the approval of CPC-2022-8609-ZC-HD-SPE-SPP-CU-SPR be furnished as the CPC approval is necessary in order for the proposed storage building to be developed. These conditions are the safeguards that are provided to ensure that the site's zoning is adequately changed to accommodate the proposed project. If the applicant were to abandon the storage project and the CPC case, the parcel map could still proceed forward through a possible tract modification process.

41. Appellant Claims

The Planning Commission's Approval and Recommendation of the Zoning Change, Height District Change, FAR Increase, Parking Reduction, Setback Reduction, Landscape Buffer Reduction and Other Exceptions, as well as Conditional Use Permits to allow Self-Storage Uses within 500 Feet of Residential Zoning Violate State and Local Laws and Regulations, Including CEQA, Planning and Zoning Law, the City's General and Specific Plans, the City's Charter, the City's Municipal Code and Chapter 1A, and the California Constitution and, *Inter Alia*, Create Impermissible Spot Zoning and Grant a Specific Privilege for a Self-Imposed Hardship.

Staff Response

The Appeal asserts the City lacks legal authority to approve any of the Project's the project's requested entitlements as they render the Project inconsistent with the City's General Plan as a matter of law. The Appeal provides no support for this assertion. The Appeal claims that by approving a Zone Change, the City is "evading" the site's current zoning. The approval of the Specific Plan Exception does not render the project inconsistent with the General Plan. The findings in support of the requests were made when the City Planning Commission approved the project at its meeting on October 24, 2024. Per LAMC Section 12.32, the City Planning Commission has the authority to make recommendations to the City Council on any application for a proposed Zone Change and Height District Change. The CPC also made the required City Charter Finding 556: When approving any matter listed in Section 556, the City Planning Commission and the Council shall make findings showing that the action is in substantial conformance with the purposes, intent and provisions of the General Plan.

The Appeal next claims that Specific Pan Exceptions are identical to Variances, and that the City cannot make the required findings to approve the Exceptions sought here. A project Exception grants relief from a Specific Plan's regulations on the basis of particular standards or criteria established in the LAMC, or in a particular section of a Specific Plan. Like a Variance, a project Exception application must show a hardship. However, a project Exception typically includes relief from standards that relate to the purposes of the Specific Plan. In granting this project Exception, the City Planning Commission imposed conditions to remedy any resulting disparity of privilege and that are necessary to protect the public health, safety, welfare and assure compliance with the objectives of the General Plan and the purpose and intent of the Specific Plan. A project exception was not used to grant a special privilege, nor to grant relief from self-imposed hardships. The findings in support of the requests has been made in the LOD and the CPC adopted the

findings in its approval of the project. The appellant even acknowledges that there were unique circumstances at the site that necessitate the Specific Plan Exception.

42. Appellant Claims

CEQA Violations

For all reasons stated in Section I.A, the height, FAR, parking, setback, and other deviations requested and approved by the City for the Project are improper as they lack adequate CEQA review despite allowing a controversial massive project on a small subdivided lot.

Staff Response

As mentioned above in Section I.A, appellant's claim is that there is no substantial evidence to grant project's requested entitlements. The findings in support of the requests were made, adopted and approved by the CPC.

43. Appellant Claims

Planning and Zoning Law Violations & Inconsistencies With the General Plan, Specific Plan, and the City's Municipal Code & Charter

The City's conclusions in the LOD-2 that the Project is consistent with the policies of the General Plan is flawed as it disregards the *manifest deviations* of the Project from the General Plan's and Specific Plan's *objective requirements* and instead relies on argument and persuasion that somehow the Project is consistent with the more abstract and vague development policies and intents. Simply put, the Project may not be found to be consistent with the *intent* of a regulation if it bluntly violates and is inconsistent with the specific requirements of that regulation. But the LOD-2 claims that a Project, as here, may both violate specific requirements of the General Plan and Specific Plan and yet be consistent with the intent of those plans. Not so.

Notably, even though the City's LOD-2 conceals the problem claiming the Project's proposed changes are consistent with the existing General and Specific Plan, the City's LOD-1 admits this is not the case. The LOD-1 states:

THE PROPOSED MAP WILL BE/IS CONSISTENT WITH APPLICABLE GENERAL AND SPECIFIC PLANS.

The Land Use Element of the General Plan consists of the 35 Community Plans within the City of Los Angeles. The Community Plans establish goals, objectives, and policies for future developments at a neighborhood level. Additionally, through the Land Use Map, the Community Plan designates parcels with a land use designation and zone. The Land Use Element is further implemented through the Los Angeles Municipal Code (LAMC). The zoning regulations contained within the LAMC regulates, but is not limited to, the maximum permitted density, height, parking, and the subdivision of land. The project site is located with the Ventura- Cahuenga Boulevard Corridor Specific Plan area.

(LOD-1, p. F-1, emph. added [pdf p. 19].)

To name several issues in the above admission, the LOD couples the statement of consistency with "will" – tacitly admitting that there is no *present* consistency of the Project with the General and Specific Plans, but such purported *consistency* will be reached *upon* the requested zone and other changes the Project applicant seeks. And yet, a Project's consistency with the General Plan (or Specific Plan) is not achieved by changing the General Plan or Specific Plan itself, or else, why have any General or Specific Plan requirements if those can be changed any time someone asks? In the words of the Court,

If the Updated Specific Plan is inconsistent with the General Plan, the Updated Specific Plan is invalid; but the General Plan is unaffected. The court in *Lesher Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 541, 277 Cal.Rptr. 1, 802 P.2d 317 established this point in connection with the claim that a zoning ordinance essentially amended a general plan, rendering it invalid: "The Planning and Zoning Law itself precludes consideration of a zoning ordinance which conflicts with a general plan as a pro tanto repeal or implied amendment of the general plan. The general plan stands. A zoning ordinance that is inconsistent with the general plan is invalid when passed [citations] and one that was originally consistent but has become inconsistent must be brought into conformity with the general plan. [Citation.] The Planning and Zoning Law does not contemplate that general plans will be amended to conform to zoning ordinances. The tail does not wag the dog. The general plan is the charter to which the ordinance must conform."

(Napa Citizens for Honest Government v. Napa County Bd. of Supervisors (2001) 91 Cal.App.4th 342, 389, emph. added.)

The City tacitly concedes the Project is *not* consistent with the *existing* General Plan and Specific Plan by qualifying such "consistency" with *five (5) exceptions* sought from such plans:

The proposed Project provides a compatible and harmonious commercial development that complies with *all relevant* Zone and *Specific Plan* requirements *aside* from the *five (5) requested exceptions* (two (2) for the hotel site and three (3) for the self-storage site) recommended for approval.

(LOD-2, p. F-15 [pdf p. 36].)

Moreover, as noted earlier in Section I.A, *supra,* the LAMC itself, at Chapter 1A, mentions that, where the Specific Plans conflict with the LAMC, the Specific Plan's requirements *prevail* and *supersede* the LAMC.

Here, the Project seeks to *evade* the limitation of P-zoning, which – under the zoning classification of the General plan and land use element – allows only parking uses. Instead, the Project seeks not to change the P-zoning into a C4 zone, for example, as the neighboring site, but rather to change *both* the P zone and C4 zone into a less restrictive C2 zone. The LOD-2 advocates for that change, claiming that the change will make "consistent zoning" throughout the Project site: "The applicant is requesting a Zone Change and Height District Change from C4- 1LD and P-1LD to C2-2 which would establish consistent zoning across the Site, and would allow the Project to be developed with a building containing self-storage for household goods and associated office." (LOD-2, p. F-1, pdf p. 22, emph. added.) But if providing "consistent zoning across the Site" is the goal, then the zone change may be simply from P-1LD to C4-1LD (similar to the rest of the Project site) – not C2. There is simply no justification for allowing a zone change

other than to allow a non- conforming land use in a P-zoned area set for solely parking uses under the General Plan. But to allow for a zone change for that purpose will be a special privilege allowed to this particular Applicant, in violation of the LAMC and the California Constitution.

Moreover, the LOD-2 fails to note that, while a C-2 zone change will make zoning consistent across the "Site," it will create *spot zoning* as compared to *all other* sites next to the Project, which are all zoned either C4 or P, as shown in the screenshot below from ZIMAS:



In the words of the court:

The "creation of an island of property with less restrictive zoning in the middle of properties with more restrictive zoning is spot zoning. … [S]pot zoning may or may not be impermissible … . 'The rezoning ordinance may be justified, however, if a substantial public need exists … .'" (*Foothill Communities Coalition v. County of Orange* (2014) 222 Cal.App.4th 1302, 1314 [166 Cal. Rptr. 3d 627].)
(*Westsiders Opposed to Overdevelopment v. City of Los Angeles* (2018) 27 Cal.App.5th 1079, 1090, fn. 7.)

As such, while spot zoning may be permissible if a substantial public need exists, that is not the case here. Thus, in both *Foothill* and *Westsiders* cases, *supra,* courts considered housing as a public benefit. But here, the spot-zoning is requested to change a P-zoned land – reserved for parking only – to a C-2 zone and in order to build a self-storage facility, which is precisely *not* allowed *even* in that *new* C-2 zone since the lot is within 500 feet of residential area. As such, the proposed rezoning and land use upon such rezoning are squarely opposite to the public welfare and public interests expressed by the land use limitations of the City.

While the LOD-2 argues the self-storage facility is for the public benefit since it is located close to residential and commercial area, this is pure sophistry. The City's own rules and regulations manifestly prohibit building such self-storage areas within 500 feet of residential areas. A City official cannot erase or overwrite the City's development

regulations by advocating for what is the exact opposite of the legislative intent engraved in the City's regulations.

Staff Response

Self-storage is not prohibited within 500 feet of residential zones. The use does trigger the need for Conditional Use authorization to allow the city to review the proposal for various factors so that the use can be compatible with surrounding uses. Findings for the Conditional Use were made in the affirmative by the CPC. It is, again, not a prohibited use within 500 feet of residential zones. If it were prohibited, the project would seek either a ZC to a zone that would permit the use by-right or a Zone Variance.

The Appellant has submitted no substantial evidence that there is no substantial public need for the construction of the proposed self-storage and zone change. The findings in support of the request have been made by the CPC, finding that the proposed Zone Change and Height District Change are consistent with the General Plan and Canoga Park-Winnetka-Woodland Hills-West Hills Community Plan. The project was found to be in in conformance with the public necessity, convenience, general welfare, and good zoning practice.

44. Appellant Claims

Moreover, the LOD-2's evidentiary support for the purported public benefit and need in the proposed self-storage facility at the Project site actually negates that need. The LOD-2 notes that there are at least 5 self-storage facilities within 2 miles of the Project site, of which 2 facilities offer climate control:

While the site is a prime location for commercial uses given its proximity to residential uses, a Specific Plan-compliant Project cannot be developed given the nature of the use as a newly-developed self-storage building and the need to achieve a certain size and scale to serve the end-users. The demand for storage has significantly increased over the past several years. No self-storage facilities exist within a one-mile radius and only five (5) exist within two (2) miles, of which only two (2) facilities offer climate control.

(LOD-2, p. F-14 [pdf p. 35].)

Also, that there is no self-storage facility within 1 mile of residential area does not suggest that the market is under-supplied. It simply reflects the intent and goals of the City's regulations to *not* allow self-storage facilities within 500 feet of residential areas, among other things. There is no requirement that self-storage facilities be located within 1 mile of residences. It is also sophistic to assume that residents are the ones with need of self-storage areas. Why would someone who has his/her own residence and home need to *also* rent a storage area?

Moreover, per the 2024 report on the market trends of self-storage areas in the Los Angeles area, the market is actually declining and is used by transient population. (Exhibit 16 [September 24, 2024 Report re Market Trends[16]].)

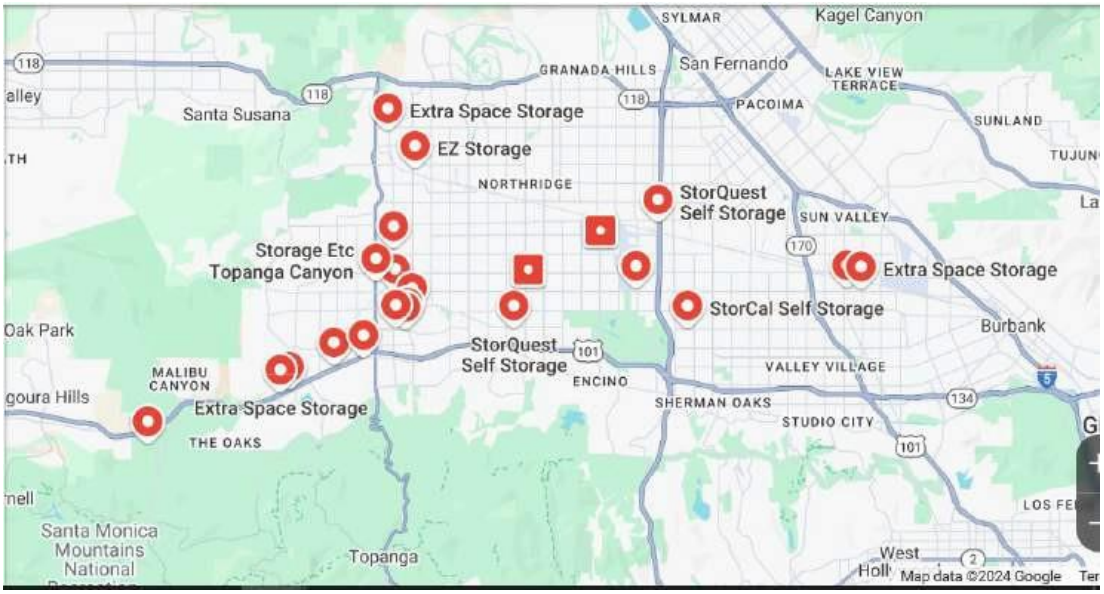
And the LOD-2's reliance on the *Applicant's* opinion about the market is misplaced; it states:

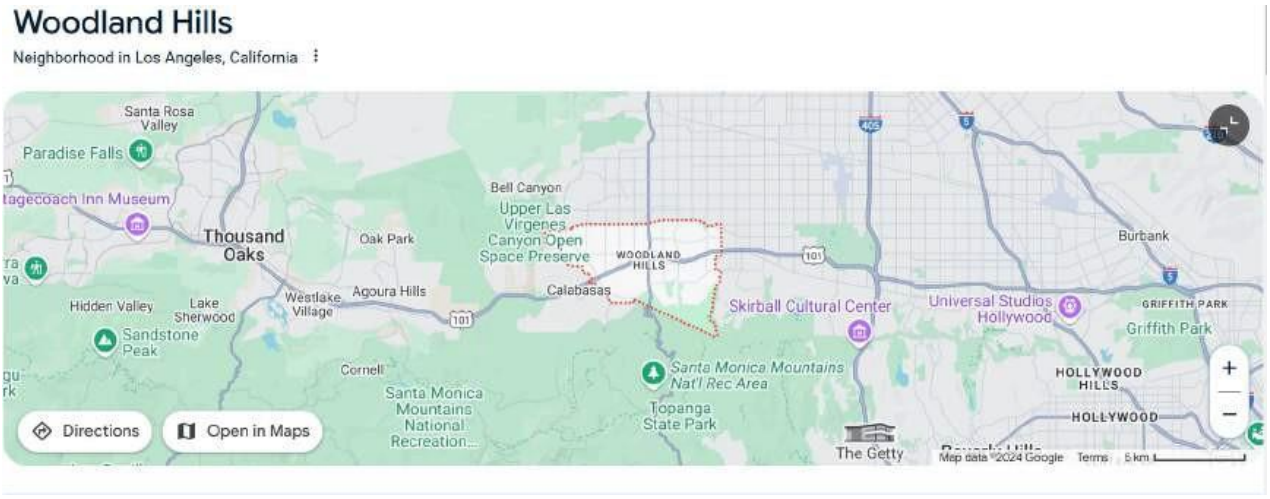
[16] Also available here, https://www.storable.com/resources/learn/storage-monitor-los- angles-self-storage-market-trends-report/

Additionally, *according to the applicant*, the existing square footage per capita for storage is 3.5 square feet. The average square footage per capita for storage is 7.5 square feet, which shows the market is under-supplied.

The specific plan does not have specific regulations for storage uses and does not factor in their unique operating demands.
(*Ibid.,* emph. added.)

Yet, that the existing square footage per capita for storage is 3.5 sf and the average square footage per capita for storage is 7.5 – even if true, which is not shown by any other evidence other than the interested Applicant's statement here – it still does not support the conclusion that the market of self-storage facilities is under-supplied in the Project area. The google map screenshots below confirm there are many storage facilities in the Woodland Hills area:





In sum, there is no support for the LOD-2's argument that the proposed self-storage facility – and the zone, conditional use permits, FAR/height and other changes leading to *spot zoning* – is consistent with the General Plan, Specific Plan, or is even in the public interest, to begin with.

For this reason, the zone change from C-4 and P to C-2 should be denied for being inconsistent with the General Plan, Specific Plan goals and intents reflected by their objective restrictions, and constitutes an impermissible *spot zoning,* which sets a bad precedent for other's zone-change requests, contrary to the objective and clear requirements of the applicable City plans.

Staff Response

The site's existing P-1LD and C4-1LD zoning is legal non-conforming as the P Zone is not a corresponding zone of the site's General Commercial land use designation. The General Commercial GPLU has the following corresponding zones: C1.5, C2, C4, RAS3, and RAS4. Thus, the proposed zone change would make the zoning consistent with the underlying General Plan land use designation and would not be considered spot zoning. The zone change would result in a uniform zone across the project site. The proposed C2 zone is a corresponding zone of the land use designation.

The appeal also questions the need for storage facilities in the area, especially for people who already have homes/residences. There are many reasons as to why individuals with homes would want to utilize off-site storage facilities. Perhaps they not have enough room at their home, they want to make room for their expanding family, or they want to hold onto items that may have not have a daily need. Folks who are downsizing may also need to store additional items. The market dictates the demand for storage facilities and at this time, the applicant believes that there is a market for additional facilities in the Woodland Hills area.

The Land Use and Planning Section of the MND is required to analyze if the project would cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. As it was explained in detail in the MND, LOD, and above, while the proposed Project would amend the existing zoning regulations of the site, this change would not result in a significant environmental impact. Furthermore, this Zone Change and Height District Change would not impede the City's ability to achieve its established goals and policies. The proposed exceptions would vary from the established Specific Plan requirements; however, they would not lead to a significant environmental impact as a result of their approval. Additionally, the implementation of the proposed Project would result in the development of self-storage building on underutilized land, which help to meet the needs of the community. The Project would be substantially consistent with all of the applicable plans, policies, and regulations associated with the development of the Project Site including: City's General Plan Framework Element, the Canoga Park-Winnetka-Woodland Hills Community Plan Community Plan, the LAMC, and Ventura-Cahuenga Boulevard Corridor Specific Plan.

45. Appellant Claims

Exceptions to the Specific Plan Should Not Be Granted Since, as With Variances, Any Physical Hardship or Constraint to Be Shown Cannot Be Self-Imposed and Cannot Create a Special Privilege Under the Applicable State Laws, City Rules, and California Constitution

While the LOD-2 recommends the grant of exceptions from the Specific Plan's limitations and restrictions on height, FAR, setback, parking and other development regulations, by claiming that the Project or the proposed self-storage facility cannot be built in that mass and scale on a narrow lot (upon subdivision) and by thereby trying to show physical hardship to the Applicant, the LOD-2 fails to note one critical detail: under both the variance law and the Specific Plan exceptions under the LAMC, the exception or variance cannot grant a special privilege to any Applicant and also since the physical hardship cannot be *self-imposed, as here*.

Thus, under LAMC – Chapter 1A[17], 13B.4.5.A & D [Project Exception]: Sec. 13B.4.5. PROJECT EXCEPTION

A. Applicability

This Section applies to exceptions from specific plan regulations, as follows:

1. Description

A Project Exception grants relief from a specific plan's regulations on the basis of particular standards or criteria established in this Section, or in a particular section of a specific plan. Like a *Variance*, a Project Exception application must show a *hardship*. However, a Project Exception typically includes relief from additional standards that relate to the purposes of the specific plan.
…
D.5. Conditions

In granting a Project Exception, the Area Planning Commission shall impose conditions to remedy any resulting disparity of privilege and that are necessary to protect the public health, safety, welfare and assure compliance with the objectives of the General Plan and the purpose and intent of the specific plan. A Project *Exception* shall not be used to grant a *special privilege*, *nor* to grant relief from *self-imposed hardships*.

The same standard applies to variances akin to the exception sought here: Under LAMC Chapter 1A, Section 13B.5.3.E:

E. Standards for Review and Required Findings

1. The standards in Sec. 562 (Variances) of the City Charter apply to Variances. In granting a Variance, the Zoning Administrator or Area Planning Commission (on appeal) or City Council (on appeal) shall find:

a. that the strict application of the provisions of the zoning ordinance would result in *practical difficulties* or *unnecessary hardships* inconsistent with the general purposes and intent of the zoning regulations;

b. that there are *special circumstances* applicable to the subject property such as

[17] See Chapter 1A Section 13 available at https://export.amlegal.com/highlighter/viewer/?file=https%3A%2F%2Fexport.amlegal.com%2Fmedia%2F24259a9bf34d8bbd74290ebcea364555aab18977%2FPDF%2FChapter%201A_PDF.pdf&hitNavLoc=2&powerSearch=1&hideHlMessages=1&hideHlErrors=1&roll=0&nativePrint=1&script=/static/js/highlighter-hooks.js#p26

size, *shape*, *topography*, *location* or *surroundings* that do not apply generally to *other* property in the *same zone* and *vicinity*;

c. that the Variance is necessary for the *preservation* and *enjoyment* of a substantial property right or use *generally possessed* by other property in the same zone and vicinity but which, because of the *special circumstances* and *practical difficulties* or *unnecessary hardships*, is denied to the property in question;

d. that the granting of the Variance will *not* be *materially detrimental* to the public welfare, or *injurious* to the property or *improvements* in the same zone or vicinity in which the property is located; *and*

e. that the granting of the Variance will not *adversely affect* any element of the *General* Plan.

2. A Variance *shall not* be used to grant a *special privilege* or to permit a use substantially *inconsistent* with the *limitations* upon other properties in the same zone and vicinity. The Zoning Administrator may *deny* a Variance if the conditions creating the need for the Variance were *self-imposed*.
(*Ibid.,* emph. added.)

The above-noted provisions in the LAMC reflect the law of this state on variances under Gov. Code section 65906, which provides:

Variances from the terms of the zoning ordinances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

Any variance granted shall be subject to such conditions as will assure 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.

A variance shall *not* be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property. The provisions of this section shall *not* apply to conditional use permits.
(Emph. added.)

The City's Charter Section 562(c)[18] contains the same 5 findings and prohibitions:

(c) Findings for Granting a Variance. The following findings shall be made before a variance may be granted:

(1) that the strict application of the provisions of the zoning ordinance would result in *practical difficulties* or *unnecessary hardships* inconsistent with the general purposes and intent of the zoning regulations;

(2) that there are *special circumstances* applicable to the subject property such as size,

[18] See City's Charter Section 562 available at:
https://codelibrary.amlegal.com/codes/los_angeles/latest/laac/0-0-0-2563

shape, topography, location or surroundings that do *not* apply *generally* to other property in the same zone and vicinity;

(3) that the variance is *necessary* for the preservation and enjoyment of a substantial property right or use *generally possessed* by *other property* in the *same zone* and *vicinity* but which, because of the *special circumstances* and *practical difficulties* or *unnecessary* hardships, is *denied* to the property in question;

(4) that the granting of the variance will not be *materially detrimental* to the public welfare, or injurious to the property or improvements in the *same zone* or *vicinity* in which the property is located; and

(5) that the granting of the variance will not *adversely* affect any *element* of the General Plan.

The grant of a variance may include conditions that will *remedy* a *disparity* of privileges and that are *necessary* to protect the *public health*, *safety* or *welfare* and *assure compliance* with the objectives of the General Plan and the purpose and intent of the zoning ordinance. A variance *shall not* be used to grant a *special privilege* or to permit a *use* substantially *inconsistent* with the *limitations* upon *other* properties in the *same zone* and vicinity. The Zoning Administrator may deny a variance if the conditions creating the need for the variance were *self-imposed*.

Most importantly, failure to satisfy even one of the required 5 findings in Charter Section 562 or LAMC is fatal. (See, *Minney v. City of Azusa* (1958) 164 Cal.App.2d 12, 38 ["[I]t is manifest that failure to prove any of the matters required by the ordinance must result in a denial of a variance application"].) The City is also required to "set forth findings to bridge the analytic gap between the raw evidence and ultimate decision or order." (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 514.)

"In a county or a general-law city, a variance is a permit to build a structure or engage in an activity that would not otherwise be allowed under the zoning ordinance; it cannot, however, be granted to allow a *use* unauthorized by the zoning ordinance. (§ 65906.) Typically, variances provide relief from regulations such as those governing setbacks, height, square footage, and density. (4 Manaster & Selmi, Cal. Environmental Law and Land Use, *supra,* Zoning, § 60.32[1], p. 60–42; 1 Longtin, Cal. Land Use, *supra,* § 3.70[1], pp. 349–350.) A variance may be granted "only when, because of the special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification." (§ 65906.) "The essential requirement of a variance is a showing that a strict enforcement of the zoning limitation would cause unnecessary hardship."
(*PMI Mortgage Ins. Co. v. City of Pacific Grove* (1981) 128 Cal.App.3d 724, 731, 179 Cal.Rptr. 185.)" (*Neighbors in Support of Appropriate Land Use v. County of Tuolumne* (2007) 157 Cal.App.4th 997, 1007 (emphasis orig.))

"Unnecessary hardship therefore occurs where the natural condition or topography of the land places the landowner at a disadvantage vis-à-vis other landowners in the area, such as peculiarities of the size, shape or grade of the parcel. (*Id.* at p. 800, 105 Cal.Rptr. 105.) *Zakessian* also discerned in the hardship requirement an additional finding that the hardship be substantial, and that the exception sought must be in harmony with the intent

of the zoning laws. (*Id.* at p. 801, 105 Cal.Rptr. 105.)" (*Committee to Save the Hollywoodland Specific Plan v. City of Los Angeles* (2008) 161 Cal.App.4th 1168, 1183.)

"Further, the special circumstances pertaining to the property must be such that the property is distinct in character from comparable nearby properties. In *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 113 Cal.Rptr. 836, 522 P.2d 12, the landowner obtained a zoning variance to build a 93–space mobile home park on 28 acres in Topanga Canyon on property zoned for light agricultural and single-family residences. (*Id.* at p. 510, 113 Cal.Rptr. 836, 522 P.2d 12.) Applying Government Code section 65906,[11] *Topanga* found insufficient evidence supported the grant of the variance because there was there was no evidence concerning comparable neighborhood properties, and therefore concerning whether the variance was necessary to bring the landowner into parity with other parties holding property in the same area. (*Id.* at p. 521, 113 Cal.Rptr. 836, 522 P.2d 12.)" (*Committee to Save the Hollywoodland Specific Plan v. City of Los Angeles* (2008) 161 Cal.App.4th 1168, 1183–1184.)

Here, there is no substantial evidence that the Project site – limited to certain height and density and use designation as P (parking) or C4, which are complied with by other landowners – is at a disadvantage vis-à-vis other landowners in the area and needs a variance to build a self- storage facility for a use (other than *parking*) different from what is allowed and contrary to the intent of the zoning laws. (*See* also, *Smith v. County of Santa Barbara* (1992) 7 Cal.App.4th 770 [No substantial evidence that the Developer intended the use for which permit was sought and granted].)

Besides, the Project proposes the self-storage facility within 500 feet of residential area – another development limitation from which the Applicant seeks a waiver or variance. This suggests that the proposed exceptions will adversely affect public health, safety and welfare by allowing to site a self-storage facility within 500 feet of residential area prohibited by the City.

Moreover, there is no showing that a self-storage facility has been proposed by any other property owner in the P-zone and in the vicinity of the Project – i.e., the *same zone* as required by all 5 findings required for the exception or variances under the City or state laws. Instead, *all* other taller or bigger FAR buildings or reduced setbacks and other changes were proposed in C4 zone and sometimes even *miles* away from the Project, as shown further below.

In light of the above-mentioned, it is clear that any grant of an exception or variance to the Project Applicant will constitute a *special privilege,* which is prohibited under the LAMC and state laws on variance.

Critically and also importantly, the City's argument of the physical hardship to develop the Project with numerous exceptions as to FAR, height, setback, parking, and other limitations and within 500 feet of residential areas is self-imposed. It is created only because: (1) the Applicant sought to subdivide *one* single lot into *two* lots, thereby creating a narrow Parcel A on which the Applicant however seeks to build an enormous 6-story self-storage facility; (2) the Applicant itself chose to build a 6-story self-storage facility of 80 feet in height and there is no evidence why the Applicant has to necessarily build a 6-story self-storage facility and not a smaller one instead, even if allowed on the Project site. In other words, there is no evidence that all self-storage facilities have to be necessarily 6-story or 112,204 square feet as desired or proposed by the Applicant and cannot be smaller than that. Simply put, the Applicant may be able to downsize the Project and build

a smaller facility which will comply with the height and other requirements – but is instead trying to fit an enormous structure on a narrow piece of land the Applicant itself created through subdivision.

Staff Response

Economies of Scale: The applicant proposed a project that is 6 stories and 80 feet in height. The Department was not required to analyze project alternatives that may have resulted in a smaller building. The applicant has proposed a building that meets their needs. Larger self-storage facilities spread fixed development and construction costs over a greater building square footage, making them cost-effective to develop commercially for a profit. Building less square footage equates to a higher development cost per square-foot, reduced profitability, ability to obtain reasonable commercial financing terms, etc... to a point where the project is no longer financially feasible to develop.

Underserved Market and High Barriers to Entry: The greater Woodland Hills trade area is a densely populated area with a mix of residential and commercial properties, and is meaningfully underserved, especially by modern climate-controlled facility as is being proposed. A larger self-storage facility will better meet the diverse storage needs of the community and lower costs for residents who are deeply cost burdened today in locating facilities to store personal items. And based on the significant barriers to entry into this market, few sites remain which are suitable for self-storage when compared to other use. In simplest terms, a smaller self-storage facility would not be commercially feasible to develop on this site.

46. Appellant Claims

Last but not least, the variance provisions under the LAMC and state law against creating a special privilege also reflect the requirement of the California Constitution at Cal. Const. Art. I § 7, subdivision (b), which mandates: "(b) A citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens."

Here, the Applicant is seeking and the City – or precisely the Advisory Agency and the Planning Commission – has granted and/or recommends the City Council to grant special privileges or immunities not granted to other Applicants or property owners on the same terms to all citizens. Notably, while the LOD-2 mentions *other* properties which at different times sought a height increase, FAR increase, or other deviations from development laws, *none* of the City's mentioned properties sought various deviations at the *same* site. Moreover, that other properties – at times miles away from the Project Site – were granted a variance from one or two limitations – based on their own case-by-case findings made by the City – does not create a presumption that such case-by-case factual findings are absolutely necessary or warranted here.

In sum, for reasons above and also for reasons detailed below, the Applicant's sought exceptions or variances from the applicable regulations, including under the superseding Specific Plan, should not be granted as they: (1) cannot support any of the 5 findings required for variances or exceptions, since they result from a self-imposed hardship *after* the Applicant chose to *subdivide* the property and after the Applicant chose to develop the now-subdivided property with a massive and non-conforming use of a self-storage facility; and (2) grant a special privilege to an Applicant that is not granted to others; and (3) violate the applicable state laws, including the Planning and Zoning Law, Variance provisions, City's Charter and LAMC regulations, as well as the California Constitution.

Staff Response

The Appellant has submitted no substantial evidence that the city has recommended denial of similar requested entitlements for other projects as the proposed project. Additionally, as the appellant mentioned above there are numerous other projects within the same block or one block away (not miles away) from the project site that deviate from the LAMC and/or specific plan provisions. The appellant also has submitted no substantial evidence on which the California Constitution will be violated and/or how it will be violated by the recommendation of approval of the project.

The findings in support of the request have been made by the CPC that the proposed Project, compliant with the use regulations of the Specific Plan, underlying zone, and applicable element of General Plan, is also compliant with the site planning and design regulations of the Specific Plan aside from the requested Exceptions for FAR, height, landscape buffer, and parking spaces due to its narrow and long, unusual shape. The size and configuration of the Subject Property, in combination with the practical physical requirements for the operations and functions of the proposed use, and the desire for placement of storage uses are exceptional circumstances and conditions applicable to the Subject Property and the proposed use that do not apply to other properties within the Specific Plan area. Development of this type of use, while useful to the community and consistent with the goals of the Specific Plan overall, is not possible within the building envelope created by the limitations on FAR and height. It should be noted that to address the impacts of the area, height, and bulk increase, the building will include substantial building articulation and the use of high-quality building materials. The granting of the Specific Plan Exceptions for additional FAR, height, and to not comply with landscape and parking requirements will not be detrimental to the public welfare or injurious to the properties adjacent to or in the same vicinity of the Subject Property because the proposed use of a self-storage is consistent with the intent of the Specific Plan, is in harmony with the underlying zoning on the property and has been designed to be compatible with the surrounding properties.

47. Appellant Claims

Zone Change and Height District Change Findings Are Unsupported and Flawed

The LOD-2's findings for the advocated and recommended zone and height district changes are wholly unsupported and flawed. Firsts, for reasons mentioned in Section I.C.2-3 above, the Project is *inconsistent* with the General Plan and Specific Plan applicable to the site, contrary to what the City argues. The Project is clearly inconsistent with the designated P- zoning, requests a waiver or variance to build a self-storage facility within 500 feet of residential area *even* in the to-be-changed C-2 zone, and thus violates the clear limitations under the General Plan and Land Use Element zoning designation.

Notably, an inconsistency with even one policy of the General Plan can scuttle the Project and render it inconsistent. (*Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Bd. of Sup'rs* (1998) 62 Cal.App.4th 1332, 1341–1342.)

Here, no reasonable person can conclude that a Project which seeks deviations from the General Plan land use designation and applicable limitations is nonetheless consistent with the General Plan's Land Use Element.

Moreover, as the City concedes, the Project is inconsistent and will "likely" affect the General Plan's *Mobility* Element:

The Mobility Element of the General Plan (Mobility Plan 2035) is likely to be *affected* by the recommended action herein through the imposition of street *dedications* and *improvements* surrounding the project site. Ventura Boulevard is a designated Boulevard II under Mobility Plan 2035, dedicated to a Roadway Width of 80 feet and a Right-of-Way Width of 110 feet, and is improved with a roadway, curb, gutters, and sidewalk.
(LOD-2, p. F-4, emph. added [pdf p. 25].)

In addition, as noted in Section I.A, *supra,* the Project is inconsistent with the goals and policies of the Health and Wellness Element of the General Plan because it clearly violates the state and federal regulations on the NOx levels and will cause cancer in light of the DPM emissions that have been understated and ignored, leading to significant public health issues. This is also based on the fact that the Project proposes a self-storage facility within 500 feet of residential area and further reduces parking even for the existing hotel apart from bringing additional purportedly commercial uses and yet providing bicycle parking for same.

Therefore, the LOD-2's findings and conclusions of General Plan or Specific Plan consistency are clearly unsupported to warrant the desired zone and height district change.

Similarly, the LOD-2's finding that "the requested project with Zone Change and Height District Change request is in harmony with the objectives and policies of the General Plan and Community Plan" (LOD-2, p. F-8 [pdf p. 29]) is belied by the City's further finding that "The proposed Project provides a compatible and harmonious commercial development that complies with all relevant Zone and Specific Plan requirements *aside from* the five (5) requested exceptions (two (2) for the hotel site and three (3) for the self-storage site) recommended for approval" (LOD-2, p. F-15, emph. added [pdf p. 36].) The City itself concedes that there is no consistency where the Project seeks 5 exceptions from the applicable regulations.

Second, the City's finding of "Public Necessity, Convenience, General Welfare, and Good Zoning Practice - Pursuant to City Charter Section 558 and LAMC Section 12.32, and based on these findings, the recommended action is deemed consistent with public necessity, convenience, general welfare and good zoning practice" to support the zone and height district change is also wholly unsupported. Specifically, the City argues the Project is a public necessity as it "optimizes the use of the subject property, introduces new employment opportunities and will generate increased tax revenues, thus providing a public necessity." (LOD-2, p. F-8 [pdf p. 29].) The LOD-2 also claims: "The development of the project represents an opportunity to achieve the overarching goals of the Canoga Park-Winnetka-Woodland Hills- West Hills Community Plan, which includes encouraging the maintenance of existing commercial uses in this area. As such, the proposed Zone Change and Height District Change would optimize commercial opportunities in the Community Plan area." (*Id.*) But the LOD-2 fails to explain how a *different* or *smaller-scaled* commercial use would not have achieved the same or even bigger public necessity. Besides, the LOD-2 does not explain how a *self-storage* facility will add jobs or bring tax revenues as compared with any other use or development on the Project site that is more compatible with the applicable zoning and does not need so many waivers. Lastly, the City fails to explain how a Project sited within 500 feet of residential area – which is not even allowed in the C-2 zone into which the Applicant seeks to change the existing P and C4 zoning – will result in public welfare and good zoning practice. Notably, as mentioned above, the proposed zone change will make this Project site the *only* C2 zoned lot in the area and will create an impermissible *spot zoning* for no public benefit at all.

Third, the City argues that the C-2 zone change from P- and C-4 zoning and a height change from 37 feet or 45 feet into 80 feet is for "public convenience," claiming:

The Project will bring a new commercial building to the Site, which will be *compatible with* the numerous existing office, retail, restaurant, and personal services uses along Ventura Boulevard. The Site is also *served* by *multiple* Metro *bus* lines, which provide *transit* access to and from the Site. For the above reasons, the requested Zone Change and Height District Change will be *consistent* with public convenience.

(LOD-2, p. F-9, emph. added [pdf p. 30].)

And yet, the City fails to explain how a self-storage facility is compatible with other business uses in the area or why a *different* commercial use would not have been more compatible. Neither does the LOD-2 explain or mention any *single* Metro bus line from the purportedly "multiple" bus lines. Notably, as mentioned above, the *only* bus line that the City ever identified near the Project is a single bus line 601, which – per our review – does not even have 15-minute service intervals to provide adequate transit access to the site. Also, it is questionable how or why people attending the self-storage facility – and transporting goods to or from that self-storage facility – would or could take those actions by using public transit. For these reasons, the City's finding of public convenience is unsupported.

Third, the City's finding of "general welfare" promoted by changing the C-4 and P- zoning into a C-2 facility and changing the height of the building from 37 or 45 feet to 80 feet is also unsupported. The LOD-2 claims: "Given the project's proximity to existing job centers and transit services, the project will provide a desirable commercial use to serve the community, thereby advancing general welfare." (LOD-2, p. F-9 [pdf p. 30].) As noted above, however, the LOD-2 fails to mention any existing job centers or transit centers; neither does it show why a self-storage facility is a desirable commercial use to serve the community and how it will advance general welfare where it is proposed within 500 feet of residential area expressly disallowed by the applicable City regulations.

Staff Response

The Appellant has submitted no substantial evidence that the project does not add jobs or bring tax revenues compare to a different/smaller project; not compatible with other business in the area; people attending the project site would not use transit; or project is not a desirable use. The City cannot mandate what type of use an applicant proposes. The applicant has proposed a storage facility and the City has reviewed that project on its merits. Findings were made in the affirmative to support the requested Zone Change as the project will take the underutilized back portion of the hotel development (pool and surface parking) and develop a new self-storage facility. The new use will provide a new commercial service to the general area and provide more convenient self-storage options for residences in the vicinity of the site.

48. Appellant Claims

Fourth, the City's finding that the proposed zone and height district change is a good zoning practice is flawed since it results in impermissible spot zoning without any public benefit and also in violations of all applicable variance laws and even the California Constitution, as discussed at Section I.C.3, *supra* and Section I.C.5, *infra.* The City claims, in justification of a *good zoning practice* finding:

> The proposed Zone Change and Height District Change will facilitate the desirable redevelopment of a portion of the Site with a self-storage building, which will create new commercial uses in close proximity to a diversity of neighborhood-serving commercial retail, office, restaurant, and personal services uses. Additionally, the proposed *height* and *bulk* of the Project are *consistent* with both the *existing* commercial development patterns along Ventura Boulevard, as well as the *existing* commercial development *patterns immediately* to the east, west, and in the *general* vicinity of the Site. In terms of zoning, it would result in a zoning pattern from north to south of (WC)Commerce-SN, PF-1XL, C4-1VLD, CR-1VLD, R2-1VL, R2-1, and R1-1, or a *graduated decrease* in intensity. Therefore, since the Project proposes to redevelop an underutilized infill site with a new self-storage commercial project in close proximity to other similar uses and existing transit infrastructure, the Zone Change and Height District Change that would allow the development of the Project represent good zoning practice.
> (LOD-2, p. F-9 [pdf p. 30].)
>
> The above-quoted passage does not address or mention the limitation of P (parking) zoning. Neither does its consistency claim and comparison of the height and bulk of buildings near the Project site account for the fact that *no other* property has sought *both* a FAR and *also* a Height, and *also* a zoning change and increase, as discussed further below. Neither does the LOD-2 mention the numerous conditional use permits and variances that are sought by the Project Applicant to even build the proposed six-story self-storage facility within 500 feet of residential buildings.
>
> In sum, none of the City's findings in support of the proposed zone and height change is warranted by objective factual evidence and none has merit.

Staff Response

The project has not requested any variances. The limitations of the existing P zone are exactly why the applicant has requested and received approval for a zone change to C2, which would permit commercial uses. The storage use is required to obtain a CUP if it is within 500 feet of a R zone or use, which the project is subject to. However, the nearest residential uses are located to the south of the site across Ventura Boulevard and to the rear of other commercial improvements fronting Ventura.

Surrounding properties were developed in the 1970s – prior to the adoption of the Specific Plan and its limitations on height and FAR and thus did not require discretionary actions to authorize additional height or FAR. For example, there is a nearby 12-story office development located at 21243 Ventura Boulevard that was completed in 1972. The on-site hotel is also six stories and completed construction in 1966. The approval of a six-story, 112,204-square foot self-storage facility, including approximately 111,173 square feet of self-storage for household goods with an 804-square foot associated office and support space project is in keeping with good zoning practice and in line with surrounding development.

LAMC Section 12.32 Land use Legislative Action authorizes the City Planning Commission to make recommendations to the City Council for its action on the Zone and Height District changes subject to the procedure prescribed in the code. Additionally, in the consideration of an application for a proposed land use ordinance involving a change of zone and height district, the Planning Commission may approve a change upon all the subject area. The Planning Commission recommend a change to any zone and height district between that existing on the property and that requested in the application, as determined by the Planning Commission, or may

recommend, on all or a portion of the property. The Planning Commission may, without additional notice or hearing, recommend minor additions to the area proposed for rezoning, when the Planning Commission determines that the public necessity, convenience, general welfare or good zoning practice so require. LAMC Section 12.24 W50, Storage buildings for household goods, including truck rentals, allows in the C2 Zone when within 500 or fewer feet from an A or R Zone or residential use, as measured from the external lot line closest to the A or R Zone when findings made affirmatively. Additionally, per LAMC Section 12.24 S, as part of any conditional use approval, the initial decision-maker or the appellate body may approve changes to the parking requirements not to exceed 20 percent of the requirements otherwise required by the Code. The findings in support of the request have been made by the CPC.

49. Appellant Claims

Specific Plan Exception Findings Are Unsupported and Violate Applicable Laws

The LOD-2's findings for specific plan exceptions are also unsupported. First, the LOD-2 finds:

"That the strict application of the policies, standards, and regulations of the geographically specific plan to the subject property would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of such specific plan."

(LOD-2, p. F-10, pdf p. 32.)

And yet, as noted in Section I.C.3, *supra, no practical difficulties or unnecessary hardship* results from the strict application of the policies or regulations of the specific plan – rather those difficulties and hardships are self-imposed by the Applicant by: (1) first, proposing to subdivide one single lot into two lots, creating a narrow Parcel A; and (2) proposing to build a massive 6-story & 112,000 sf structure on a narrow Parcel A. There are *no other* self-storage facility that is proposed in the P-zone where the Project Applicant proposes to build its own self- storage facility. That the proposed hardship is self-imposed is conceded by the City, stating:

After subdivision, Parcel A will be an approximately 0.735-acre lot with approximately 260 feet of frontage along Clarendon Street as well as adjacency to the 101 Freeway and 65 feet of frontage along Alhama Drive, making it a long, *narrow parcel*. Parcel B will be a 1.768-acre lot with approximately 260 feet of frontage along Ventura Boulevard and 355 feet of frontage along Alhama Drive.

This has resulted in an *unnecessary* hardship inconsistent with the Specific Plan, which seeks to assure a balance of commercial uses to address the needs of the surrounding communities. Therefore, the strict application of the policies, standards, and regulations of the geographically specific plan to the subject property would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of such a specific plan as it would not further the above goals and permit redevelopment of the site.
(LOD-2, p. F-11, emph. added [pdf p. 32].)

Staff Response

As it was stated above, the findings in support of the request have been made by the CPC that the strict application of the policies, standards, and regulations of the geographic specific plan to

the subject property would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of such specific plan, 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, that the exception from the geographically specific plan is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the geographically specific plan in the same zone and vicinity, but which, because of special circumstances and practical difficulties or unnecessary hardships, is denied to the property in question, That the granting of the exception will not be detrimental to the public welfare or injurious to the property or improvements adjacent to or in the same vicinity of the subject property, and That the granting of the exception will be consistent with the principles, intent, and goals of the geographically specific plan and any applicable element of the General Plan. The purpose and intent of the Specific Plan is to provide a compatible and harmonious relationship between residential and commercial development where commercial areas are contiguous to residential neighborhoods. The project is consistent with the Specific Plan's Community Commercial Plan designation as a focal point for surrounding residential neighborhoods containing a diversity of land uses. The proposed development also furthers a number of objectives of the Specific Plan, including providing building and site design guidelines to promote attractive and harmonious with the surrounding multi-family and commercial developments, assuring a balance of commercial land uses that will address the needs of the surrounding communities and greater regional area, providing a compatible and harmonious relationship between residential and commercial development where commercial areas are contiguous to residential neighborhoods, and preserving and enhancing community aesthetics by establishing coordinated and comprehensive standards for signs, buffering, setbacks, and lot coverage. Therefore, the CPC recommended approval of the requested exceptions.

50. Appellant Claims

FAR Increase:

Similarly, and more specifically, the City's advocated consistency of the Project despite the massive FAR increase is also unsupported. The City claims:

Due to *site constraints* mentioned above, there are *practical difficulties* that necessitate a *FAR* increase for the proposed Project. *Many* of the properties on the north side of Ventura Boulevard face similar *geographic* difficulties, as they front Ventura Boulevard with the US-101 abutting in the rear. *Many* of the parcels, the subject parcel included, are *wider* than they are *deep*, causing *atypically shallow* lot configurations that push for *wider* and *taller* buildings.

(LOD-2, p. F-11, emph. added [pdf p. 32].)

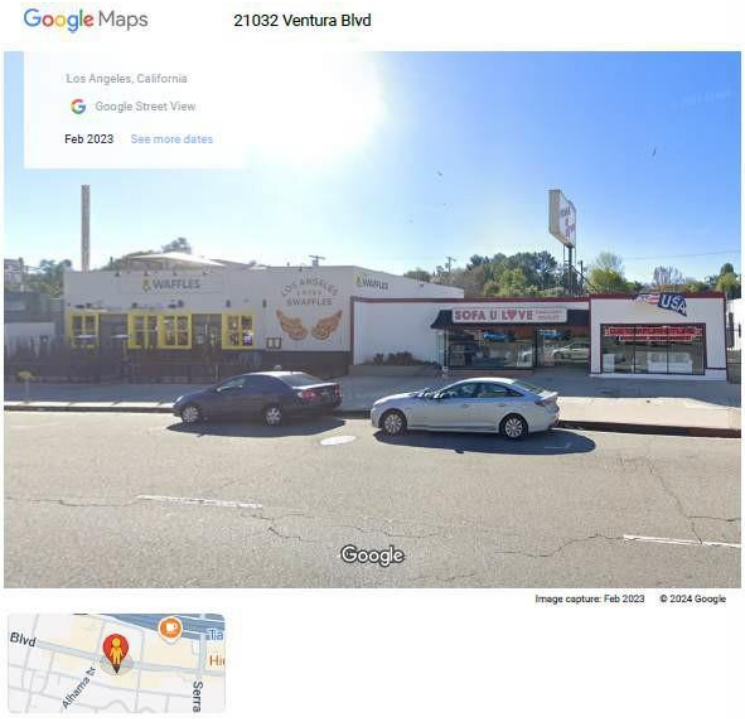
As noted earlier, the noted "site constraints" are self-imposed after the Applicant's own initiated subdivision of one single regular lot into an atypical narrow parcel A, on which the Applicant seeks to place an enormous six-story structure. Notably, while referencing "many" parcels facing similar geographic difficulties, the City or LOD-2 fails to name *any* single one of those. And, for a reason: there are none.

Elsewhere in the LOD-2, the City mentions only *one* other building with a bigger FAR located at 21032 W Ventura Blvd. (LOD-2, F-15 [pdf p. 36].) But a closer look at that site shows that it *does not* have a massive 80 feet height increase *along* with the larger FAR;

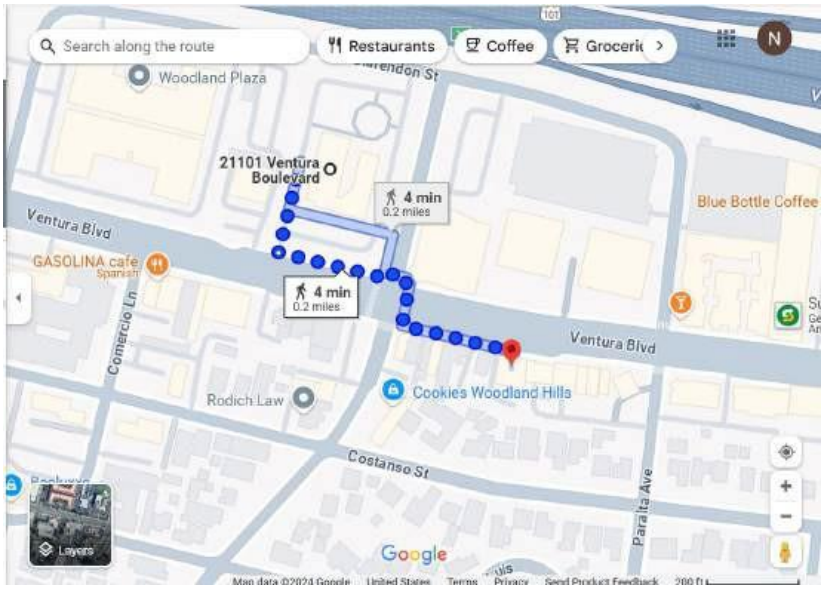
it is also *not proposed* in the P-zone as the Project is, as shown in the street image below. (See also, Exhibit 15 [21032 Ventura Blvd. ZIMAS parcel report & Google street view].)



As shown in the google-map screenshot, the larger FAR here is compromised by the fact that the building is a *one story* – rather than *six-story* and 80 feet proposed by the Project here:



Neither is the higher FAR building next to the Project, as shown in the image above and also in the Google map image below:



In sum, the City's justifications for a higher FAR fail to consider the *purpose* of the FAR (to control the building mass and scale) and its comparables are inapposite as they disregard the fact that the proposed building seeks *both* an FAR increase *and* a height increase, among any other things.

Staff Response

The Appellant has submitted no substantial evidence to refute the statement made about the properties which are wider than they are deeper on the north side of Ventura Boulevard, as they front Ventura Boulevard with the US-101 abutting in the rear. For instance, numerous examples of such a lot can be found between De Soto Avenue and Winnetka Avenue (20401-20601 Ventura Boulevard). Many of the parcels, the subject parcel included, are wider than they are deep, causing atypically shallow lot configurations that push for wider and taller buildings. While the site is a prime location for a self-storage given its proximity to single and multi-family residential uses and US-101, a Specific Plan-compliant self-storage Project cannot be developed given the nature of the use as a newly developed self-storage building and the need to achieve a certain size and scale to serve users.

51. Appellant Claims

Height Increase

The City's justifications for the proposed height increase exception from the Specific Plan suffers from the same flaws as its argument for an FAR increase. It provides:

Due to the *site constraints mentioned* above, there are *practical difficulties* that necessitate a *height increase* for the proposed Project. This necessitates the request for a height increase. These mandatory *design features preclude* the development of a viable selfstorage use at the site without relief from the Specific Plan limit.

The nature of the storage use building is to be vertically efficient with floor plates stacked on top of each other. The applicant has included a well-designed project with façade

articulations that help break massing, so the project will be harmonious with surrounding developments including nearby developments that are taller in height. For example, the development on *20501 Ventura Boulevard* exceeds height with a height of 64 feet. At *21031 Ventura Boulevard*, the office building reaches a height of approximately 135 feet and *21021 Ventura Boulevard* exceeds 45 feet in height per their corresponding building permits. Additionally, the proposed project has been thoughtfully designed to incorporate elements of the Woodland Hills Streetscape Plan, including *street trees* and lighting, which will also serve to minimize the scale and mass of the building.
(LOD-2, p. F-12, emph. added [pdf p. 33].)

The above-quoted argument by the City fails to realize that the "practical hardships" and "constraints" cited here are all *self-imposed.* The Project is proposed after the Applicant itself chose to *subdivide* one single lot into *two* lots creating a narrow parcel zoned P (parking).

Notably, the Applicant cannot use the Parcel A zoned P other than for parking and related uses. But the Applicant seeks not only a change in the *height* but also a change in zone and in FAR and in parking and in setbacks – all to allow the Applicant to build a wholly non-conforming structure at the Project site. This is all a self-imposed constraint and limitation that does not support the grant of an exception or variance for the sought height increase.

Also, similar to the FAR parcel mentioned above, the indicated three addresses where the height exceeds 45 feet are *not comparable* with the Parcel A here. Specifically, all those three addresses – 20501, 21031 and 21021 Ventura Blvd. sites – are not P-zoned but C4 zoned.

Neither did they seek a zone change to C2, as here. (Exhibit 17 [20501 Ventura ZIMAS Parcel Report, Google Street View], Exhibit 18 [21021 Ventura Blvd. ZIMAS Parcel Report & Google Street View], Exhibit 19 [21031 Ventura Blvd. ZIMAS Parcel Report & Google Street View].)

Specifically, 20501 W. Ventura Ave site is only 3-4 stories high. (Exhibit 17.) It is also far from the Project site. And while 21021 and 21031 Ventura Blvd. sites are next to the Project site and further taller, they do not take the *entire* site but rather only *half* of the site,



leaving the remaining site to parking uses and maintaining both the C4 and the P-zoning, unlike the Project here, as shown in the screenshot below:

In sum, the LOD-2's arguments that the Project's sought height increase is comparable to other buildings are flawed in that they: (1) disregard the lack of any practical hardship typical to the same zone on other similar properties and the fact that any hardship, if at all, is self-imposed by the Applicant's own subdivision; (2) disregard the fact that the height increase here, unlike other properties, is sought *along with* significant FAR increase, change of zone (from C4 and P to C-2) and numerous other deviations; (3) and creates a special privilege to the Project Applicant and an impermissible spot zoning here.

Staff Response

The comparable developments are not necessarily relatable based on entitlement path alone. The comparison was made based on the existing built environment that, as a matter of fact, includes a nearby 12-story office building and a 6-story hotel development as a general description for the character of the immediate area. The citing of the storage project and the hotel are proper in relation to size of the lots; subdividing one lot into two lots by its very nature will create two smaller lots. However, the project does comply with setback requirements and the building sitings are appropriate given the layout of the proposed lots. The newly created lots are also legal lots and meet all lot width and access requirements.

The C2 zone is a corresponding zone of the General Commercial land use designation and thus is an appropriate zone change to request. There is nothing that would preclude surrounding properties from pursuing a similar subdivision and zone change in the future if they wish to maximize development of their sites. The site is constrained by the existing hotel development that is to remain. The dedication/improvements that resulted in sidewalk widening also further reduced the site and thus necessitated the requested reduction in landscape buffer.

52. Appellant Claims

Landscape Buffer

The City's findings recommending landscape buffer deviations are also unavailing. The LOD-2 provides:

The nature of the *storage* and *hotel* uses do not generate *pedestrian* activities compared to other *commercial* uses. Requiring a landscape *buffer* would *minimize floor* area and would result in the applicant *needing* to *add additional height* to the structure and would *exacerbate* existing non-conforming landscape buffer in the hotel site, which is contrary to the intent of the plan. The applicant has included a well-designed project with façade articulations that help break massing, so the project will be harmonious with surrounding developments including *nearby developments* that do *not* provide landscape buffer per the specific plan requirement. For example, the development to the west, a car dealership, *on 21141 Ventura Boulevard* provides *zero feet landscape* buffer along Ventura Boulevard and *21243 Ventura Boulevard*, the office building provides a landscape buffer less than three (3) feet. Additionally, the proposed project has been thoughtfully designed to incorporate elements of the Woodland Hills Streetscape Plan, including *street trees*, which will also serve to minimize the impact of the decrease in the landscape buffer.
(LOD-2, p. F-13, emph. added [pdf p. 34].)

The above-noted reasoning is unavailing since it claims the buffer needs to be reduced so that the Project does not add more height; yet, the LOD-2 does not explain why downsizing the Project to provide for the adequate buffer or less height is not an alternative possibility. Moreover, the City's comparable sites are unavailing. Thus, while the referenced 21141 Ventura Blvd provides zero feet landscape buffer along Ventura Blvd, it locates its *surface parking* along Ventura Blvd. (Exhibit 20 [21141 Ventura Blvd. ZIMAS Parcel Report & Google Street View]), as shown in the ZIMAS screenshot below:



Similarly, 21243 Ventura Blvd. places parking uses along Ventura Blvd. thereby reducing the need for a landscaped buffer (Exhibit 21 [21143 Ventura Blvd. ZIMAS Parcel Report & Google Street View]):



Staff Response

The justification provided by the appellant for the two sites mentioned above to provide parking spaces instead of required landscape buffer can apply to both hotel and self-storage project sites. The City cannot selectively apply the regulations to one site while exempting others. Municipalities are expected to enforce their ordinances and regulations uniformly across all properties and businesses within their jurisdiction.

53. Appellant Claims

> In contrast, the Project seeks to eliminate the landscape buffer in order to accommodate its enormous 6-story new structure on a parcel the Applicant just created. Moreover, the City does not mention *how many* street trees will the Applicant plant to create the streetscape the LOD-2 praises. In sum, there is no plausible justification for the landscape buffer reduction.

Staff Response

As stated previously, one street tree is planned for removal and will be replaced. Street tree plantings and replacements are subject to the Bureau of Street Services Urban Forestry Division and the project has been conditioned to comply with their requirements.

The dedication/improvements that resulted in the sidewalk widening requirements along all street frontages caused a unique circumstance at the site. For the site to maintain the existing hotel building as well as existing landscape areas and to accommodate parking and recreation facilities, the applicant requested a Specific Plan exception to reduce the buffer area.

The landscape buffer reduction requests are necessitated due to dedications and improvement requirements by the Bureau of Engineering (BOE). The size of the Project Site allows for adequate access and parking for the existing hotel; however, the geometry of the self-storage parcel inhibits efficient circulation. As a result, the landscape buffer requirement is triggered by the site's configuration where parking is oriented facing the street, which only occurs on two sides of the property. The provision of the required 10-foot landscape buffer would substantially reduce the ground floor uses, both for the parking and building areas. Additionally, the project is complying with BOE's request for sidewalk dedications and improvements on all three street frontages of the subject property, further reducing the size of the project site. Reductions in the landscape buffer requirement at street-facing parking are required to accommodate both the existing parking configuration at the hotel site as well as sufficient parking at the self-storage site.

As stated earlier, there are multiple projects within the proximity of the project site that provided landscape buffer less than specific plan's landscape buffer requirement. Thus, the development of the Site Plan was a carefully balanced effort to ensure the viability of a self-storage building at this desired location, while at the same time attempting to minimize reduced landscape buffer impacts. Given that other projects are developed less than Specific Plan requirement for certain uses, the requested landscape buffer exceptions are deemed necessary to ensure the Applicant may similarly develop the self-storage project at the site. Approval of the landscape buffer exception will therefore enable the Applicant similar rights as other property owners in the same zone or vicinity.

54. Appellant Claims

Parking

The City's justification for the sought exception of the Specific Plan is not only unsupported but also misleading and inaccurate. It claims, among other things:

Considering that the hotel is *legally non-conforming* as it was constructed prior to the adoption of the Specific Plan, the hotel property has conditions applicable that do not apply to *other* properties in the *specific plan* area. The Project is requesting relief from the hotel parking conditions required by the specific plan, in lieu of the *LAMC parking* requirements, as that was the governing code under which the hotel was first constructed. Due to the *site constraints* mentioned above, there are *practical difficulties* that necessitate a parking increase for the proposed Project. This necessitates the request for parking reduction requests. These mandatory design features preclude the operation of existing hotel use at the site without relief from the Specific Plan limit.
(LOD, p. F-13 [pdf p. 34].)

First, the City misleadingly conceals, omits, and fails to provide an accurate baseline and states that the existing 122-room hotel and restaurant on site have 149 parking stalls, which the Project is now approved to reduce to only 99 stalls and to also provide 29 parking stalls for only the self-storage facility. Second, the City erroneously suggests that providing *more parking* for the hotel that was built long ago makes the hotel legally non-conforming only because it *exceeds* the required *minimum* under the Specific Plan. But *exceeding* the required minimum does not make any development non-confirming – it is *not* meeting the required minimum standard that creased a non-conforming use, as the Project seeks here. Third, the LOD-2 references LAMC requirements without noting that those are superseded by the Specific Plan. Fourth, the LOD-2 references *practical difficulties* and *constraints* on the site, without noting that those are all *self-imposed* by the Project Applicant's *concurrent* subdivision of land, as mentioned above. In sum, there is no genuine practical difficulty or constraint to allow any reduced parking. This is more so where, as here, the purportedly proposed use is a self-storage facility which may potentially require larger vehicles to transport goods to/from the Project site and which goods cannot necessarily be transported by transit (public buses) or bicycles as the LOD-2 presumes.

Staff Response

The Project's letter of determination provides a detailed discussion of the required parking for the Project. Additionally, Fehr & Peers performed a parking demand study dated January 25, 2023. The site contains an existing 122-room hotel with access to a total of 145 parking spaces on a surface parking lot. Parking occupancy counts were conducted at the parking lot on three different nights. Three nights of data collection provide a look at how this hotel's parking demand differs when there are different guest types on weekdays and weekends. The hotel was near 100 percent occupancy for each of the three nights. The parking analysis found a peak hotel parking demand rate of 0.73 spaces per occupied room. The maximum observed occupancy by hotel guests and employees was 86 spaces overnight. This indicates that the maximum parking need with 100 percent room occupancy is 98 spaces (0.8 spaces per room), including a 10 percent contingency factor. The project will provide required parking spaces per the Specific Plan and LAMC. As it was stated earlier in the report and above, the findings in support of the request have been made by the CPC in their approval for the project.

55. Appellant Claims

The City's finding "4. 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" is similarly unsupported. (LOD-2, p. F-14 [pdf p. 35].) As noted above, there are *no exceptional circumstances* or conditions applicable to the subject property since all such circumstances are self-imposed, as detailed in Section I.C.3, *supra*.

The LOD-2 claims:

The applicant is cognizant of requesting the exception for the height. The *intent* of the *height provision* of the Specific Plan is to *protect* adjacent *sensitive* uses from development that is *too tall* and *out* of *scale* with the surrounding area. However, the subject property is adjacent to *existing* hotel and *office* buildings, ***all*** of which are approximately three- to ten stories high.

With a maximum height of 80 feet 4 inches, the proposed project will be substantially similar or shorter in height to the existing surrounding improvements; thus, the requested height exception is appropriate because the existing adjacent developments are all already enjoying a greater development right than what would otherwise be afforded to the proposed project.
(LOD-2, p. F-14 [pdf p. 35], emph. added.)

As is manifest from the above-quoted passage, the City makes several inaccurate factual statements. It fails to show that the Project is surrounded by three- to ten stories high buildings. Moreover, a three-story building appears to comply with the height requirement of 45 or 37 feet. As also noted above, that only two adjacent buildings are taller does not support an increase in this case where, as here, the Applicant seeks an increased height *along with* numerous *other* changes, including increased FAR, reduced setbacks, reduced landscape buffer, and change zone from P (parking) to C-2, on top of a conditional use permit to allow an otherwise disallowed self- storage facility not only in the P (parking) zone but also within 500 feet of the public.

All other arguments of the City, including but not limited to the finding that the Project is "harmonious" with the applicable General Plan and Specific Plan goals is also unavailing, as detailed *supra.*

Next, the City finds "5. That the exception from the geographically specific plan is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the geographically specific plan in the same zone and vicinity, but which, because of special circumstances and practical difficulties or unnecessary hardships, is denied to the property in question." (LOD-2, p. F-15 [pdf p. 36].) This finding is flawed and factually unsupported.

First, as also detailed earlier, the City does not compare the Project's proposed exceptions to properties in the "same zone." As noted earlier, the City's comparables for FAR, Height, Parking, landscape buffer and other exceptions do not include a C-2 zone change which the Project applicant seeks. Neither do they propose a self-storage facility in the P (parking) zone as the Project proposes. Neither are there special circumstances and practical difficulties that deny certain property rights to the Project applicant; rather, those hardships, if at all, are created and self-imposed by the Project Applicant itself as a result

of subdividing the one single lot into *two* parcels – Parcel A and Parcel B – and proposing a self-storage facility on the newly-subdivided narrow Parcel A. For all reasons noted earlier, the FAR, Height, Parking, and Landscape Buffer exceptions are unsupported and grant a special privilege to the Applicant that *no other* property owner in the Project vicinity, much less in the same *existing* zone P or C4, enjoys.

Next, the City finds: "6. That the granting of the exception will not be detrimental to the public welfare or injurious to the property or improvements adjacent to or in the same vicinity of the subject property." (LOD-2, p. F-17 [pdf p. 38].) The City reasons and concludes:

"As such, the instant request will enhance the public welfare with a new self-storage building that provides an economically viable commercial use; and a building that is compatible with and in harmony with improvements in the vicinity because the proposed Project has been designed to mitigate any potential negative impacts with the proposed site layout and building orientation. The proposed Project will be compatible with adjacent uses and will overall improve the material aesthetics of the Subject Property."
(LOD-2, p. F-18 [pdf p. 39].)

To come to the above-quoted conclusion, the City claims that the Project will not be injurious to the public, claiming:

The granting of the Specific Plan Exceptions for additional FAR, height, and to not comply with landscape and parking requirements will *not* be *detrimental* to the *public welfare* or *injurious* to the properties adjacent to or in the same vicinity of the Subject Property because the proposed use of a self-storage is *consistent* with the intent of the Specific Plan, is in *harmony* with the underlying zoning on the property and has been designed to be *compatible* with the surrounding properties.
(LOD-2, p. F-17, emph. added [pdf p. 39].)

But for all reasons mentioned in Section I.C.2-3, *supra,* these claims are unsupported.

The Project is clearly inconsistent with the zoning and adjacent uses. The City's claim for public welfare is also unsupported where, as here, the Project cannot be built within 500 feet of residential area and for which the Project Applicant *also* seeks a waiver and variance. Moreover, the City itself admits that the height limitation in the Specific Plan intends to limit the impacts on the community: "The intent of the *height* provision of the Specific Plan is to *protect adjacent* sensitive uses from development that is *too tall* and *out* of *scale* with the surrounding area." (LOD-2, p. F-14, emph. added [pdf p. 35].)

As such, the City's reasoning for finding that the Project's proposed exceptions, including from height limitation under the Specific Plan, is not injurious or detrimental to the public welfare and surrounding properties.

Next, the City finds: "7. That the granting of the exception will be consistent with the principles, intent, and goals of the geographically specific plan and any applicable element of the General Plan." (LOD-2, p. F-18 [pdf p. 39].) For all reasons mentioned in Section I.C, *supra*, and particularly in subdivisions Section I.C.2-3, this finding is factually and legally unsupported.

Staff Response

The Project's letter of determination provides a detailed discussion of the required parking for the Project. Additionally, Fehr & Peers performed a parking demand study dated January 25, 2023. The site contains an existing 122-room hotel with access to a total of 145 parking spaces on a surface parking lot. Parking occupancy counts were conducted at the parking lot on three different nights. Three nights of data collection provide a look at how this hotel's parking demand differs when there are different guest types on weekdays and weekends. The hotel was near 100 percent occupancy for each of the three nights. The parking analysis found a peak hotel parking demand rate of 0.73 spaces per occupied room. The maximum observed occupancy by hotel guests and employees was 86 spaces overnight. This indicates that the maximum parking need with 100 percent room occupancy is 98 spaces (0.8 spaces per room), including a 10 percent contingency factor. The project will provide required parking spaces per the Specific Plan and LAMC. As it was stated earlier in the report and above, the findings in support of the request have been made in the LOD; therefore, CPC recommends approval of the requested exceptions.

56. Appellant Claims

Project Permit Compliance Findings

The City's Project Permit Compliance Findings are flawed for the same and substantially the same reasons as the findings in the Specific Plan Exceptions and Consistency with General and Specific Plans and regulations, discussed in Section I.C.2-5, *supra.* First, the City finds that: "The project substantially complies with the applicable regulations, findings, standards, and provisions of the specific plan." (LOD-2, p. F-21 [pdf p. 42].) This finding is unsupported and flawed since the analysis looks at the *self-storage* facility exceptions only, disregarding the other *hotel* exceptions, including for the required parking under the Specific Plan.

Moreover, while the City claims that the self-storage facility is an acceptable use under the Specific Plan, that is not the case because such use is restricted in the P-zone which is the current zoning of the Site, and also within 500 feet of the residential zoning, as here. The City cannot ignore all other more restrictive zoning applicable to the Project site, which are incorporated by the Specific Plan.

The LOD-2's analysis of consistency with the Specific Plan's FAR, height, parking, and buffer requirements and limitations is also unsupported, for reasons detailed above. The Project manifestly seeks *exceptions* from such limitations and cannot possibly be found consistent with the Specific Plan. Neither can the City disregard the numerous exceptions from the Specific Plan that the Project Applicant seeks and conclude that the Project complies with the *intent* of the Specific Plan or General Plan. As the City itself conceded, for example, the intent of the Specific plan's height limitation is to protect sensitive communities from the too tall and out-of-scale buildings ((LOD-2, p. F-14 [pdf p. 35]) – and yet the Project's sought FAR and Height increases frustrate that very intent.

As yet another finding necessary for the project permit compliance, the City finds: "9. The project incorporates mitigation measures, monitoring measures when necessary, or alternatives identified in the environmental review, which would mitigate the negative environmental effects of the project, to the extent physically feasible." (LOD-2, p. F-23 [pdf p. 44].) The noted finding is based on the City's finding that the MND prepared for the Project is adequate and adequately disclosed the Project's potential impacts and mitigated those. That is not the case, as detailed in Section I.A-B, *supra.*

Staff Response

The findings in support of the request have been made in the LOD on that the project substantially complies with the applicable regulations, findings, standards and provisions of the specific plan; and incorporates mitigation measures, monitoring measures when necessary, or alternatives identified in the environmental review which would mitigate the negative environmental effects of the project, to the extent physically feasible in conjunction with the requested specific pan exceptions. The LAMC allows an applicant to seek relief from specific plan regulations through specific plan exception process. In this specific plan wherever this Specific Plan contains provisions which require different setbacks, restricted yards, lower densities, lower heights, restricted uses, greater parking requirements or other greater restrictions or limitations on development than would be allowed pursuant to the provisions contained in LAMC Chapter I, the Specific Plan shall prevail and supersede the applicable provisions of that Code. Therefore, the CPC recommended approval of the requested project permit compliance review.

57. Appellant Claims

Basis for Conditional Use Permits

As the LOD-2 provides: “The applicant is requesting a Conditional Use pursuant to LAMC Sections 12.24.S and 12.24.W.50, for a storage building for household goods, located in the C2-2 Zone, 20 percent parking reduction and within 500 feet of an R zone or residential use as measured from the external lot line closest to the R zone.” (LOD-2, p. F-23, emph. added [pdf p. 44].) As the Project Applicant more clearly specified, the Project seeks: “Conditional Use Permit (CUP), pursuant to LAMC Section 12.24 W.50 for a storage building for household goods in the C2 Zone within 500 feet of an R Zone.” (Exhibit 12.) In addition, the Project also seeks a 20 percent reduction of the parking requirement.

The LOD approved the conditional uses for the Project and summarized: “Required Findings 3 through 6 below are analyzed to determine whether some or all of the requested deviations should be granted. Based on this analysis, the staff recommends that only *some* of the deviations should be granted.” (LOD-2, p. F-23, emph. added [pdf p. 44].) And yet, the City fails to say *which* deviations it *does not* recommend to be granted.

And to support the conditional use permits, the City finds: “10. That the project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city, or region.” (LOD- 2, p. F-23 [pdf p. 44.]) First, the City’s finding here completely disregards the fact that the Project is proposed *not* in the C2 zone but rather in the P and C4 zone. It also claims that the Project will be essential or beneficial to the community disregarding the fact that the proposed self-storage facility is expressly disallowed within 500 feet of residential area. There is a reason that the City’s development regulations prohibit building of such storage or warehouse facilities within 500 feet of residential area. The City is silent about those reasons. For example, such storage facilities are typically large and unsightly, they also attract commercial vehicles and activity transporting goods, along with their associated noise, air and GHG emissions from the large vehicles. The City’s claim that the self-storage facility will also be beneficial to the community also presumes that the adjacent community indeed *needs* storage facility. There is no support for such presumption. In fact, there is evidence that the storage facility is needed by transient population and there is a market trend where such storage facility use is declining. (Exhibit 16.)

The City's finding that the 20 percent reduction of parking from 40 to 29 spaces is also unsupported. It relies on the presumption that the Project is near major transit stop and further that the public will be using transit and/or bicycles to get to the storage facility. There is no evidentiary support for such presumption. To the contrary, it is highly foreseeable that the users of the storage facility will not only need automobiles and not only at all times of the day, but also will need large trucks, requiring even bigger parking and a bigger area to allow vehicle circulation of such large trucks and vehicles.

Moreover, the City's finding is based on the presumption that the Project's self-storage facility portion itself will not generate traffic impacts and involves less intensive uses. The finding is flawed as it ignores the fact that the Project indeed significantly *reduces* parking for the *hotel & restaurant* area by a third from 149 existing spaces to only 95. The finding also ignores the fact that the Project's *self-storage* area will in fact attract larger commercial vehicles and trucks to transport goods, causing more noise and more air/GHG emissions. Similarly, the finding disregards the possibility that the Project may expand and convert the self-storage facility into other uses, such as the 105-unit hotel which was pursued on the site in 2017-2021, or more commercial uses on the 6,774 sf ground floor. This is also reasonably foreseeable where, as mentioned earlier and conceded by the City, there is an abundance of storage facilities nearby and there is a decline in the market for the need of such storage facilities.

The City next finds: "That the project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety…" (LOD, p. F-24 [pdf p. 45].) For all reasons mentioned in Section I.C.3-5, as well as Section I.A, the Project – with its non-conforming use and large mass and scale and requested variances and exceptions from the applicable regulations – will adversely affect the public health, welfare, and safety. As just one example, the Project will increase NOx and DPM during at least the construction phase and cause adverse impacts on human health.

Similarly, the City finds: "That the project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan." (LOD, p. F-25 [pdf p. 46.]) For all reasons mentioned in Sections I.C.2-5, the Project is not consistent with the intent and provisions of the General Plan and Specific Plan and instead seeks several exceptions from those plans' provisions, including a change of zoning from C-4 and P (parking only) to C-2, and further a variance to build a storage facility in that new C-2 zone, as well as numerous exceptions and variances to increase FAR/Height, reduce parking and landscape buffer and setbacks, and to site a non-conforming use of a self-storage facility within 500 feet of residential area.

Notably, the LOD-2 and LOD-1 reference dwelling units and residential uses which the Project proposes, including in the conditions. (LOD-1, p. C-3 [pdf p. 5 ("The entrance or exit of all ground dwelling units shall not be more than 150 feet from the edge of a roadway of an improved street, access road, or designated fire lane.")]; p. C-4 [pdf p. 6 ("Where above ground floors are used for residential purposes, the access requirement shall be interpreted as being the horizontal travel distance from the street, driveway, alley, or designated fire lane to the main entrance of individual units."); LOD-2, p. T-4 [pdf p. 9 ("all structures must be within 300 feet of an approved fire hydrant, and entrances to any dwelling unit or guest room shall not be more than 150 feet in distance in horizontal travel from the edge of the roadway of an improved street or approved fire lane.")].) It is unclear if those are simply typos or expressly intended and contemplated uses on the Project site.

Staff Response

All the conditions referenced in the above paragraph are related to the standard conditions received from other agencies that are included in the LODs. Those conditions do not mean the project purposes residential uses. The Los Angeles Fire Department ("LAFD"), Los Angeles Department of Building and Safety ("LADBS") and other Departments, as required, will review the project for compliance with their Department's respective regulations prior to the issuance of a building permit. If modifications are required to the project or any other building components they will be imposed by the respective City Department.

58. Appellant Claims

In addition, as noted in Section I.A, *supra,* it is also reasonably foreseeable that the Project's proposed subdivision of one lot into two lots contemplates future expansion of uses on the newly-subdivided Parcel A and Parcel B, in piecemeal fashion, with the associated more impacts that will be adverse to the nearby community.

The City's support for this finding is that the Project proposes a self-storage facility similar to other self-storage facilities near the Project and thereby making it an appropriate use of the Project site. Yet, the finding that the Project will be *beneficial* to the community is belied by the very fact that the Project seeks to site a non-conforming self-storage land use in a P-zone and within 500 feet of residential areas and fails to consider all the adverse impacts of such proposed non-conforming land use, in addition to the impacts of the other waivers, variances, and exceptions from the applicable development regulations that the Project seeks (e.g., height/FAR increase, setback/landscape buffer decrease, etc.)

Lastly, the City's account of the landscape plan suggesting planting 20 trees (LOD-2, p. F-33 [p. 54] ["project site will be enhanced with hardscape material. The area will be landscaped with 10 (36)-inch box and 10 (16)-inch box trees on the self-storage site (seven (7) (36)-inch box new trees on the hotel site)") is inconsistent with all prior conditions that are imposed, according to which the Project will only plant 17 trees at a ratio of 1:1. This finding and discrepancy also adds to the other inconsistencies about the removed and replaced trees both on the Project site and on the street, as detailed in Section I.A, *supra*.

Staff Response

As it has been extensively discussed above, the findings in support of the request have been made in the LOD. Therefore, the CPC recommended approval of the requested conditional uses with conditions.

B. Conclusion.

Due to the deficiencies outlined herein, the Planning Commission's findings of adequacy of the MND, or applicability of CEQA exemptions under CEQA Guidelines sections 15162 and 15164, as well as all findings of the Project's compliance with CEQA, Planning and Zoning Law, City Charter, City's General Plan and Specific Plan, are unsupported as a matter of law and fact. The Planning Commission's grant of the requested variances and exceptions violate municipal regulations, state laws, and the California Constitution by granting a special privilege to the Project Applicant. As such, the Appeal should be granted.

Appellant's claim is that there is no substantial evidence to grant project's requested entitlements. The findings in support of the requests were adopted and approved by the CPC.

C. RECOMMENDATION

Staff recommends that the City Council deny the appeal and sustain the CPC's determination to find that no subsequent EIR, ND, or Addendum is required for approval of the Project; and approve the requested Zone Change from C4-1LD and P-1LD to (T)C2-2.

VINCENT P. BERTONI, AICP
Director of Planning

Blake Lamb

Blake E. Lamb, Principal City Planner

JoJo Pewsawang, Senior City Planner

Adrineh Melkonian

Adrineh Melkonian
City Planner
Adrineh.melkonian@lacity.org