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September 4, 2025

Re: 5424 Carlton Project (Project)
5416, 5418, 5420, 5422, 5424, 5426, 5428, 5430 W. Carlton Way, Los Angeles, CA 90027
ENV-2024-915-CE
CPC-2024-914-DB-SPPC-VHCA

Responses to Appeals

We write in response to the following appeals:

- Carlton Serrano Tenants Association (CSTA), July 6, 2025
- Supporters Alliance for Environmental Responsibility (SAFER) by Lozeau Drury, June 25, 2025

The appeals challenges the City's decision to prepare a Class 32 Categorical Exemption (CE) for a new residential-use development pursuant to the California Environmental Quality Act (CEQA).

While the appeals challenge the Project's analysis, they only make generic arguments that do not address the Project or the CE. The appeals, in fact, lack any evidence whatsoever in support of their generalized claims of CEQA violations.

The appeals fail to meet its burden and should be denied.

The appeals do not meet its burden of demonstrating that the City Planning Commission's (CPC) adoption of a Class 32 CE for the Project is unsupported by substantial evidence. The appeals do not mention, much less layout or analyze, the analysis conducted by City staff, the expert technical analysis and reports in the CE relied on by CPC in adopting the CE for the Project.

In addition, though not relevant in light of its failure to address the substantial evidence supporting CPC's adoption of a CE for the Project, the appeals do not produce substantial evidence of any alleged significant impacts. Such bare speculation is not substantial evidence. (See Public Resources Code, § 21082.2(c) ["Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous… is not substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts."])

Seth Wulkan
Project Manager
CAJA Environmental Services, LLC

CSTA
July 6, 2025

CSTA Appeal 1

This is an appeal of the Project Permit Compliance Review of the Vermont/Western Transit Oriented District Specific Plan also known as the Station Neighborhood Area Plan or SNAP and California Environmental Quality Act (CEQA) for Case No. CPC-2024-914-DB-SPPC-VHCA for the project located at 5416 - 5418, 5420, 5424-5428 and 5430 West Carlton Way.

PROJECT BACKGROUND

The proposed project at 5416 - 5418, 5420, 5424-5428 and 5430 West Carlton Way involves the demolition of seven existing historic RSO residential buildings and accessory uses, inclusive of

- *One RSO 16-unit apartment building*
- *One RSO four-unit apartment building*
- *Three RSO single family dwellings*
- *One RSO duplex (two units)*

One existing eight-unit apartment building will be retained. This demolition of seven existing buildings containing 25 RSO affordable units is in exchange for permitting the construction, use, and maintenance of a new 131-unit apartment building, for a total of 139 units, on an approximately 37,668.3 square foot (0.87 acre) site within Subarea A of the Vermont/Western Station Neighborhood Area Plan (SNAP) Specific Plan. The proposed project includes the removal of 17 trees, two (protected) street trees, three on-site (protected) trees, and 12 on-site (non-protected) trees. The proposed project is comprised of an eight-story, 105-foot and four inch in height residential building, with one at-grade parking level and two and a half subterranean parking levels, and a total of 144, 851 square feet of floor area resulting in a floor area ratio (FAR) of 4:8:1. The project will require the export of approximately 26,100 cubic yards of soil.

A Density Bonus/Affordable Housing Incentives Program Review was requested to permit a Housing Development Project totaling 139 dwelling units, reserving 15 units for Very Low Income Household occupancy for a period of 55 years, requesting in exchange, an abundance of off-menu incentives and waivers of development standards.

Response to CSTA Appeal 1

The comment is an introduction and summary of the Project and introduces the claims of the comment letter. As set forth in the responses below, as well as additional responses and evidence contained in the administrative record such as the CE and its Appendices, the Project will not result in potential impacts. The CE complied with CEQA, conducted a project-level analysis.

The comment does not state a specific concern or question regarding the adequacy of the City's determination and approval in identifying and analyzing the environmental impacts of the Project, nor does the comment identify any physical environmental impacts caused by the Project. Therefore, this comment does not require a detailed response. (CEQA Guidelines, § 15088(c); *Citizens for East Shore Parks v. State Lands Comm'n (2011) 202 Cal.App.4th 549.*)

CSTA Appeal 2

EXECUTIVE SUMMARY OF APPEAL:

To Honorable Chair Blumenfield and Committee Members,

On behalf of the Carlton Serrano Tenants Association, composed of longtime residents, families, and neighbors in East Hollywood, we submit this formal appeal of CPC-2024-914-DB-SPPC-VHCA. Our appeal raises grave concerns regarding noncompliance with SNAP and CEQA, net loss of affordable housing, tenant displacement, environmental degradation, historic preservation, and procedural violations, and calls for the City Council to reject this project in its current form.

Specific Plan Project Compliance (SPPC) Findings for this project are erroneous. Because a waiver has been granted does not mean that the proposed development is compliant. SNAP was created to prevent developments like this from intruding on our community and low-scale residential neighborhoods. To say that this project is compliant is against the very principle of SNAP itself, particularly in Subarea A, the most restrictive of all subareas in SNAP, which was created to prevent this type of project from happening. SNAP was created to preserve our existing communities.

The developer's extensive reliance on off-menu waivers — including a 176% height increase and 74% reduction in open space — reflects a clear attempt to maximize private profit by circumventing zoning and design standards intended to protect neighborhood livability. This approach undermines the fundamental purpose of density bonus laws, which are intended to encourage affordable housing, not to facilitate luxury development at the expense of established community standards and quality of life.

The ample "off-menu" requests for the Carlton Way project are not accidental but a deliberate and calculated strategy to push the boundaries of what is permissible. This approach prioritizes developer interests and profit maximization over community concerns and the preservation of existing affordable housing and neighborhood character. The applicant is directly facilitating displacement of vulnerable tenants through the legal exploitation of zoning regulations.

The project's proposed 15 "Very Low Income" units, while seemingly beneficial, do not adequately compensate for the demolition of 25 existing RSO units. This would be a net loss of 10 affordable RSO units. RSO units are often more accessible to a broader range of lower-income households without the strict income qualifications and lengthy waitlists associated with covenanted affordable housing. If the proposed "very low income" units are tied to Section 8 or other Federal funding, they will be inaccessible to any future or former tenant without legal residency, and this includes mixed status households.

Additionally, The Ellis Act (California Government Code §7060 et seq) has resulted in the loss of tens of thousands of affordable rent control units, the gentrification of neighborhoods, and the displacement of tenants throughout California. The City of Los Angeles has seen tens of thousands of Ellis Act Eviction applications filed by landlords and developers since 2001.

There is a great need to build new affordable housing. At the same time, we must preserve our existing affordable housing stock. Unless decision-makers understand that we need to do both, preserve and produce, we will be doomed to a failed housing policy and our crisis will get worse.

The extensive deviations from existing zoning regulations provide strong grounds for arguing that this project is not a good-faith effort to build genuinely affordable housing but rather a speculative venture designed to exploit loopholes and maximize returns at the expense of existing residents.

Under California's "No Net Loss" law (Gov. Code § 65863) and Conditions of Approval for Affordable Housing and Incentive Program Grant Clause and Conditions, "the applicant will need to either replace or all withdrawn RSO units with affordable units on a one-for-one basis or provide at least 20 percent of the total number of newly constructed rental units as affordable, whichever results in the greater number." Currently there are only 15 units reserved as affordable which is only 10.8% of the apartments proposed in this massive 131-unit building. (as seen in rendering below)

The residents at risk of eviction and displacement include seniors, single parents, teachers, frontline workers, and immigrants who have called Carlton Way home for decades. These are not just units — they are lives, communities, and stories. Los Angeles cannot solve its housing crisis by removing the very people who most need protection. Displacement here echoes broader patterns of racial and economic displacement across East Hollywood and Los Angeles.

Many residents will be effectively excluded from the new development due to income restrictions and long waiting lists. Many speak English as a second language and are unfamiliar with their tenants rights or afraid to speak out or fill out any documents because of their ethnicity, first language, or immigration status. The developer's consultant has had difficulty reaching some of the current tenants to confirm their low-income status, disability or age. Again, if the proposed "very low income" units are tied to Section 8 or other Federal funding, they will be inaccessible to any future or former tenant without legal residency, including mixed status households.

This is not equitable redevelopment — it is systemic displacement masquerading as affordable housing progress. This approach, often seen when developers leverage density bonus incentives primarily for market-rate expansion, inadequately addresses the genuine housing needs of the displaced population, who may not qualify for or access the new, more restrictive affordable units.

The people being forced out of these rent-controlled apartments are not just names on a lease, they are longtime Angelenos who have built their lives in this community. Many live paycheck to paycheck, and these buildings are one of the last few places in the area where they can afford to live with dignity.

The proposed demolition, net loss of affordable units and replacement with unaffordable luxury units reflect a broader and troubling pattern in Los Angeles, where community needs and housing stability are often sacrificed in favor of profit-driven development.

Response to CSTA Appeal 2

The demolition of RSO units and related displacement of tenants is a land use and housing policy issue, not an environmental impact under CEQA. Courts have consistently held that economic and social effects (e.g., increased rents, tenant relocation, or changes in neighborhood demographics) do not constitute environmental impacts unless they cause a reasonably foreseeable physical effect on the environment (CEQA Guidelines §15064(e); Goleta Union School Dist. v. Regents of Univ. of California (1995) 37 Cal.App.4th 1025).

The City and State's SB 8 and SB 330 require that any RSO units removed must be replaced and that tenants are offered the right to return to new affordable units at comparable rents. These protections are enforced outside the CEQA process.

The project includes 15 Very Low Income units under the State Density Bonus Law (Gov. Code §65915), which ensures a net increase in deed-restricted affordable housing.

CSTA Appeal 3

Moreover, this historic cluster of apartment buildings has a unique character and delightful charm that is irreplaceable and unmistakably classic Hollywood. Many of these historic apartments constructed from 1916-1948 contain one-of-a-kind, irreplaceable pre-war features such as detailed woodwork, fireplaces, arched doorways, decorative arches, built-in cabinetry, wooden trim, original hardwood floors, and original windows.

This development will not only displace residents but will chip away at the character and cultural fabric of East Hollywood. By stepping in, you can help prevent yet another blow to affordable housing in Los Angeles and take a stand against the erosion of our communities.

Response to CSTA Appeal 3

The Project Site was evaluated and determined not to contain historic resources. As detailed in the CE, Section 2 subsection 15 the buildings were not identified in SurveyLA, the City's comprehensive historic resources inventory. The buildings are not designated under the National Register, California Register, or as Historic-Cultural Monuments (HCMs). The Site is not located within or adjacent to a Historic Preservation Overlay Zone (HPOZ). The buildings lack sufficient architectural integrity, distinctive design features, or documented historical associations to qualify individually or as part of a historic district.

As discussed in Historical Resource Assessment Report, Chronicle Heritage, June 3, 2024 (included as Appendix H to the CE). The Project was analyzed and evaluated against the Secretary of Interior's Standards for the Treatment of Historic Properties and was found to be in conformance with the Standards. The Project area is outside the boundaries of the NRHP–listed Serrano Historic District, and any demolition and construction associated with the Project would not result in a substantial adverse change to the Serrano Historic District. Additionally, the Project would not result in a substantial adverse change to the individually eligible Hollywood Carlton Apartments at 5406 Carlton Way.

Therefore, the City, as lead agency, found no substantial evidence that the subject properties qualify as historic resources under CEQA Guidelines §15064.5.

CSTA Appeal 4

There is already a colossal 735-unit development under construction one block south at 5420 Sunset Boulevard at N. Serrano Ave.

Response to CSTA Appeal 4

The nearby 735-unit development at 5420 Sunset Boulevard is acknowledged in the CE exemption's review of cumulative conditions (see CE Section 2, subsection 11). However, the related project's size and scale do not constitute a significant cumulative environmental effect under CEQA Guidelines §15300.2(b). Environmental studies confirm no significant traffic, noise, air, or water quality impacts. Public services are adequate to support cumulative growth. No substantial evidence has been presented showing that the Carlton Way project, in combination with other nearby developments, will result in a significant cumulative environmental effect.

CSTA Appeal 5

We do not need to evict nearly 50 longtime residents to construct a 105 foot tall building on a residential side street demolishing rent stabilized apartments that currently house some of our most vulnerable residents. The maximum building height typically permitted is 38 feet, 10 inches. 105 feet tall is more than double the height of the tallest buildings in the neighborhood.

The catastrophic LA Fires recently displaced about 150,000 residents in Los Angeles which has also affected the scarcity of RSO affordable housing in East Hollywood. Many low-wage workers also lost their jobs and/or places of employment. In a neighborhood where Latino immigrants are already disproportionately impacted by ICE enforcement and healthcare instability, the displacement of rent-stabilized tenants — many of whom rely on Medi-Cal or are essential workers — would deepen structural inequities and social harm.

One out of four of our neighbors are low income and two out of four are Latino. Displacing these families during this climate is unconscionable.

Response to CSTA Appeal 5

CEQA requires a nexus between the project and a physical environmental impact. General references to climate-related housing shortages or systemic inequity do not meet that threshold unless linked to specific, documented physical effects caused by the project. CEQA does not regulate income distribution, immigration enforcement, or healthcare access. These issues fall under the purview of housing, labor, and social policy, not environmental review. The programs from LAHD support tenant protection and housing stability and operate alongside CEQA but are not embedded within it.

CSTA Appeal 6

JUSTIFICATION/REASON STATEMENT

REASONS FOR APPEAL:

I. Policy Loophole Exposure, Zoning Violations

Permitted by SNAP	***Approved by CPC***	***Total Increase/Decrease***
A Maximum Height of 38-feet, 10-inches	*105 feet, four inches*	***176% Increase:*** *66 feet, 6 inches*
A Maximum Density of 95 units	*Density of 139 units*	***46.31% Increase:*** *44 units*

This project involves the demolition of seven existing residential buildings, including a 16-unit apartment building, a 4-unit apartment building, three single-family dwellings, and a duplex, while retaining one existing 8-unit building. This results in the removal of 25 existing RSO units, to be replaced by a new 131-unit structure, for a total of 139 units on the property. Of these new units, only 15, (10.8%) are designated for "Very Low Income" households. This is a net loss of 10 RSO units. The developers are seeking a density bonus to permit 131 units instead of the base density of 95 units. Crucially, this project relies on an extensive list of "off-menu" incentives and waivers from existing zoning regulations. These include:

Permitted by SNAP	***Approved by CPC***	***Total Increase/Decrease***
Roof-line breaks every 40 ft	Unbroken roof-line up to 169 ft, 1 inch	**322.5% Increase:** 129.1 ft
A Maximum of 2 lot ties of 15,000 sq ft	4 lot ties of 37,688 sq ft	**151.25% Increase**

Required Rear Yard Space of 20 ft	6 ft	**70% Decrease:** 14 ft
Required Westerly Side Yard of 11 ft	5 ft	**54.54% Decrease:** 6 ft
Required Space between buildings of 22 ft	9 ft 2 in	**58.3% Decrease:** 12 ft 10 inches
Mandated Open Space of 13,300 sq ft	3,405 sq ft	**74.4% Decrease:** 9,895 sq ft

This project involves the demolition of seven existing residential buildings, including a 16-unit apartment building, a 4-unit apartment building, three single-family dwellings, and a duplex, while retaining one existing 8-unit building. This results in the removal of 25 existing RSO units, to be replaced by a new 131-unit structure, for a total of 139 units on the property. Of these new units, only 15, (10.8%) are designated for "Very Low Income" households. This is a net loss of 10 RSO units. The developers are seeking a density bonus to permit 131 units instead of the base density of 95 units. Crucially, this project relies on an extensive list of "off-menu" incentives and waivers from existing zoning regulations. These include:

- ***A drastic 74.4% reduction in required open space, allowing only 3,405 square feet instead of the mandated 13,300 square feet****, as otherwise required by SNAP Section 7.F;*
- ***Reduced minimum and increased maximum building setbacks along Carlton Way.*** *An Off-Menu Incentive to permit a 12-foot, six-inch minimum building setback along Carlton Way, in lieu of a 14-foot, 11.28-inch minimum building setback, as otherwise required by SNAP Section 7-E;*
- ***Permission for unbroken roof lines up to 169 feet, 1 inch, in lieu of required 40-foot breaks.*** *An Off-Menu Incentive to permit roof lines of up to 169-feet, one-inch without breaks, in lieu of the minimum 40-foot roof line breaks, as otherwise required by SNAP Development Standards Section IV-13;*
- *A* ***significant height increase, allowing for a maximum building height of 105 feet, 4 inches, far exceeding the 38 feet, 10 inches typically permitted.*** *A Waiver of Development Standard for a 66-foot, six-inch height increase to permit a maximum building height of 105-feet, four-inches, in lieu of the 38-foot, 10-inch maximum height, as otherwise required by SNAP Section 7-D;*
- ***Waivers to permit four lots (37,688 sq ft) to be tied together as a single building site, instead of the maximum two lots (15,000 sq ft) typically allowed*** *by SNAP Section 7- A;*
- ***Substantial reductions in required rear yard (70% reduction, from 20 ft to 6 ft),***
- ***Substantial reductions in westerly side yard (54.6% reduction, from 11 ft to 5 ft),***
- ***Substantial reductions in space between buildings (58.4% reduction, from 22 ft to 9 ft 2 in)***
- ***Substantial reductions in passageway width (72.8% reduction, from 22 ft to 6 ft).***

The sheer number and magnitude of "off-menu" waivers sought by the developer, such as the massive height increase and drastic reduction in required open space, indicate a clear intent to maximize profit by circumventing existing zoning and design standards. This approach undermines the fundamental purpose of density bonus laws, which are intended to encourage affordable housing, not to facilitate luxury development at the expense of established community standards and quality of life. This also undermines the very purpose of SNAP in Subarea A which is intended to preserve our existing historic RSO buildings.

The project's proposed 15 "Very Low Income" units, while seemingly beneficial, do not adequately compensate for the demolition of 25 existing RSO units. This is a net loss of 10 affordable units. RSO units are often more accessible to a broader range of lower-income households without the strict income qualifications and lengthy waitlists associated with covenanted affordable housing. Therefore, the project represents a net loss of effective affordable housing for the community.

The project's reliance on numerous waivers, coupled with the non-compliance with SNAP, CEQA, the spirit of RSO and RPO, and the implications of the "no-net loss" law, create significant legal avenues for challenging the development. The extensive deviations from existing zoning regulations provide strong grounds for arguing that the project is not a good-faith effort to build genuinely affordable housing but rather

a speculative venture designed to exploit loopholes and maximize returns at the expense of existing residents.

Response to CSTA Appeal 6

The project's use of Density Bonus Waivers is legally authorized and does not disqualify it from a CEQA Class 32 Categorical Exemption. Compliance with RSO, RPO, and "no-net-loss" policies is address through other regulatory programs and not within CEQA's scope. Speculation about the developer's motives does not constitute substantial evidence of a significant physical environmental impact under CEQA. Therefore, the exemption remains valid.

CSTA Appeal 7

II. ROM Investments and Alchemy Planning's fraudulent history - more oversight and transparency are needed.

Given the documented campaign finance violations and prior legal disputes involving the applicants, the developer and their project consultants, the city has an imperative obligation to ensure that all public processes — including waivers and variances — are granted transparently and in the public interest. The applicant is 5430 Carlton LLC, an offshoot of Leeor Maciborski's ROM Investments. Maciborski is a prolific real estate developer in the Hollywood area. Maciborski/ROM Investments history reveals a concerning pattern of fraudulent inducement and negligent misrepresentation lawsuits raises serious questions about their operational integrity and commitment to fair practices.

In 2017, Maciborski was fined $17,000 for making discreet donations exceeding campaign limits to then-Councilmember Mitch O'Farrell's 2013 campaign, utilizing limited liability companies (LLCs). At the time, Maciborski was associated with several apartment buildings in both the East Hollywood and Los Feliz areas. Councilmember O'Farrell represented City Council District 13, which encompasses East Hollywood, indicating a direct connection to local political influence relevant to the project's location.

The applicant's consultant, Alchemy Planning + Land Use, led by Gary Benjamin, a former planning deputy to former Councilman Mitch O'Farrell, was fined $37,500 in 2019 by the Los Angeles City Ethics Commission after failing to report that he was lobbying Los Angeles officials.

The documented fines against Leeor Maciborski for illegal campaign contributions to a city council member and his consultant Gary Benjamin for failing to report lobbying, directly relevant to the project's district, is a significant finding. This history establishes a clear pattern of attempting to influence local politics through financial means and lobbying. This raises legitimate concerns about potential undue influence in the approval process for the Carlton Way project, particularly given the extensive "off-menu" waivers being sought by the developers. This information strengthens the argument that the current development landscape is rigged in favor of developers, often at the expense of community interests and affordable housing. This financial influence is cited as a key factor in turning the city into a lucrative paradise for real estate investors, leading to soaring rents, record-high evictions, unwanted displacement, and sudden homelessness.

Response to CSTA Appeal 7

Allegations that the project is speculative or profit-driven are outside the scope of CEQA, which is focused solely on physical impacts to the environment (Guidelines § 15358(b)). CEQA does not evaluate the

character or conduct of project applicants. These matters fall under campaign finance and ethics enforcement jurisdictions and have no bearing on environmental eligibility or exemption status.

CSTA Appeal 8

III. Exploitation of zoning regulations

This project seeks an extraordinary number of off-menu waivers:

- *176% height increase*
- *74% open space reduction*
- *70% rear yard reduction*
- *Lot tie-ins far beyond code limits (37,688 sq ft, an increase of 151.25% beyond permissible)*

This abuse of the density bonus program undermines its original legislative intent — to produce equitable, affordable housing — and instead exploits the density bonus framework for private enrichment, enabling the proliferation of luxury housing at the cost of tenant displacement.

Alchemy Planning + Land Use is identified as a premier Los Angeles-based land-use consulting firm. Its core expertise lies in obtaining entitlement approvals and providing zoning analyses for mixed-use and multifamily residential projects. Gary Benjamin, former planning deputy to former CD13 Councilman Mitch 'O Farrell, is the founder and Principal of the firm. Since its founding in 2017, Alchemy Planning boasts a 100% approval rate for over 130 complex entitlement approvals, including more than 80 mixed-use and multifamily projects. The firm explicitly advises clients on how to utilize the "nuances of the zoning code, recent land use legislation, and the discretionary approval process to maximize project value". With an impressive 100% approval rate and its stated objective of "maximizing project value" by expertly navigating zoning nuances and discretionary approvals underscore a sophisticated capability in the regulatory landscape.

This suggests that the extensive "off-menu" requests for the Carlton Way project are not accidental but a deliberate and calculated strategy to push the boundaries of what is permissible. This approach prioritizes developer interests and profit maximization over community concerns and the preservation of existing affordable housing and neighborhood character. Alchemy Planning's work is directly facilitating displacement of vulnerable tenants through the legal exploitation of zoning regulations.

Response to CSTA Appeal 8

The waivers identified are authorized under the State Density Bonus Law (Government Code §65915(e)) when a project provides qualifying affordable housing. The law explicitly requires local governments to grant waivers of any development standard that would physically preclude construction of a project at the allowed density and affordability level. In this case, the project provides 15 Very Low Income units, which entitles it to both a density bonus and waivers of development standards. The use of multiple waivers is common and anticipated under the statute. There is no limit on the number of waivers allowed if the applicant demonstrates that they are necessary for financial feasibility or physical buildout. Thus, the cited increases or reductions in height, yard, and open space are not "abuses" of CEQA or zoning law, but rather reflect statutorily authorized incentives for the development of affordable housing.

The use of Density Bonus waivers does not trigger an exception to the Class 32 (Infill Development) Categorical Exemption under CEQA Guidelines §15300.2. The waivers do not result in unusual circumstances that would lead to a significant environmental impact. The Project's technical studies

demonstrate that impacts related to air quality, traffic, noise, and public services are below thresholds of significance. The Project does not impact historical resources or habitat. The Project is consistent with the General Plan and planning goals, including RHNA targets.

The State Density Bonus Law was designed not to preserve existing market-rate rent-stabilized housing, but to incentivize the construction of deed-restricted affordable housing, particularly on underutilized or high-density parcels. In fact, the inclusion of 15 Very Low Income units represents a legally enforceable, long-term affordability commitment, which is not guaranteed under the current market-rate RSO housing.

Compliance with SB 330, SB 8, and AB 2556 ensures

- Tenant protections and relocation assistance;
- Replacement of all RSO units in accordance with state law;
- Continued rent stabilization rights, where applicable.

These state-level protections operate in parallel to CEQA, and are not administered through the environmental review process.

CEQA focuses exclusively on whether a project would result in a significant effect on the physical environment. The business practices, success rate, or strategic approach of a land-use consultant are not within CEQA's scope and have no bearing on the validity of a CEQA exemption. Whether a consultant is effective in navigating entitlements or maximizing project feasibility does not alter the environmental review standard, nor does it suggest noncompliance with CEQA. Similarly, allegations of profit motivation or developer intent are not CEQA issues (CEQA Guidelines §15358(b)).

CEQA case law is clear that economic or social changes, including gentrification or rent increases, are not environmental impacts unless they cause a physical effect (e.g., increase in homelessness affecting emergency services or public health). In California Building Industry Association v. Bay Area Air Quality Management District (2015) 62 Cal.4th 369, the court reaffirmed that CEQA requires a direct nexus between a project's actions and physical environmental consequences. That nexus is not demonstrated here.

The project's use of Density Bonus waivers is legal, consistent with state law, and does not invalidate its CEQA Categorical Exemption. No evidence has been presented of a physical environmental impact resulting from these waivers. Allegations related to planning strategies, project economics, or consultant conduct are outside CEQA's jurisdiction and cannot serve as a basis to deny the exemption.

CSTA Appeal 9

IV. Compliance with SNAP, CEQA, "No Net Loss" laws, RSO protection, fair replacement mandates, net loss of affordable housing and displacement of tenants

CA No-Net Loss Law Government Code Section 65863	***Approved By CPC***	***Net Loss***
1 to 1 replacement of RSO Units	*25 demolished RSO affordable units, replaced with 15 "very low income" units*	*Net loss of 10 affordable RSO units*

The proposed demolition of 25 rent-stabilized units (RSO), home to nearly 50 individuals, violates the principles and likely the letter of California's "No Net Loss" law (Gov. Code § 65863).

Only 15 Very Low Income units are proposed in exchange for the destruction of 25 RSO units — a net loss of irreplaceable affordable housing.

Moreover, displaced residents — many of whom are

- *Seniors*
- *Immigrants*
- *Low-income workers, healthcare workers, students, people with disabilities*

Even if the right of return is made available, many residents will be effectively excluded from the new development due to income restrictions and long waiting lists. Many speak English as a second language and are unfamiliar with their rights or afraid to speak out or fill out any documents because of their ethnicity, first language, or immigration status. The developer's consultant has had difficulty reaching some of the current tenants to confirm their low-income status, disability or age. This is not equitable redevelopment. It is displacement. This approach, often seen when developers leverage density bonus incentives primarily for market-rate expansion, inadequately addresses the genuine housing needs of the displaced population, who may not qualify for or access the new, more restrictive affordable units.

California has a statewide "no-net loss" law, Gov. Code § 65863, enacted in 2020, aimed at addressing the affordable housing shortage and strengthening tenant protections. The city has codified its own local version of this law, which generally requires a one-to-one replacement of RSO units with covenanted affordable units.

Los Angeles, like the rest of California, is subject to the state's "No Net Loss" law, which aims to prevent the reduction of housing units, especially those affordable to low-income households, when development projects are approved. This means that when a project requires the demolition of existing housing, it must replace those units, ensuring no net loss of housing stock and maintaining the supply of affordable units.

Key aspects of the "No Net Loss" law:

Replacement of Units:

Development projects that involve demolition must replace the demolished units with at least the same number of new units.

Affordable Housing:

Units demolished that were affordable to low-income households must be replaced with deed-restricted affordable housing units.

Right of Return:

Previously displaced low-income tenants have the right of first refusal to rent the new, comparable units at the same rent as their previous unit(s), along with relocation assistance.

Meeting RHNA Goals:

The law also ensures that local jurisdictions (like Los Angeles) have sufficient sites to accommodate their Regional Housing Needs Allocation (RHNA) for the duration of the applicable planning period.

No Net Loss Findings:

If a jurisdiction approves a project that reduces the number of units below what was assumed in the Housing Element, they must demonstrate through written findings that there are still sufficient sites to meet the RHNA requirements. If they cannot, mandatory rezoning may be required.

In essence, the "No Net Loss" law in Los Angeles aims to balance the need for new development with the critical need to maintain and increase the supply of housing, particularly affordable housing, for all income levels.

This development with a net loss of 10 RSO affordable units does not comply with California's no net loss law (Gov. Code § 65863).

Response to CSTA Appeal 10

California's "No Net Loss" statute (Gov. Code §65863), as revised in 2020, applies to jurisdictions, not individual private development projects. The law does not bar approval of individual projects that reduce unit counts on a specific parcel. Instead, it requires the City of Los Angeles to make findings demonstrating it still has adequate capacity elsewhere to meet RHNA allocations. The commenter's suggestion that a private project violates Gov. Code §65863 misunderstands the statute's scope and intent.

Additionally, the proposed project adds a net 106 housing units, including 15 deed-restricted VLI units, thus increasing total housing supply. It does not decrease the city's overall unit count nor reduce the number of available housing sites. Therefore, it does not trigger the written findings or rezoning requirements of §65863(c)(2).

The City of Los Angeles enforces RSO unit replacement and tenant protections through SB 330 (Housing Crisis Act of 2019) and SB 8 (Tenant Protection Act of 2021). These requirements apply regardless of CEQA, and the project must meet these standards as a condition of permit approval. The City verifies unit status, tenant eligibility, and income through HCIDLA (now LAHD) review. Compliance is enforced through the entitlement and building permit process, not CEQA. Thus, even if only 15 VLI units are proposed under the Density Bonus Program, additional RSO replacement units may be required under SB 330/SB 8, and must be provided, independent of CEQA.

CEQA is limited to assessing whether a project causes a significant impact to the physical environment. Social and economic impacts—such as tenant displacement, immigration status, or language barriers—are not environmental impacts under CEQA unless they result in a physical environmental effect (CEQA Guidelines §15064(e)). Courts have held that displacement of low-income or vulnerable tenants does not constitute an environmental impact under CEQA unless the displacement results in indirect physical consequences, such as overcrowding of homeless shelters or public services (e.g., California Building Industry Assn. v. Bay Area AQMD (2015) 62 Cal.4th 369). This standard has not been met here, and no substantial evidence has been provided linking this project to such effects.

The project does not violate the "No Net Loss" law (Gov. Code §65863), which applies to city-level RHNA compliance, not to individual project approvals. The project is subject to mandatory RSO replacement and tenant protections under SB 330 and SB 8, enforced through the entitlement process.

The CEQA Class 32 Categorical Exemption remains valid, as no evidence has been provided that the project would cause a significant physical environmental impact due to displacement or unit replacement. Social and equity concerns are addressed outside CEQA through tenant protection laws and City oversight mechanisms.

CSTA Appeal 11

V. Destruction of historically significant housing

CEQA's mandate to consider historic resources, even if not officially designated, if they have "contextual" or "associative" value must be addressed. The buildings at 5416–5430 W. Carlton Way, built between 1916–1948, are part of a charming historic cluster adjacent to the Edith Northman-designed Hollywood Carlton Apartments at 5845 Carlton Way. Several of the existing apartment buildings predate multiple historical Los Angeles buildings including the Le Trianon Apartments, the Hollywood and Western Building, the Vista Theater, the Egyptian Theatre, the Biltmore and Culver Hotels, Hotel Figueroa, Chateau Marmont, Greystone Mansion and the Hollyhock House, which was the first Frank Lloyd Wright California commission.

Demolishing the units On Carlton Way would degrade the historic fabric of this block and potentially violate CEQA's protections for contextual historic resources. Edith Northman is the first female registered architect in Los Angeles. Demolishing these charismatic older structures erodes the neighborhood's unique character and cultural heritage.

These historic buildings have unique character and charm that is irreplaceable and unmistakably classic Hollywood. Many of these apartments contain one-of-a-kind pre-war features such as detailed woodwork, fireplaces, arched doorways, decorative arches, built-in cabinetry, wooden trim, original hardwood floors and original windows.

These architecturally distinct, pre-war buildings embody the history, culture, and fabric of classic Hollywood. They are not just units — they are loved homes, and they represent a living, irreplaceable connection to Los Angeles' past and its working-class future. These historic clusters of apartments should be preserved.

Response to CSTA Appeal 11

The Project Site was evaluated and determined not to contain historic resources. As detailed in the CE, Section 2 subsection 15 the buildings were not identified in SurveyLA, the City's comprehensive historic resources inventory. The buildings are not designated under the National Register, California Register, or as Historic-Cultural Monuments (HCMs). The Site is not located within or adjacent to a Historic Preservation Overlay Zone (HPOZ). The buildings lack sufficient architectural integrity, distinctive design features, or documented historical associations to qualify individually or as part of a historic district.

As discussed in Historical Resource Assessment Report, Chronicle Heritage, June 3, 2024 (included as Appendix H to the CE). The Project was analyzed and evaluated against the Secretary of Interior's Standards for the Treatment of Historic Properties and was found to be in conformance with the Standards. The Project area is outside the boundaries of the NRHP–listed Serrano Historic District, and any demolition and construction associated with the Project would not result in a substantial adverse change to the Serrano Historic District. Additionally, the Project would not result in a substantial adverse change to the individually eligible Hollywood Carlton Apartments at 5406 Carlton Way.

Therefore, the City, as lead agency, found no substantial evidence that the subject properties qualify as historic resources under CEQA Guidelines §15064.5.

Adjacent or contextual resources will not be adversely affected. The comment references the nearby Hollywood Carlton Apartments at 5845 Carlton Way, designed by Edith Northman. While this building may

hold historical or architectural value, it is located approximately 450 feet east of the project site and not adjacent, directly connected, or visually or physically impacted by the proposed demolition and redevelopment. As confirmed in CE, the Project does not involve any physical alterations to known historic resources, nor does it materially impair the significance of any adjacent resource.

The CE concludes that the proposed demolition of the existing buildings at the Site does not involve a substantial adverse change to a known or eligible historic resource and does not trigger the historic resources exception under CEQA Guidelines §15300.2(f). Therefore, it does not disqualify the Project from using the Class 32 CE.

Based on the analysis in Section 2 subsection 15 of the CE and the City's review of SurveyLA, historic resource databases, and applicable eligibility criteria, the structures at 5416–5430 W. Carlton Way do not qualify as historic resources under CEQA Guidelines §15064.5. No substantial adverse change would occur. The historic resources exception to the Class 32 Exemption (§15300.2(f)) does not apply. No EIR is required on the basis of historic resource impacts. The project's CEQA clearance as a Class 32 CE remains valid.

CSTA Appeal 12

VI. Adverse environmental impact and potential health risks

CEQA requires public agencies to "look before they leap" and consider the environmental consequences of their discretionary actions. CEQA is intended to inform government decisionmakers and the public about the potential environmental effects of proposed activities and to prevent significant, avoidable environmental damage.

The removal of 17 trees including two native, protected California Oaks — violates LA's Protected Tree Ordinance and invalidates the CEQA Class 32 exemption. The attached arborist's report confirms their protected status. In a neighborhood facing severe heat exposure and high asthma rates, these trees provide vital ecosystem services: cooling, stormwater absorption, air filtration, and public health protection. Their destruction would constitute a significant environmental impact under CEQA and must trigger a full Environmental Impact Report (EIR). Climate resilience plans, tree canopy goals (City's Urban Forest Equity Plan), and environmental justice statutes must be recognized.

Eliminating 17 trees in an urban setting like East Hollywood poses serious risks including:

- *increased urban heat*
- *altered hydrology*
- *habitat loss*
- *heightened flooding potential.*

This large-scale tree removal will significantly worsen the urban heat island effect in East Hollywood. These 17 trees provide essential canopy cover that lowers surrounding temperatures, reduces energy demand for cooling, and protects vulnerable populations—especially seniors and low-income residents—from dangerous heat exposure. These trees are also essential for managing stormwater, sequestering carbon, filtering air pollutants, and supporting public health. Their removal will degrade air quality, raise cooling energy demands, threaten vulnerable populations, and negatively affect community well-being.

Allowing the removal and destruction of protected native California Oaks sets a dangerous precedent and undermines efforts to maintain a livable, sustainable urban environment. With the recent wildfires and the

illegal removal and vandalism of protected street trees in downtown Los Angeles, it is more imperative than ever to protect our native Calfornian street trees, verdant fruit trees and shade trees. Cutting them down then replacing them with younger unprotected trees should not be a solution. Native California Oaks are protected for a reason. Their ecological and cultural significance cannot be overstated. Their removal in the name of development contradicts both CEQA intent and the City's Urban Forest Equity commitment. Please see the Arborist Report attached.

Response to CSTA Appeal 12

As discussed in Section 2 subsection 4.1 of the CE and supported by Protected Tree Evaluation Report, Arborgate Consulting, March 9, 2024 (Included as Appendix B of the CE), the Project Site contains a total of three street trees in the adjacent right-of-way in front of the Project. The Project Site also has a total of 16 onsite trees on private property. To build the proposed building will require the removal of the existing trees, including two street trees and potentially up to 16 private onsite trees. The two street trees to be removed are protected species (*Quercus agrifolia* [California Live Oak]). Of the 16 onsite trees to be removed, three are protected species (two *Quercus agrifolia* and one *Platanus racemosa* [Western Sycamore]).

Per LAMC Section 17.05.R.4.(a), the protected tree or shrub that is removed shall be replaced within the property by at least four specimens of a protected variety. The removal of three onsite protected trees would require the planting of 12 protected trees. The removal of the two street protected trees would be replaced on a 2:1 ratio, for a total of 4 new protected species trees. Therefore, the Project would provide 16 total protected species trees.

This meets the minimum requirement and complies with the Protected Tree Ordinance and the standards of the City's Urban Forestry Division.

The Project would be required to provide at least 33 trees (131 units / 4), based on 131 proposed units (not counting the 8 existing units to remain). The Project would provide 40 trees.

The comment asserts that tree removal will increase the urban heat island effect, reduce stormwater absorption, and affect air quality. The CE includes analysis of air quality, water quality, and heat effects (see Section 2 subsections 7 and 8 of the CE), and concludes that the Project will not result in significant environmental effects. The removal and replacement of trees will be subject to Landscape Plans (Appendix A), which incorporate new shade trees and landscaping consistent with CEQA's requirements and City standards.

The Project supports the City's Urban Forest Equity Plan and sustainability policies by:

- Planting more total trees than currently exist on the site (40 total trees, including 16 protected tree replacements).
- Including green infrastructure such as rooftop decks, pool decks, and landscaped courtyards that mitigate heat effects.
- Complying with Title 24 energy standards, all-electric requirements, and stormwater regulations, thereby supporting climate resilience goals.

The site is in a dense urban area, surrounded entirely by residential buildings. The CE includes a Protected Tree Evaluation Report, Arborist verification, and technical studies demonstrating no unusual circumstances exist. Tree removals will be fully replaced in accordance with law and do not, by themselves, trigger the significant effects exception.

The removal of five protected trees (including two California Oaks) does not invalidate the Class 32 CEQA exemption, as the project remediates their loss through required replanting and demonstrates no significant impact related to CEQA topics such as air quality, urban heat, or water quality. No substantial evidence has been presented that would trigger the exceptions to the Class 32 exemption under CEQA Guidelines §15300.2. Therefore, no EIR is warranted, and the Categorical Exemption remains valid.

CSTA Appeal 13

VII. Request for a rigorous Environmental and Social Impact Review - AB 1001 – CEQA equity consideration law

Given the significant environmental and social impacts — including demolition of RSO housing, loss of protected trees, heat island exacerbation, and cumulative impacts from nearby developments — We request a full Environmental Impact Report (EIR). Under CEQA and AB 1001, the City must consider disproportionate impacts to environmental justice communities and ensure transparency in evaluating the true cost of this development.

This EIR must comprehensively assess not only the physical environmental impacts but also the significant social, economic, and cultural impacts, including detailed analyses of tenant displacement, increased traffic congestion, strain on local public resources (schools, infrastructure), quality of life, and the erosion of neighborhood character.

Response to CSTA Appeal 13

The use of the Class 32 CE is appropriate and supported by substantial evidence. The Project qualifies for a Class 32 (Infill Development Projects) Categorical Exemption pursuant to CEQA Guidelines §15332, which allows infill development within city limits on sites less than five acres that meet five criteria. As detailed in Section 2, Environmental Analysis of the CE, the Project meets all required criteria:

- Consistency with General and Community Plans (CE, Section 2, subsection 2, p. 2-3 to 2-30)
- Urban location and site under five acres (0.87 acres) (CE, Section 2, subsection 3, p. 2-31)
- No habitat value for special-status species (urbanized area; see CE, Section 2, subsection 4, p. 2-32)
- No significant effects to traffic, noise, air quality, or water quality (see CE, Section 2, subsections 5-8, p. 2-35 to 2-119)
- Adequate utilities and public services (CE, Section 2, subsection 9, p. 2-120 to 2-136)

As such, the Project satisfies the exemption criteria of CEQA Guidelines §15332(a–e).

Tenant displacement and RSO demolition are governed by local law, Not CEQA. CEQA does not typically require analysis of social or economic effects unless they result in a physical environmental impact (CEQA Guidelines §15064(e)). The removal of RSO units is governed by Los Angeles Rent Stabilization Ordinance (LAMC Chapter XV), Ellis Act (Gov. Code §7060 et seq.), and SB 330 (Gov. Code §66300(d)), which requires one-for-one replacement and a right of return for eligible tenants. The CE identifies and addresses the demolition of 25 units and their replacement by 139 units, including 15 Very Low Income Units, consistent with SB 330 and the City's housing goals (CE, Section 1, subsection 4, Table 1-4, p. 1-11; and p. 1-14).

Protected trees will be replaced in compliance with LAMC. The removal of 5 protected trees (3 onsite, 2 street) is acknowledged in the Protected Tree Evaluation Report, Arborgate Consulting, March 9, 2024 (Included as Appendix B of the CE) and the CE Section 2 subsection 4. The Project proposes planting 16

protected trees, consistent with LAMC §17.05-R and the Protected Tree Ordinance (LAMC §46.00 et seq.). Therefore, there is no significant impact under CEQA from tree removal.

Urban heat and environmental justice considerations addressed. The Appeal references AB 1001 (Garcia 2022), which passed in the Assembly before failing to advance out of the Environmental Quality Committee in the Senate. AB 1001 does not amend the CEQA Guidelines to require a separate environmental justice threshold. The CE includes air quality (Section 2.7), GHG (Section 2.7.9), and water quality (Section 2.8) analyses, all showing less-than-significant impacts and no evidence of disproportionate pollution burden. The Project improves climate resilience through all-electric design, tree replacement, and compliance with Title 24 energy standards (CE, Section 4.15, p. 1-20).

There is no evidence of significant cumulative impacts. Under CEQA Guidelines §15300.2(b), an exemption may not apply if there is a reasonable possibility of a significant cumulative impact from successive similar projects. The CE includes a cumulative impact analysis in Section 2 subsection 11 (Cumulative Impacts), pp. 2-138 to 2-154 and a list of related projects is included in Table 11-1 and Figure 11-1, p. 2-139. Technical studies conclude no cumulatively significant impacts to air, traffic, GHG, noise, water, or public services (see especially Tables 11-2 to 11-6).

Neighborhood character and aesthetics are not significantly affected. The Project is consistent with the zoning and land use designation [Q]R4-2, and the surrounding area includes multi-story apartment buildings. Building height (105'4") is allowed via waiver and is not out of character given transitional height design (see CE, Section 1 subsection 4.6, p. 1-15). Architectural and urban design features (balconies, façade treatments, ground-floor activation) maintain neighborhood compatibility (CE, Section 1 subsection 4.2, p. 1-13). Visual resources are not identified as a sensitive issue under §15300.2(d), and the Project site is not located along a state-designated scenic highway.

The City has properly applied the Class 32 Categorical Exemption under CEQA Guidelines §15332 and documented that none of the exceptions under §15300.2 apply. No substantial evidence has been presented to support a fair argument that the project may result in significant environmental effects. Therefore, the preparation of an EIR is not required under CEQA.

CSTA Appeal 14

VIII. Traffic, Transportation and Street Parking Infrastructure, Employment Retention

This appeal would not be complete without a mention of traffic. The current situation has USPS, UPS, FedEx and Amazon trucks currently double parking on Carlton Way and N. Serrano Ave. which causes major issues with in-home medical practitioners, transportation services for the elderly, and damage to cars parked on the street. Our neighbors frequently have their drivers' side or passenger side rear view mirrors damaged or broken off by delivery trucks. Many in the neighborhood use ride share services like Lyft or Uber in fear of losing their street parking spaces. Elderly and disabled Armenian residents rely on van transportation for their trips to routine doctor's appointments. Many residents have disabilities and use walkers or wheelchairs. Because of the frequently ensnared traffic many elderly residents are forced to walk or wheel to Hollywood Blvd. or N. Western Ave. to catch their rides to the doctor or receive accessible transportation.

Numerous elderly Latina neighbors walk on foot to the supermarket or bus stops and many of them have expressed concern that the eviction and displacement of their long-time neighbors of 20+ years would eliminate their social safety net, as these neighbors check-in on each other, carpool, go grocery shopping, and give each other rides. This neighborly behavior is crucial in a time when ICE raids routinely detain

Latino residents walking on our public sidewalks. For our Latino neighbors, the collective impact of neighboring behavior is needed more than ever.

Many Thai residents walk to work at Thai Plaza or many of the Thai businesses nearby. The addition of 131 new units would add 100+ cars to the neighborhood. There is a 731 unit apartment building currently under construction at 5420 Sunset and Serrano, one block south. This will add hundreds of new residents and their cars to the neighborhood. On small residential side streets like Carlton Way and N. Serrano Ave, our infrastructure is already on the brink of collapse regarding street parking and traffic. When there are police or fire emergencies, fire trucks, police cars and ambulances struggle to make their way down our residential side streets because of the excess of traffic and double parking.

Our neighborhood is already one of the most dense in all of Los Angeles. We like it because of its charm and proximity to Griffith and Barnsdall Parks, our workplaces, schools, family and friends. Many of us have invested time and money since the pandemic to have work from home capabilities. Many of us have worked for years at our places of employment in order to build enough trust and goodwill to be granted permission to work from home.

The cumulative impact of displacement, construction noise, and traffic gridlock would destabilize residents' ability to work, care for family, or live with dignity in their homes — especially in a post-pandemic era where remote employment, healthcare access, and local mobility are essential lifelines. Many would lose their jobs as commuting would become untenable. Several of our neighbors are nurses and medical providers who work at medical plazas like Hollywood Presbyterian, Kaiser, and the Children's Hospital nearby. This development would not only evict elderly and disabled tenants but would also displace first responders, nurses and caretakers.

This proposed building, if approved and constructed, as well as evicting and displacing our neighbors and friends, would make the area insufferable and unlivable. Even if current tenants would be allowed to return, due to financial limitations many would be forced to leave their homes, their neighborhood, their city and possibly even leave the state. Many tenants work nearby in the restaurants, bakeries, hospitals, schools and film studios and most would be forced to leave the area as they would not be able to find comparable affordable housing near their places of work. The reason why we live in the neighborhood is because it is not only convenient, but we have made our lives and homes here and we do not want to move, be displaced, or have to wait for years in purgatory to rent a modern luxury apartment that we cannot afford and we do not want to live in. The solution of waiting out construction to return to a gutted dystopian neighborhood is untenable.

Response to CSTA Appeal 14

Per CEQA Guidelines §15064(e) and §15131(a), "economic or social changes resulting from a project shall not be treated as significant effects on the environment" unless the social or economic change results in a physical change. CEQA focuses on the physical environmental impacts, not policy or equity decisions, which are under the purview of legislative actions (e.g., rent stabilization laws, affordable housing programs). However, the City has considered potential indirect physical effects, including traffic, noise, air quality, and cumulative impacts, as part of its review under the Class 32 Categorical Exemption (CEQA Guidelines §15332). These analyses are detailed in the CE and summarized below.

Traffic and Circulation

Traffic generation was studied and quantified using trip generation rates from the Institute of Transportation Engineers (ITE) and reviewed by the Los Angeles Department of Transportation (LADOT). The Project

qualifies as transit-priority due to its location in a High-Quality Transit Area (HQTA) (within 0.25 miles of Metro B Line and four frequent bus lines). Vehicle Miles Traveled (VMT) analysis concludes the Project is presumed less than significant under LADOT and CEQA VMT thresholds for HQTA infill projects. There is no substantial evidence that the project will cause a significant effect on traffic under CEQA Guidelines §15064.3(b).

While concerns about double parking, delivery vehicles, and narrow residential streets are valid neighborhood issues, these do not rise to a CEQA-level environmental impact under current thresholds and methodologies adopted by LADOT and the City's CEQA Transportation Thresholds.

The Project Site has adequate emergency access via Carlton Way, Serrano Avenue, and Western Avenue. The site design includes a standard driveway width and fire access compliant with City Fire Code. No CEQA-significant impacts to emergency services or public safety were identified.

Displacement

Displacement is not treated as a significant physical impact under CEQA unless linked to a direct environmental consequence. The CE acknowledges the demolition of 25 existing units, including RSO units (CE, Table 1-4, p. 1-11). SB 330 (Gov. Code §66300(d)) requires 1:1 replacement of protected units and a right of return for qualified tenants at affordable rent levels. The Project includes 15 Very Low Income units and must comply with AB 2221, AB 2334, and the City's Density Bonus Ordinance (LAMC 12.22.A.25). Displacement is regulated by housing law, not CEQA. No physical environmental effects from tenant relocation are identified that would trigger CEQA review thresholds.

Construction Noise

Construction noise and its effect on vulnerable populations was addressed through technical modeling (CE Section 2 subsection 6, pp. 2-40 to 2-64). Peak hourly construction noise levels at sensitive receptors will not exceed City thresholds. Noise will be temporary and intermittent over the 24-month construction schedule. Project includes compliance with LAMC construction hours, equipment mufflers, and best practices. Construction noise impacts are less than significant under CEQA thresholds, with standard mitigation enforced by City conditions.

Cumulative Impacts and Nearby Projects

The commenter references a 731-unit project at 5420 Sunset Blvd, one block south. That related project is included in the Related Projects list (CE, Table 11-1 as Related Project No. 3) and its potential impacts are factored into the CE's cumulative impact analysis. Cumulative traffic, noise, air quality, and service impacts were evaluated and determined not to be significant when combined with the Project There is no evidence of a significant cumulative impact that would invalidate the categorical exemption under CEQA Guidelines §15300.2(b)

Design and Density Bonus Use

The Project requests Off-Menu Incentives and Waivers under AB 2345, AB 2334, and LAMC 12.22.A.25(g)(3). These are by-right entitlements under State Density Bonus Law and are not CEQA triggers unless they result in a significant environmental impact. The project provides affordable housing consistent with state mandates. Building height, FAR, and setbacks are within waivers permitted under State law. Architectural design, massing, and materials are consistent with Hollywood Community Plan and Vermont/Western SNAP. CEQA is not a tool for adjudicating land use policy, design preference, or

compliance with housing affordability policy. CEQA cannot legally require an EIR based on perceived neighborhood change; gentrification or social cohesion; and speculative effects on jobs, ride-sharing habits, or individual displacement outcomes

The CE comprehensively evaluates all potential physical environmental impacts and concludes—supported by technical studies and legal standards—that the Project qualifies for the Class 32 Categorical Exemption. None of the §15300.2 exceptions apply. Accordingly, no EIR is required under CEQA.

CSTA Appeal 15

We love our homes, we love our neighborhood, and we want to stay. Please help us save our neighborhood from profit-motivated developer greed thinly disguised as a density bonus project. The applicant: developers and their consultants are attempting to maximize profit by circumventing existing zoning and design standards, regulations, and laws. This approach undermines the fundamental purpose of density bonus laws, which are intended to encourage affordable housing, not to facilitate luxury development at the expense of established community standards and quality of life.

This is not simply a question of permits and waivers — it is a question of values. Will the City Council stand with longtime residents, working families, and rent-stabilized tenants? Or will it allow speculative interests to demolish historic homes, eliminate accessible housing, and destroy neighborhood character under the guise of density bonuses?

As the Specific Plan Project Compliance (SPPC) Findings for this project are false, we urge the City Council to reject this project as proposed, demand SNAP compliance, demand a full CEQA review, enforce "No Net Loss" compliance, and protect the people and place of Carlton Way. We are not anti-development. We are in support of affordable, sustainable, inclusive, and community-rooted development, especially regarding the many vacant lots, derelict buildings and abandoned developments across the city. We are calling for leadership that centers people over profit, homes over speculation, and justice over loopholes. We love our homes, we love our neighborhood, like the native California Oaks on Carlton Way, we are rooted — and we deserve to stay.

Response to CSTA Appeal 15

CEQA is limited to physical environmental impacts, not value judgments or economic motivations

CEQA is a state law designed to evaluate the physical environmental effects of a project, not its political or economic motivations. As held in Goleta Valley Beautiful v. Board of Supervisors (1988) 197 Cal.App.3d 1167, CEQA is "not a general plan enforcement statute."

Similarly, CEQA Guidelines §15131(a) makes clear: "Economic or social effects of a project shall not be treated as significant effects on the environment." Therefore, allegations of "profit-motivated developer greed," "luxury development," or "values-based concerns" are not determinative under CEQA unless linked to an identifiable physical impact (e.g., traffic, air quality, tree removal), all of which have been studied and addressed under the Class 32 CE.

The Project Qualifies for a CEQA Class 32 Categorical Exemption (CEQA Guidelines §15332)

The City has determined that the proposed project meets all five criteria under CEQA Guidelines §15332:

- Consistent with applicable zoning and General Plan (CE, Section 2 subsection 2, pp. 2-3 to 2-30);

- Within city limits, site is less than 5 acres (0.87 acres);
- No habitat value for special-status species;
- No significant effects related to traffic, noise, air quality, or water quality (Section 2 subsections 5 to 8);
- Utilities and public services are available and sufficient (Section 2 subsection 9).

The CE is supported by technical appendices, including a Transportation Assessment, Noise Study, Tree Report, and Air Quality Report, and provides substantial evidence that no exceptions under CEQA Guidelines §15300.2 apply, including cumulative or unusual circumstances.

Use of Density Bonus is legal and not a CEQA violation

The Project complies with State Density Bonus Law (Gov. Code §65915 et seq.), which requires the City to grant certain waivers and incentives when a project includes on-site affordable housing. The Project provides 15 Very Low Income units, qualifying it for both on-menu and off-menu waivers under LAMC §12.22.A.25(g)(3). The City may not deny a density bonus or waivers unless there is a specific, adverse, and unavoidable impact to public health or safety (Gov. Code §65915(d)(2)), no such impact has been found in the CE. The use of the density bonus, even for projects that include market-rate units, is mandated by state law when affordability thresholds are met. It does not invalidate the CE or require an EIR.

Vermont/Western SNAP and Specific Plan Findings

The Project is located within the Vermont/Western Station Neighborhood Area Plan (SNAP). The Specific Plan Project Compliance (SPPC) Review is a separate discretionary approval that requires findings under the Specific Plan, including compatibility, design, and performance standards. However, the CE analysis incorporates these findings by: Confirming SNAP land use and density consistency (CE, Section 2 subsection 2, p. 2-10); Describing design and height waivers pursuant to State Density Bonus Law, not in violation of SNAP because State law preempts local height and massing restrictions when affordability thresholds are met (Gov. Code §65915(f)). Alleged violations of design guidelines or plan compatibility are not, by themselves, CEQA triggers unless they result in a physical environmental impact, which has not been substantiated.

No Net Loss and Housing Accountability Act

The “No Net Loss” law (Gov. Code §65863) and the Housing Accountability Act (HAA, §65589.5) further require jurisdictions to approve housing projects that meet objective standards, particularly when they include affordable housing and replace RSO units. The CE evaluates the physical impacts of construction, not policy arguments against demolition itself.

CEQA Does Not Regulate Equity Outcomes, But the Project Meets All Relevant Housing and Environmental Standards

The City's role under CEQA is to determine whether a project:

- Creates significant impacts;
- Qualifies for a categorical exemption;
- Triggers exceptions to the exemption.

The CE concludes, based on substantial evidence, that none of the exceptions under CEQA Guidelines §15300.2 apply, and that:

- Tree loss is replaced in compliance with LAMC;

- Air, traffic, noise, and service impacts are below thresholds;
- Affordable units are integrated, not isolated.

These findings are consistent with both CEQA and state housing law. CEQA is not the appropriate tool to resolve housing policy disputes or disagreements about the character of urban development. CEQA only requires environmental review when a project may cause significant physical environmental effects, and no such effects are present here. Therefore, the Class 32 Categorical Exemption is valid, and the project does not require an EIR.

CSTA Appeal 16

This building nearly quadruples the size of many existing buildings on the street. In perhaps an unintentional piece of irony, the rendering includes the protected native Californian coastal oak street trees that they plan to remove. This clinical dystopian eight story building would demolish seven charming historic RSO apartment buildings and evict and displace nearly 50 existing tenants from their affordable apartments.

This 131 unit building would only have 15 low income units, 10.8% of the total units as affordable. Even if current tenants would be allowed to return, they would be forced to leave their homes, their neighborhood, their city and possibly even leaving the state. Many tenants work nearby in the hospitals, schools and film studios and most would be forced to leave the area as they would not be able to find comparable SRO affordable housing.

Response to CSTA Appeal 16

Building scale and neighborhood character are not CEQA impacts unless linked to physical environmental effects. CEQA does not require aesthetic review for infill housing projects in urbanized areas unless located in a state-designated scenic corridor. CEQA Guidelines §15332: Class 32 Exemptions apply to infill development that is consistent with zoning and plan policies, and "the site is not located on or adjacent to a state scenic highway" (see also CEQA Guidelines §15300.2(d)).The Project is located within the Vermont/Western Station Neighborhood Area Plan (SNAP) and zoned [Q]R4-2, which permits the height, scale, and FAR of the proposed structure. As documented in the CE (Section 2 subsection 2, pp. 2-3 to 2-30), the Project is consistent with the General Plan, Hollywood Community Plan, and the SNAP. The CE confirms the Project is not located along a state-designated scenic highway, so aesthetic effects are not a basis to invalidate the exemption under §15300.2(d). The Project's height and design are legally permitted and not grounds under CEQA to require an EIR.

Tree removal has been evaluated per CEQA and City law. The comment refers to the rendering showing native oaks proposed for removal. This issue is addressed directly in the CE. The CE discloses that 5 protected trees (3 on-site and 2 street trees) will be removed (CE, Section 1 subsection 4.8, p. 1-17). Per the City's Protected Tree Ordinance (LAMC §46.00 et seq.), the project will mitigate this impact by planting 16 protected replacement trees (4:1 ratio for onsite trees and 2:1 for street trees), meeting the legal requirement. This action complies with both the Protected Tree Ordinance and CEQA. The removal and mitigation of protected trees were evaluated and determined not to result in a significant environmental impact. Replacement of protected species has to be the same species, which would allow the planting of oak trees in the future.

RSO unit demolition, displacement, and affordable housing replacement are governed by state housing law. The Project proposes to demolish 25 existing units, some of which are rent-stabilized (RSO). The comment notes the displacement of approximately 50 residents. CEQA only analyzes these issues to the

extent they cause physical environmental impacts (e.g., noise, air emissions, construction impacts). CEQA does not regulate affordability or economic hardship. CEQA Guidelines §15064(e): “Economic or social changes by themselves shall not be treated as significant effects on the environment.” However, State housing laws provide protections and requirements for such projects. Displacement assistance, relocation costs, and tenant rights are enforced through local and state housing law, not CEQA. While displacement is an equity concern, it is not an environmental impact under CEQA unless it causes a secondary physical effect (e.g., overcrowding, urban decay), none of which have been evidenced.

The number of affordable units meets state law and triggers density bonus entitlements. The comment notes that only 15 of 131 units (11.4% of the proposed new units) are affordable. This is consistent with California Density Bonus Law (Gov. Code §65915), which requires as little as 5% of the base density to be provided as very low-income units to qualify for incentives and waivers. The City may not deny these unless specific, adverse, and unavoidable public safety impacts are proven (§65915(d)(2)). The Project lawfully utilizes the density bonus program. Affordability levels are set by State law and cannot be denied or modified based on community preference alone.

The concerns raised regarding design scale, tenant displacement, and housing affordability refer to ongoing housing and equity challenges in Los Angeles. However, under CEQA law, none of these rise to the level of significant physical environmental impacts requiring preparation of an EIR. The Project qualifies for a Class 32 Categorical Exemption under CEQA Guidelines §15332; does not trigger any exception under §15300.2; and fully complies with SB 330, Density Bonus Law, and LAMC tree protection laws.

CSTA Appeal 17

RESIDENT TESTIMONIALS

“This project would displace multiple low-income families, many of whom are already struggling to afford housing in an area where rent prices continue to rise. Even with a relocation payout, finding comparable housing nearby would be extremely difficult, if not impossible, for many affected residents. Additionally, the proposed development would dramatically alter the East Hollywood skyline, obstructing long-standing views of the Hollywood Hills that residents currently enjoy. Another serious concern is the dust and noise generated by prolonged construction. As someone living with chronic bronchitis and asthma, I am deeply worried about the impact this would have on my health. Prolonged exposure to construction-related air pollution could significantly worsen my condition and reduce my quality of life.”- Dianna, Carlton Way Resident

“I'm uncertain about how I can assist in preventing the destruction of the Carlton Way property. I grew up there and even have childhood photos from that time. I’m not sure if there's anything I can do to contribute, but I would be heartbroken to see this beautiful property lost. I strongly oppose the demolition of 5416-5430 Carlton Way. This community relies on the presence of rent controlled properties, which are essential for residents who cannot afford the rising costs of housing. Many elderly residents call this property home and would face significant challenges if forced to move. Additionally, this street is characterized by its low rise buildings, and introducing high rise structures would drastically alter its appearance and charm. Displacing individuals and families who have deep roots in the community is not just a loss of homes; it’s a loss of community. We must prioritize the needs of our residents and protect the character of our neighborhoods.” - Emma, Former Carlton Way Resident

As an Angeleno now living out of state because I can't afford rent in my hometown, I implore you to consider that every rent stabilized apartment you allow developers to tear down likely means a household may be permanently displaced from their community. As a housing scholar who recently wrote a book about the

benefits of rent control/stabilization, there is simply no scenario in which you can abate the harmful actions of this plan by adding a few "affordable units." Low- and moderate-income people form communities and networks of reliance and security in their buildings and neighborhoods. These are vital for wellbeing on an individual, family, and community level. These new luxury apartments are not for the people of East Hollywood. This development may align with the requirements of the Housing Element, but it is NOT community centered equitable development. - Lauren, Former East Hollywood Resident

"As citizens of the Los Angeles area we deserve to live in peace and not have one's home taken. These are families, elderly, and those in need - it shows blatant disregard for humanity to take homes away." - Marius, Los Angeles Resident

Response to CSTA Appeal 17

Tenant displacement and rent-stabilized units are addressed by housing law, not CEQA

While the replacement of existing rent-stabilized units (RSO) with new, denser housing may be a concern to the community, CEQA does not consider affordability or displacement as an environmental impact unless it results in a physical environmental effect. The project includes 15 Very Low Income units under the Density Bonus Law (Government Code §65915), thereby increasing deed-restricted affordable housing supply, and complies with all applicable housing replacement requirements under SB 330 and SB 8.

In addition, CEQA Guidelines §15064(e) states: "Economic or social changes by themselves shall not be treated as significant effects on the environment." This means CEQA does not treat displacement itself as an environmental impact unless it causes a physical effect (such as urban decay or overcrowding elsewhere), which is not evidenced here. Displacement is addressed by binding housing laws such as SB 330 (Gov. Code §66300(d)) requires the one-for-one replacement of protected units and gives tenants the right to return at affordable rents.

The Project proposes demolition of 25 existing units, which will be fully replaced as required; inclusion of 15 Very Low Income units, consistent with State Density Bonus Law (Gov. Code §65915); and ensuring no net loss of affordable housing and lawful relocation benefits. While the loss of community networks is an important social concern, it does not constitute a CEQA impact. Tenant protections are enforced through housing law, not the CEQA process.

Air Quality and Health Concerns During Construction Are Fully Analyzed

Air quality is addressed in detail in the CE Section 2 subsection 7 and Appendix C: CalEEMod Modeling. Construction emissions are modeled using the CalEEMod and compared to SCAQMD thresholds. Maximum daily emissions of PM10 and PM2.5 during construction remain below significance thresholds (CE, Table 7-2). The Project is required to implement Standard Best Practices, including: dust suppression (watering), covering or watering trucks, on-site sweeping, no idling policies for diesel engines. With these measures, construction air quality impacts are less than significant under CEQA, even for sensitive receptors.

Building Height and Visual Change Do Not Trigger CEQA Review in Urban Infill Areas

Under CEQA Guidelines §15332 and §15300.2(d): Aesthetic review is not required for urban infill housing projects unless they are located along a state scenic highway. The Project site is not within a designated scenic corridor, as confirmed in CE, Section 2 subsection 10. The Site is zoned [Q]R4-2, which allows the proposed height and density. The Project design complies with SNAP goals and Citywide Design

Guidelines, to the extent permitted by State Density Bonus Law. CEQA does not provide a legal basis to deny infill housing projects due to scale or aesthetics unless specific visual impacts from scenic highways are at issue, which is not the case here.

This Is a Legally-Compliant Density Bonus Project, Not a Circumvention of the Law

The Project provides 15 affordable units, which satisfies State requirements under Gov. Code §65915. Once minimum affordability thresholds are met, the City must grant density bonus waivers unless it can show a specific, adverse impact on public health or safety. The Project does not result in any such impacts, as confirmed by the CE's technical studies. The affordability provisions of this Project are legally adequate, and its waivers are statutorily required under State law. CEQA is not a forum for questioning the policy merits of the density bonus program.

The resident testimonials reflect concerns about displacement, health, and community change. However, under CEQA displacement, rising housing costs, and community cohesion, while critical social issues, are not treated as physical environmental impacts.

The Project meets all five criteria for the CEQA Class 32 Categorical Exemption under §15332, and no exceptions under §15300.2 apply. The Project's air quality, traffic, noise, tree removal, and infrastructure impacts have been fully analyzed and determined to be less than significant. Therefore, based on substantial evidence in the record and compliance with applicable State and City regulations, the Project does not require an EIR and remains categorically exempt under CEQA.

CSTA Appeal 18

[The Appeal includes several attachments which are responded below]

Est Hollywood Neighborhood Council

The East Hollywood Neighborhood Council (EHNC), in compliance with our Los Angeles City Charter mandate, and on behalf of the 50,000 residents of East Hollywood, voted at its February 24, 2025 Governing Board meeting to oppose the above-referenced application.

The people of East Hollywood believe that the project at 5416-5430 W. Carlton Way will have a clear and specific adverse impact to the public health of East Hollywood.

The project will replace the current RSO ordinance units on the aforementioned properties with significantly more expensive market rate units, and will add fewer low income and very low income units than the number of RSO units that will be lost as a result of this project's approval. Thus, this project will further reduce the overall supply of affordable housing in East Hollywood and exasperate Los Angeles's homelessness crisis.

Response to CSTA Appeal 18

EHNC's claim of adverse socioeconomic effects, including potential gentrification and housing affordability impacts, does not constitute substantial evidence of a physical environmental impact as required under CEQA. Courts have consistently held that socio-economic impacts alone (e.g., changes in housing prices, market rent levels, or community composition) are not environmental impacts under CEQA (see *Goleta Union School Dist. v. Regents of Univ. of California* (1995) 37 Cal.App.4th 1025, 1032; *Maintain Our Desert Environment v. Town of Apple Valley* (2004) 124 Cal.App.4th 430, 447).

While the replacement of existing rent-stabilized units (RSO) with new, denser housing may be a concern to the community, CEQA does not consider affordability or displacement as an environmental impact unless it results in a physical environmental effect. The project includes 15 Very Low Income units under the Density Bonus Law (Government Code §65915), thereby increasing deed-restricted affordable housing supply, and complies with all applicable housing replacement requirements under SB 330 and SB 8.

In addition, CEQA Guidelines §15064(e) states: "Economic or social changes by themselves shall not be treated as significant effects on the environment." This means CEQA does not treat displacement itself as an environmental impact unless it causes a physical effect (such as urban decay or overcrowding elsewhere), which is not evidenced here. Displacement is addressed by binding housing laws such as SB 330 (Gov. Code §66300(d)) requires the one-for-one replacement of protected units and gives tenants the right to return at affordable rents.

The Project proposes demolition of 25 existing units, which will be fully replaced as required; inclusion of 15 Very Low Income units, consistent with State Density Bonus Law (Gov. Code §65915); and ensuring no net loss of affordable housing and lawful relocation benefits. While the loss of community networks is an important social concern, it does not constitute a CEQA impact. Tenant protections are enforced through housing law, not the CEQA process.

No substantial evidence has been provided that the proposed project would result in a significant environmental impact. As such, the City appropriately determined that the 5424 Carlton Way Project is exempt from further CEQA review under Class 32 (Infill Development). The concerns raised by EHNC, while relevant to broader planning discussions, do not invalidate the Categorical Exemption.

CSTA Appeal 19

The new project will also be significantly taller than the current buildings in the area. All of the buildings on Carlton Way are approximately 30-40 feet in height. The proposed project would be almost three (3) times the size of any other building on the street at 105 feet. It is the opinion of this council that allowing a new project of this magnitude would, inevitably, lead to a cascade of similar projects near the site. This cascade of projects would, over the next 3-5 years, result in the eviction of hundreds of East Hollywood residents, a decimation of the affordable housing supply, and the gentrification of East Hollywood.

Thus, the East Hollywood Neighborhood Council does not believe that a project of this size, combined with a net loss in affordable housing, is appropriate for the needs of East Hollywood or of the greater Los Angeles area. It is this council's position that this project's application should be denied.

Response to CSTA Appeal 19

Under CEQA, aesthetic impacts—including height, scale, or visual contrast—are not considered significant environmental effects for residential projects in infill areas unless a project triggers an exception under CEQA Guidelines §15300.2. Specifically, Public Resources Code §21099(d)(1)—enacted through SB 743—expressly provides that: "Aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment."

The Project is a residential infill project located within a Transit Priority Area (TPA) (less than ½ mile from the Hollywood/Western Metro B Line Station and multiple bus lines); and categorically exempt under CEQA Guidelines §15332 (Class 32 – Infill Development). As such, the project's height and visual massing are not CEQA issues and cannot serve as grounds for denying the exemption.

The height of 105 feet is permitted through a Waiver of Development Standards under the State Density Bonus Law (Gov. Code §65915(e)), which allows such modifications when affordable units are provided. The project includes 15 Very Low Income units and complies with the state law requirements for granting waivers of development standards.

The site is zoned [Q]R4-2 and subject to High Density Residential designation, which anticipates larger, multifamily development. Height limits imposed by SNAP and Q Conditions may be waived consistent with Density Bonus Law, and such waivers are not CEQA triggers.

Speculative concerns about future development or possible displacement from other projects and cascade effects do not constitute substantial evidence of a significant physical environmental effect, which CEQA requires to trigger further review. (See *Joshua Tree Downtown Business Alliance v. County of San Bernardino* (2016) 1 Cal.App.5th 677.)

CSTA Appeal 20

Arborist Report for Protected Oak Trees prepared by Lisa Marutani, June 30, 2025

Response to CSTA Appeal 20

The environmental documentation prepared for the 5424 Carlton Way Project already accounts for the presence and status of Protected Trees and includes a separate certified arborist evaluation that was reviewed by the City's Urban Forestry Division as part of the CEQA process.

Tree removal has been evaluated per CEQA and City law. The comment refers to the rendering showing native oaks proposed for removal. This issue is addressed directly in the CE. The CE discloses that 5 protected trees (3 on-site and 2 street trees) will be removed (CE, Section 1 subsection 4.8, p. 1-17). Per the City's Protected Tree Ordinance (LAMC §46.00 et seq.), the project will mitigate this impact by planting 16 protected replacement trees (4:1 ratio for onsite trees and 2:1 for street trees), meeting the legal requirement. This action complies with both the Protected Tree Ordinance and CEQA. The removal and mitigation of protected trees were evaluated and determined not to result in a significant environmental impact. Replacement of protected species has to be the same species, which would allow the planting of oak trees in the future.

The CEQA determination does not authorize tree removal; rather, it requires that the project obtain all necessary non-CEQA discretionary permits and approvals prior to any disturbance of Protected Trees. The City's Protected Tree Ordinance and permitting process remain fully applicable and enforceable, regardless of CEQA clearance. No CEQA exception under Guidelines §15300.2(f) applies. The potential removal of protected trees was analyzed, and no substantial adverse change to historic or ecological resources was identified. Compliance with the City's Protected Tree Ordinance and tree replacement is considered adequate under CEQA to address potential effects. The Urban Forestry Division retains final authority to approve, modify, or deny any proposed tree removal, trimming, or encroachment activities.

The Project does not result in a significant environmental impact under CEQA related to tree removal. All Protected Trees will be treated in accordance with City regulations, and the CEQA exemption remains valid. The City will require final approval from the Urban Forestry Division before any action is taken regarding the subject oak trees.

CSTA Appeal 21

Preserving Community, Preventing Displacement - A Comprehensive Analysis of 5416-5430 W. Carlton Way

Response to CSTA Appeal 21

The demolition of RSO units and their replacement with market-rate and affordable units is not an environmental impact under CEQA unless it leads to a physical change (e.g., increased homelessness resulting in encampments, impacts on emergency services, or public health). No such evidence is presented. Courts have repeatedly held that economic displacement is not within CEQA's scope (Joshua Tree Downtown Alliance v. County of San Bernardino (2016) 1 Cal.App.5th 677).

Furthermore, the City's Housing Element, AB 2556, and the Ellis Act already regulate tenant protections and housing replacement outside of CEQA. Any applicable obligations (e.g., replacement units, relocation assistance) must be met as part of ministerial permitting or compliance with SB 330 and SB 8, not through CEQA.

The CE document discloses the existing 25 units and identifies the project's commitment to 15 Very Low Income units under AB 2334, with the balance of units market rate. This qualifies for the Class 32 Categorical Exemption, and there is no substantial evidence of a significant environmental impact arising from the affordability mix.

Gentrification is a socio-economic process and does not constitute an environmental impact under CEQA unless it leads to identifiable physical consequences. There is no substantial evidence that this project alone would result in such effects. CEQA Guidelines §15300.2(b) regarding "cumulative impact" is not triggered unless successive projects of the same type in the same place have demonstrably significant effects over time, which is not the case here.

The Project is consistent with the City's General Plan and Hollywood Community Plan, which designate this site for high-density residential use and encourage infill housing in transit-rich areas.

The site itself has not been designated a historical resource, nor are any of the buildings proposed for demolition identified as eligible for historic status in the City's Historic Resources Survey or CEQA record. While the comment references the adjacent Hollywood Carlton Apartments (a designated historic resource), CEQA only requires analysis of whether the project would cause a "substantial adverse change" in the significance of a known historical resource (Guidelines §15064.5). The CE analysis and the Historic Resources Assessment Report found no such impact from this project. The mere proximity to a historic resource does not create a significant impact, especially where there is no physical alteration, demolition, or degradation of the adjacent resource.

Allegations about the developer's past business practices, lawsuits, or out-of-state conduct are irrelevant under CEQA, which is focused solely on physical environmental impacts. CEQA does not evaluate or regulate developer character, financing, or business ethics.

While concerns about racial equity, affordability, and displacement are critically important from a policy and social justice perspective, CEQA is not a civil rights statute, nor does it regulate demographic change. These issues are properly addressed through housing policy, rent stabilization laws, and redevelopment priorities—not environmental review.

The City found the project qualifies for the Class 32 (Infill) Categorical Exemption. While the comment raises important community-based concerns, its arguments fall outside CEQA's scope and do not present substantial evidence of a significant environmental effect. The project remains eligible for a CE under CEQA Guidelines §15332. Concerns about tenant rights, affordability, and cultural change are addressed through other legal mechanisms and City oversight, not environmental review.

CSTA Appeal 22

Comprehensive Analysis: Challenging Unaffordable Redevelopment at 5416-5430 W. Carlton Way

Response to CSTA Appeal 22

Concerns about housing affordability, tenant displacement, and market rate housing supply fall outside the scope of CEQA unless a physical environmental effect is demonstrated. CEQA is not a tool for resolving housing policy disputes or enforcing rent control protections. Rather, CEQA is limited to evaluating potentially significant physical changes to the environment caused by a project (CEQA Guidelines §15358(b)). As the courts have long held:

> *"Economic and social changes resulting from a project are not, in themselves, considered environmental impacts under CEQA." (City of Irvine v. Irvine Citizens Against Overdevelopment (1994) 25 Cal.App.4th 868).*

The Project complies with state-mandated affordability requirements under Government Code §65915 (Density Bonus Law), including setting aside 15 Very Low Income units in exchange for bonus density and waivers. The inclusion of affordable units increases, not reduces, the legally protected affordable housing stock.

Compliance with SB 330 and SB 8 requires unit replacement and tenant protection and is enforced outside the CEQA process. These laws ensure that any displaced tenants receive relocation benefits and are offered comparable units in the new development if eligible.

Use of "off-menu" density bonus waivers is specifically authorized by state law (Gov. Code §65915(e)) when a project includes qualifying affordable housing. This is not a CEQA issue, nor is it an indication of legal or planning abuse. Claims that the project is "exploiting loopholes" mischaracterize the legislative intent of California's housing laws, which aim to facilitate high-density infill development in urban, transit-rich areas—particularly where affordable units are included.

Tree removal and replacement requirements consistent with LAMC §46.00–46.06, overseen by the City's Urban Forestry Division. Project design that includes open space, landscaping, and shade trees to mitigate urban heat. A finding that the project will not have significant effects related to air quality, heat, or biological resources. As such, CEQA Guidelines §15332(d) (no significant effect due to air quality, water quality, or traffic) and §15300.2 (exceptions) are not triggered.

The adjacent property (Hollywood Carlton Apartments at 5400 Carlton Way) is a designated historic resource. However, CEQA requires analysis of whether the project itself would cause a substantial adverse change in the significance of that resource (CEQA Guidelines §15064.5). The project does not demolish or alter the historic structure and includes a Historic Resource Assessment concluding no adverse effect due to design, proximity, or massing;

Allegations of improper political activity or legal issues involving the applicant are outside CEQA's scope. CEQA does not evaluate the character or conduct of project applicants. These matters fall under campaign finance and ethics enforcement jurisdictions and have no bearing on environmental eligibility or exemption status.

Concerns about neighborhood change, gentrification, or market preference do not constitute environmental impacts under CEQA. The Class 32 exemption is specifically designed for urban infill projects in already developed areas, even when they differ in scale or intensity from existing surroundings. Importantly, under SB 743 and PRC §21099, aesthetic impacts from residential infill projects within Transit Priority Areas are not considered environmental impacts under CEQA. The project qualifies as such and therefore cannot be challenged on visual or neighborhood character grounds.

While the comment presents passionate and wide-ranging objections, none of the points raised provide substantial evidence of a significant physical environmental impact, which is the standard under CEQA. The Project meets the criteria for a Class 32 Categorical Exemption, and no exceptions under §15300.2 are triggered.

SAFER
June 25, 2025

SAFER Appeal 1

I. REASON FOR THE APPEAL

Supporters Alliance for Environmental Responsibility ("SAFER") appeals the Los Angeles City Planning Commission's determination that the California Environmental Quality Act ("CEQA") Class 32 Categorical Exemption applies to the 5430 West Carlton Way Project (CPC-2024-914-DB-SPPC-VHCA; ENV-2024-915-CE) ("Project"). The Project approvals are invalid because they are based on inaccurate findings. Specifically, the Planning Commission's finding that the Project is exempt from environmental review under CEQA pursuant to Section 15332 of the CEQA Guidelines ("Infill Exemption") is incorrect because the Project will have significant adverse environmental impacts related to air quality and indoor air quality.

Response to SAFER Appeal 1

The Appeal includes an introduction and request for an appeal. The Appeal asserts that the Categorical Exemption prepared for the Project fails to comply with CEQA and as a result, the Project entitlements should not have been approved.

The Appeal does not state a specific concern or question regarding the adequacy of the CE in identifying and analyzing the environmental impacts of the Project, nor does the comment identify any physical environmental impacts caused by the Project. Therefore, this comment does not require a detailed response. (CEQA Guidelines, § 15088(c); Citizens for East Shore Parks v. State Lands Comm'n (2011) 202 Cal.App.4th 549.)

SAFER Appeal 2

II. SPECIFICALLY THE POINTS AT ISSUE

Specifically, for the reasons detailed in the attached comment letter dated May 7, 2025, the Planning Commission's finding that the Project is exempt from CEQA pursuant to Section 15332 of the CEQA Guidelines is in error because the Project will have significant air quality and indoor air quality impacts and therefore does not meet the terms of the exemption.

Because the Infill Exemption prepared for the Project fails to comply with CEQA, the Planning Commission's approval of the Project's Site Plan Review entitlements is invalid. Proper CEQA review must be complete before the City approves the Project's entitlements (Orinda Ass'n. v. Bd. Of Supervisors (1986) 182 Cal.App.3d 1145, 1171 ["No agency may approve a project subject to CEQA until the entire CEQA process is completed and the overall project is lawfully approved"].) Additionally, by failing to properly conduct environmental review under CEQA, the City lacks substantial evidence to support its findings for the Project's entitlements.

Because the Project does not qualify for an Infill Exemption, the Planning Commission's Project approvals are based upon incorrect findings. The City must fully comply with CEQA prior to any approvals in furtherance of the Project. Since the Project is not exempt from CEQA, the City must prepare an initial study and determine the appropriate level of review required under CEQA before any approvals in furtherance of the Project.

Response to SAFER Appeal 2

The Appeal ignores the substantial evidence, found throughout the CE and its technical appendices, in the record supporting the conclusion that the Project would not result in significant impacts. An opponent challenging a City's factual determinations in support of a statutory exemption must lay out the evidence favorable to the other side and show why it is lacking or it fails.[1]

Here, the Appeal makes no attempt to discuss the substantial evidence in support of the CE, much less lay that evidence out and show why it is lacking. For this reason alone, the Appeal again fails to meet its burden to show any error in CPC to adopt the CE for the Project.

In addition, though not relevant in light of its failure to address the substantial evidence supporting CPC adoption of a CE for the Project, the Appeal does not produce any evidence of significant impacts, much less substantial evidence. The Appeal instead makes wholly unsupported and conclusory claims that the Project does not meet the terms of the exemption, with no analysis or technical support on technical issues that require expert analysis. Such bare speculation is not substantial evidence.[2]

SAFER Appeal 3

III. HOW YOU ARE AGGRIEVED BY THE DECISION

Members of SAFER live and/or work in the vicinity of the proposed Project. They breathe the air, suffer the noise impacts, and will suffer other environmental impacts of the Project unless those impacts are properly mitigated.

Response to SAFER Appeal 3

The Appeal includes information on the appellant but provides no explanation or any additional details to support this assertion that they will suffer traffic congestion or other environmental impacts as a direct result of the Project.

The Appeal does not state a specific concern or question regarding the adequacy of the CE in identifying and analyzing the environmental impacts of the Project, nor does the comment identify any physical environmental impacts caused by the Project. Therefore, this comment does not require a detailed response.[3]

SAFER Appeal 4

IV. WHY YOU BELIEVE THE DECISION-MAKER ERRED OR ABUSED THEIR DISCRETION

The Los Angeles City Planning Commission approved the Infill Exemption for the Project, despite substantial evidence presented by SAFER of the Project's significant air quality and indoor air quality impacts. Rather than exempt the Project from CEQA, the City should have prepared an initial study followed by an environmental impact report or mitigated negative declaration in accordance with CEQA prior to consideration of approvals for the Project. The City is not permitted to approve the Project's entitlements until proper CEQA review has been completed.

1 Defend the Bay, 119 Cal.App.4th at 1266.

2 See Public Resources Code, § 21082.2(c); CEQA Guidelines, § 15384.

3 CEQA Guidelines, § 15088(c); Citizens for East Shore Parks v. State Lands Comm'n (2011) 202 Cal.App.4th 549.

Response to SAFER Appeal 4

The Appeal ignores the substantial evidence, found throughout the CE and its technical appendices, in the record supporting the conclusion that the Project would not result in significant impacts.. An opponent challenging a City's factual determinations in support of a statutory exemption must lay out the evidence favorable to the other side and show why it is lacking or it fails.[4]

Here, the Appeal makes no attempt to discuss the substantial evidence in support of the CE, much less lay that evidence out and show why it is lacking. For this reason alone, the Appeal again fails to meet its burden to show any error in CPC to adopt the CE for the Project.

In addition, though not relevant in light of its failure to address the substantial evidence supporting the CPC adoption of a CE for the Project, the Appeal does not produce any evidence of significant impacts, much less substantial evidence. The Appeal instead makes wholly unsupported and conclusory claims that the Project does not meet the terms of the exemption, with no analysis or technical support on technical issues that require expert analysis. Such bare speculation is not substantial evidence.5

SAFER Appeal 5

This comment is submitted on behalf of Supporters Alliance for Environmental Responsibility ("SAFER") and its members living or working in the City of Los Angeles ("City"), in opposition to the Los Angeles Department of City Planning' s recommendation determination that the California Environmental Quality Act ("CEQA") Class 32 Categorical Exemption applies to the 5430 West Carlton Way Project (CPC-2024-914-DB-SPPC-VHCA; ENV-2024-915-CE) ("Project"). The Project involves the construction of a new eight-story, 138,894-square-foot, residential building with 131 dwelling units and 2.5 underground parking levels, located at 5430 West Carlton Way, Los Angeles, CA 90027.

After reviewing the Categorical Exemption Report ("CE Report") prepared for the Project by City Planning Staff, we conclude that the Project does not qualify for CEQA's Class 32 Categorical Exemption, or Infill Exemption ("Exemption"), because it will have significant adverse environmental impacts on air quality and indoor air quality. The City therefore cannot rely on the Exemption because (1) the Exemption does not apply on its face, and (2) the Unusual Circumstances Exception to the Exemption applies.

SAFER's review of the Project has been assisted by air quality experts Matt Hagemann, P.G., C.Hg., and Dr. Paul Rosenfeld, Ph.D., from the environmental consulting firm Soil/Water/Air Protection Enterprise ("SW APE"), and indoor air quality expert and certified industrial hygienist Francis Offermann, P.E., C.I.H. SW APE's comment and CV are attached as Exhibit A and are incorporated herein by reference in their entirety. Mr. Offermann' s comment and CV are attached as Exhibit B and are incorporated herein by reference in their entirety.

For the reasons discussed below, the Project does not qualify for CEQA's Infill Exemption and instead requires an Initial Study to determine the appropriate level of CEQA review before approval, whether a mitigated negative declaration ("MND") or an environmental impact report ("EIR"). SAFER thus respectfully requests that the Planning Commission find that the Project does not qualify for the Infill Exemption under CEQA.

I. PROJECT DESCRIPTION

4 Defend the Bay, 119 Cal.App.4th at 1266.

5 See Public Resources Code, § 21082.2(c); CEQA Guidelines, § 15384.

The Project proposes the demolition of seven existing residential buildings and accessory uses and the construction, use, and maintenance of a new 138,894-square-foot, 105.3-foot-tall, eight-story residential building with 131 dwelling units and 2.5 levels of underground parking. The new building would be located at 5420-5430 West Carlton Way, in the City of Los Angeles. The Project also includes the maintenance of an existing 5,957-square-foot, two-story apartment building with eight dwelling units, located at 5416-5418 West Carlton Way. The Project would have a total of 144,851 square feet and 139 dwelling units, including 15 Very Low Income units.

The Project site will occupy approximately 37,688.3 total square feet (0.87 acres) of buildable lot area. Surrounded by multi-family residential buildings, the site is located on the south side of Carlton Way, midblock between Serrano Avenue to the east and Western Avenue to the west. The site is also within the Hollywood Community Plan Area and is zoned [Q]R4-2, with a corresponding General Plan Land Use Designation of High Density Residential.

Response to SAFER Appeal 5

The comment is an introduction and summary of the Project and introduces the claims of the comment letter. As set forth in the responses below, as well as additional responses and evidence contained in the administrative record such as the CE and its Appendices, the Project will not result in potential impacts, including but not limited to potential air quality and health risk impacts or biological impacts. The CE complied with CEQA, conducted a project-level analysis.

The comment does not state a specific concern or question regarding the adequacy of the City's determination and approval in identifying and analyzing the environmental impacts of the Project, nor does the comment identify any physical environmental impacts caused by the Project. Therefore, this comment does not require a detailed response. (CEQA Guidelines, § 15088(c); *Citizens for East Shore Parks v. State Lands Comm'n (2011) 202 Cal.App.4th 549.*)

SAFER Appeal 6

II. LEGAL STANDARD

CEQA mandates that "the long-term protection of the environment ... shall be the guiding criterion in public decisions" throughout California. (PRC§ 21001(d).) A "project" is "the whole of an action" directly undertaken, supported, or authorized by a public agency "which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." (PRC§ 21065; 14 CCR§ 15378(a).) CEQA requires environmental factors to be considered at the "earliest possible stage ... before [the project] gains irreversible momentum," (Bozung v. Loe. Agency Formation Com. (1975) 13 Cal. 3d 263, 284), "at a point in the planning process where genuine flexibility remains." (Sundstrom v. Mendocino County (1988) 202 Cal.App.3d 296, 307.)

To achieve its objectives of environmental protection, CEQA has a three-tiered structure. (14 CCR§ 15002(k); Committee to Save the Hollywood/and Specific Plan v. City of Los Angeles (2008) 161 Cal.App.4th 1168, 1185-86 ["Hollywood/and"].) First, if a project falls into an exempt category, or if it can be seen with certainty that the activity in question will not have a significant effect on the environment, no further evaluation is required under CEQA. (14 CCR§ 15002(k)(l).) Second, if the project is not exempt, and there is a possibility the project will have a significant environmental effect, then the agency must perform an initial threshold study. (14 CCR§ 15002(k)(2).) Third, if the initial study indicates that there is no substantial evidence that the project may have a significant environmental effect (id.), then a mitigated negative declaration ("MND") is required, but if the initial study shows that the project may have a significant

environmental effect, then an environmental impact report ("EIR") is required. (14 CCR§ 15002(k)(3).) Here, because the City exempted the Project from CEQA entirely, the first step of the CEQA process applies.

CEQA identifies certain classes of projects as exempt from CEQA's provisions. These are called categorical exemptions. (14 CCR§§ 15300, 15354.) "Exemptions to CEQA are narrowly construed and ' [e]xemption categories are not to be expanded beyond the reasonable scope of their statutory language.' [Citations]." (Mountain Lion Foundation v. Fish & Game Com. (1997) 16 Cal.4th 105, 125.) The determination as to the appropriate scope of a categorical exemption is a question of law subject to independent, or de novo, review. (San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist., (2006) 139 Cal. App. 4th 1356, 1375 ["[Q]uestions of interpretation or application of the requirements of CEQA are matters of law. [Citations.] Thus, for example, interpreting the scope of a CEQA exemption presents 'a question oflaw, subject to de novo review by this court.'"].) Here, the City has recommended that the Project is categorically exempt from CEQA's requirements pursuant to the Class 32 Exemption, or "Infill Exemption." (14 CCR§ 15332.)

Under CEQA's Infill Exemption, a project is exempt from CEQA's requirements if the project meets the following five conditions:

(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

(b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.

(c) Tue project site has no value, as habitat for endangered, rare, or threatened species.

(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

(e) The site can be adequately served by all required utilities and public services.

(14 CCR § 15332 [emph. added].) Importantly, mitigated categorical exemptions are not allowed. (Salmon Protection & Watershed Network v. County of Marin (2004) 125 Cal.App.4th 1098, 1102 ["SPAWN"]; Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster (1997) 52 Cal.App.4th 1165, 1200 ["Azusa"].) Agencies may not rely on mitigation measures as a basis for concluding that a project is categorically exempt, or as a basis for determining that one of the significant effects exceptions does not apply.

Response to SAFER Appeal 6

The comment summarizes the legal background regarding CEQA and the preparation of a CE. The comment does not state a specific concern or question regarding the adequacy of the CE in identifying and analyzing the environmental impacts of the Project, nor does the comment identify any physical environmental impacts caused by the Project. Therefore, this comment does not require a detailed response. (CEQA Guidelines, § 15088(c); *Citizens for East Shore Parks v. State Lands Comm'n (2011) 202 Cal.App.4th 549.*)

SAFER Appeal 7

III. DISCUSSION

A. CEQA's Infill Exemption does not apply on its face to the Project and thus a full CEQA analysis is required.

The City relies on the CEQA Infill Exemption for the Project. One of the Exemption's key limitations is that it does not apply if a project will have any significant effects related to traffic, noise, air quality, or water quality. (14 CCR§ 15332(d).) Here, the Project does not qualify for the Infill Exemption because the Project will have significant environmental impacts related to air quality and indoor air quality. Therefore, the City must prepare an Initial Study to determine the appropriate level of CEQA review before approval, whether an EIR or an MND.

1. There is substantial evidence that the Project will have significant adverse air quality impacts, precluding reliance on the Infill Exemption.

Air quality experts Matt Hagemann, P.O., C.Hg., and Dr. Paul Rosenfeld, Ph.D., from the environmental consulting firm SWAPE reviewed the Project, the CE Report, and other relevant documents regarding the Project's air quality impacts. SWAPE concluded that the Project will have significant adverse air quality impacts related to Project construction. (Ex. A at 1.) SWAPE noted that "a full analysis, compliant with the California Environmental Quality Act ("CEQA") requirements, should be prepared to reassess and, if necessary, mitigate the health risk impacts that the Project may have on the surrounding community." (Id.)

The CE Report held that the Project would not expose sensitive receptors to substantial pollutant concentrations without conducting a quantified construction health risk assessment ("HRA"). (Id.; CE Report at 2-100.) However, CEQA requires that there be a "reasonable effort to substantively connect a project's air quality impacts to likely health consequences." (Ex. A at 2; Sierra Club v. Cnty. of Fresno (2018) 6 Cal.5th 502.) SW APE highlighted that the City should have performed a construction HRA to evaluate the health risks posed to nearby sensitive receptors from the Project's construction emissions of diesel particulate matter ("DPM"), a known human carcinogen. (Ex. A at 2.)

SWAPE thus prepared a screening-level HRA using AERSCREEN, a screening-level air quality dispersion model, to measure the potential health risk impacts to residential sensitive receptors near the Project site. (Id.) The CE Report's air quality technical report indicated that the Project's construction will produce about 147.3 pounds of DPM over the 864-day (2.4-year) construction period. (Id.) According to the CE Report, the nearest sensitive receptors are a group of multi-family residences only 5 feet west of the Project site. (Id. at 3; CE Report at 2-48.) SWAPE calculated that the excess cancer risk to these receptors from the Project's construction DPM emissions is 146 per million over the construction period, far exceeding the cancer risk threshold of the South Coast Air Quality Management District ("SCAQMD"). (Ex. A at 5.) Therefore, SWAPE demonstrated that the Project's construction would result "in a potentially significant impact not previously addressed or identified by the Categorical Exemption Report." (Id.) A full CEQA analysis, whether an MND or EIR, is needed to adequately address and mitigate this impact.

All feasible mitigation measures must be considered to address a project's potential impacts. (CEQA Guidelines § 15126.4(a).) To reduce construction DPM emissions and lower the Project's subsequent health risk impact, SWAPE recommends that the CEQA environmental review document include several mitigation measures, such as low-emission heavy-duty engines, minimal unnecessary vehicular and machinery activities, and alternative fuel. (Id. at 6.)

Response to SAFER Appeal 7

The comment alleges that the Project will result in significant health risk impacts due to exposure from diesel particulate matter (DPM) during the Project's construction activities and requests a Health Risk Assessment (HRA) for the Project. The commenter's consultant SWAPE also prepared a "preliminary HRA" which claims that cancer risk estimates for adjoining residents exceed the maximum incremental cancer risk of 10 in one million established by SCAQMD for projects prepared under CEQA. As a result, SWAPE contends that a potentially significant health risk impact exists.

The commenter's claim that an HRA was required here by any applicable regulation is false. The Department of City Planning relies on methodologies established by the regional expert air quality agency, the South Coast Air Quality Management District (SCAQMD) for preparation of CEQA air quality analyses. SCAQMD published the CEQA Air Quality Handbook in November 1993 to assist lead agencies, as well as consultants, project proponents, and other interested parties, in evaluating potential air quality impacts of projects proposed in the region. The SCAQMD CEQA Handbook does not recommend analysis of toxic air contaminants (TACs) from short-term construction activities.

When considering potential air quality impacts under CEQA, consideration is given to the location of sensitive receptors within close proximity of land uses that emit TACs. The California Air Resources Board (CARB) has published and adopted the Air Quality and Land Use Handbook: A Community Health Perspective (2005), which provides recommendations regarding the siting of new sensitive land uses near potential sources of air toxic emissions (e.g., freeways, distribution centers, rail yards, ports, refineries, chrome plating facilities, dry cleaners, and gasoline dispensing facilities). SCAQMD adopted similar recommendations in its Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning (2005). Together the CARB and SCAQMD guidelines recommend siting distances for both the development of sensitive land uses in proximity to TAC sources and the addition of new TAC sources in proximity to existing sensitive land uses.

The SCAQMD recommends HRAs for substantial sources of diesel particulate matter such as warehouse distribution and cold storage facilities. No such facilities are located in proximity to the Project Site, and the Project does not propose any such uses. As such, a HRA was not required for the Project.

The Office of Environmental Health Hazards Assessment (OEHHA) requirements under AB 2588, the Air Toxic Hot Spots Program only applies to "facilities" as defined in Health and Safety Code Section 44322(a), which the state has determined applies to industrial facilities requiring operational air permits that use, manufacture, formulate, or release certain listed hazardous substances. Covered facilities do not include residential or mixed-use residential developments, which are not regulated under the Toxic Hot Spots Program. Notably, the OEHHA Guidelines assess cancer risks over 30-year exposures, they do not mandate analysis for "short-term" projects even under the Toxic Hot Spots Program, and thus the OEHHA Guidelines do not apply here, where the only DPM emissions would occur during a few months of construction activities as part of the Project.

Rather, as stated at pages 8-17 and 8-18 of the OEHHA Guidelines, the information regarding "short term" cancer exposures is provided to assist local air districts when they make permitting decisions for projects requiring AQMD permits related to shorter-term exposures, noting also that "there is considerable uncertainty in trying to evaluate the cancer risk from projects that will only last a small fraction of a lifetime."

As indicated above, with respect to requiring quantitative HRAs related to DPM emissions from mobile sources – which describes the pollutant and type of source at issue here – SCAQMD only requires quantitative HRAs to be prepared for substantial mobile sources of DPM emissions, including truck stops

and warehouse distribution facilities that generate more than 100 trucks per day or more than 40 trucks with operating transport refrigeration units. SCAQMD's AB 2588 Supplemental Guidelines for Preparing Risk Assessments for the Air Toxics Hot Spots Information and Assessment Act only applies to permitted industrial facilities and does not address so called "short term" projects.

SCAQMD Rule 1402, which implements the Toxic Hot Spots Program in the region, only applies to facilities with one or more AQMD permits to operate, which the Project is not required to obtain, and also does not require analysis of short-term TAC or DPM emissions. Thus, the comment's assertion that a quantitative HRA is required for the Project is incorrect, as no agency has recognized infill mixed-use residential development as a significant source of toxic air emissions requiring quantitative HRAs. As Project construction activities would vary throughout the site and would be short-term during only one brief portion of onsite construction activities, stationary source rules would not be appropriate for assessing impacts associated with DPM and an HRA is not required.

The following is a summary of the issues with SWAPE's claims of health risk impact and why the Project would not have a health risk impact:

- First, SWAPE incorrectly assumed that construction occur 24 hours per day, 350 days per year for the duration of Project construction. This assumption is inconsistent with the CE air quality analysis and supporting technical documentation which notes that construction activities will occur no more than 8 hours per day, 5 days per week or 261 days per year. Incorporation of SWAPE's construction timeline arbitrarily enhances the carcinogenic risk estimates.

- Second, the AERSCREEN dispersion model used in the preliminary HRA is designed to provide "worst-case" one-hour estimates. For sources that have continuous emissions (i.e., 24-hours per day) a fixed scaling ratio of 0.10 is applied to approximate an annual average concentration which is necessary to determine carcinogenic risk estimates. As noted above, the construction operational profile is not continuous whereby a scaling ratio of 0.10 cannot be applied. As such, the predicted model concentrations have no bases to serve as an estimate of DPM exposure.

- Third, SWAPE additionally asserts that particulate (PM10) exhaust emissions, as reported in the project's air quality analysis, be used as a surrogate for DPM emissions to address operational emissions. For this source category, predictive model estimates are associated with area, energy, mobile and stationary sources. On-site area source emissions include hearths and landscape maintenance equipment. Energy related emissions are associated with natural gas and electricity consumption. On-road mobile sources include running and start emissions. In consideration of these source categories, DPM emissions are only associated with a portion of the mobile source profile whereby the predominant source of emissions relates to vehicle miles traveled to and from the project site. Although a portion of start emissions are generated on-site, they are associated with gasoline fueled vehicles and not diesel vehicles. As such, SWAPE's use of the identified exhaust estimates to address on-site operational emissions are not supported by the available emission inventory.

- Fourth, and of most relevance, SWAPE's preliminary analysis utilized the Office of Environmental Health and Hazard Assessment (OEHHA) Air Toxics Hot Spots Program Guidelines (AB 2588, Connelly, Statutes of 1987; Health and Safety Code Section 44300 *et seq.*) which, for certain commercial and industrial operations sources, requires the incorporation of early-life exposure adjustments to characterize carcinogenic exposures when conducting HRAs. The project does not propose uses that are subject to the OEHHA Air Toxics Hot Spots Program Guidelines of AB 2588, nor are transient emissions from off-road mobile sources associated with construction are not sources

subject to AB 2588 regulations. As such, the OEHHA Air Toxics Hot Spots Program Guidelines of AB 2588 has no statutory relation to the Project. Neither CARB, SCAQMD, or the US EPA recommend early-life exposure adjustments to characterize carcinogenic exposures. Accordingly, the incorporation of early-life exposure adjustments is not warranted nor required.

SAFER Appeal 8

2. There is substantial evidence that the Project will pose significant health risks from indoor air quality impacts, precluding reliance on the Infill Exemption.

Certified industrial hygienist, Francis Offermann, P.E., C.1.H., has reviewed the Project, the CE Report, and other relevant documents regarding the Project's indoor air emissions. These documents provide no analysis of the Project's indoor air quality impacts. Mr. Offermann concludes that the Project will expose its future residents to significant health impacts related to indoor air quality, particularly emissions of the cancer-causing chemical formaldehyde. Mr. Offermann is a leading expert on indoor air quality and has published extensively on the topic.

Mr. Offermann explains that many composite wood products used in building materials commonly found in residences contain formaldehyde-based glues which release formaldehyde gas over a very long period of time. He states, "The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particle board. These materials are commonly used in residential, office, and retail building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims." (Ex. B at 2-3.)

Formaldehyde is a known human carcinogen, classified by the State as a Toxic Air Contaminant. The SCAQMD has established a CEQA significance threshold for airborne cancer risk of 10 per million. Mr. Offermann found that future Project occupants may be exposed to a cancer risk from formaldehyde emissions of about 120 per million for residents, even assuming that all materials comply with the California Air Resources Board's ("CARB") formaldehyde airborne toxics control measure. (Id. at 4-5.) This exceeds the SCAQMD's CEQA significance threshold for airborne cancer risk. (Id. at 2.)

Mr. Offermann concludes that the Project will have significant environmental impacts that must be analyzed in an EIR or MND and mitigation measures must be imposed to reduce the raised cancer risk. (Id. at 12-13.) Mr. Offermann prescribes a methodology for estimating the Project's formaldehyde emissions for a more project-specific health risk assessment. (Id. at 6-10.) He also identifies feasible several mitigation measures to decrease the significant health risks, like installing air ventilation systems and requiring the use of composite wood materials only for all interior finish systems that are made with CARB-approved no-added formaldehyde ("NAF") resins or ultra-low emitting formaldehyde ("ULEF") resins. (Id at 12-14.)

When a project exceeds a duly adopted CEQA significance threshold, as here, this alone establishes substantial evidence that the project will have a significant adverse environmental impact. Indeed, in many instances, such air quality thresholds are the only criteria reviewed and treated as dispositive in evaluating the significance of a project's air quality impacts. (See, e.g. Schenck v. County of Sonoma (2011) 198 Cal.App.4th 949, 960 [County applies Air District's "published CEQA quantitative criteria" and "threshold level of cumulative significance"]; see also Communities for a Better Environment v. California Resources Agency (2002) 103 Cal.App.4th 98, 110-11 ["A 'threshold of significance' for a given environmental effect is simply that level at which the lead agency finds the effects of the project to be significant"].) The California Supreme Court has shown the importance an air district significance threshold has in providing substantial evidence of a significant adverse impact. (Communities for a Better Environment v. South Coast Air Quality Management Dist. (2010) 48 Cal.4th 310, 327 [estimated emissions in excess of air district's significance

thresholds "constitute substantial evidence supporting a fair argument for a significant adverse impact"].) Since expert evidence shows the Project will exceed the SCAQMD's CEQA significance threshold, there is substantial evidence that an "unstudied, potentially significant environmental effect[]" exists. (See Friends of Coll. of San Mateo Gardens v. San Mateo Cty. Cmty. Coll. Dist. (2016) 1 Cal.5th 937, 958.)

The City's failure to address the Project's formaldehyde emissions is contrary to the California Supreme Court's decision in California Building Industry Ass'n v. Bay Area Air Quality Mgmt. Dist. (2015) 62 Cal.4th 369, 386 ("CBIA"). The Court held in CBIA that CEQA does not generally require lead agencies to analyze the impacts of adjacent environmental conditions on a project. (Id. at 800-01.) However, to the extent that a project may exacerbate existing environmental conditions at or near a project site, those effects would still have to be considered pursuant to CEQA. (Id at 801 ["CEQA calls upon an agency to evaluate existing conditions in order to assess whether a project could exacerbate hazards that are already present"].) In so holding, the Court expressly held that CEQA's statutory language requires lead agencies to disclose and analyze "impacts on a project's users or residents that arise from the project's effects on the environment." (Id. at 800.)

The carcinogenic formaldehyde emissions Mr. Offermann has identified are not an existing environmental condition. Those emissions will be from the Project. Residential tenants will be the Project's users. Currently, there is presumably little to no formaldehyde emissions at the site. Once built, the Project will start emitting formaldehyde at levels posing significant direct and cumulative health risks to the Project's users. The California Supreme Court in CBIA expressly found that this air emission and health impact from the Project on the environment and a "project's users and residents" must be addressed under CEQA.

The California Supreme Court's reasoning is well-grounded in CEQA's statutory language. CEQA expressly includes a project's effects on human beings as an effect on the environment that must be addressed in an environmental review. "Section 21083(b)(3)'s express language, for example, requires a finding of a 'significant effect on the environment' (§21083(b)) whenever the 'environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.'" (CBIA, 62 Cal.4th at 800 [emphasis in original].) Likewise, "the Legislature has made clear-in declarations accompanying CEQA's enactment that public health and safety are of great importance in the statutory scheme." (Id., citing e.g., §§ 21000, subds. (b), (c), (d), (g), 21001, subds. (b), (d).) It goes without saying that the Project's future residents are human beings, and their health and safety must be subjected to CEQA's safeguards.

The City has a duty to investigate issues relating to a project's potential environmental impacts. (See County Sanitation Dist. No. 2 v. County of Kern, (2005) 127 Cal.App.4th 1544, 1597-98. ["[U]nder CEQA, the lead agency bears a burden to investigate potential environmental impacts."].) The Project will have significant effects on indoor air quality and health risks by emitting formaldehyde that will expose future residents to cancer risks exceeding SCAQMD' s significance threshold for cancer risk of 10 per million. In light of this impact and the City's lack of any evidence to the contrary, the Project does not qualify for the Infill Exemption and must undergo CEQA review before approval.

Response to SAFER Appeal 8

The comment letter includes the Offermann Report states that air quality analysis in the Class 32 CE is not adequate as it does not discuss, disclose, analyze, and mitigate the significant health risks in indoor air to future residents posed by formaldehyde, a toxic air contaminant. The comment asserts that residents of new residential buildings are exposed to high levels of off-gassed formaldehyde from certain construction materials made of composite wood.

The Offermann Report provides the same generic analysis the Appellant has now submitted innumerable times to the City by an alleged expert asserting that a new housing project would result in significant impacts from construction materials that would allegedly release formaldehyde gas and cause significant indoor air quality impacts.

The comment alleges that its expert, Mr. Offermann, has determined that indoor emissions of formaldehyde will result in a significant health risk that requires mitigation, concluding that future residents will experience a cancer risk from formaldehyde of approximately 120 in one million. However, the Offermann Report speculates that the Project will be built using a specific amount of formaldehyde emitting composite wood construction materials, which are used in building products in lieu of lumber, such as decks, furniture, siding.

As discussed further below, the assumptions are not based on the Project, itself, and are the exact same assumptions the Appellant has utilized for many different types of projects across the City in its numerous and serial appeals of new housing and development projects – indeed, the many virtually identical versions of the Offerman Report the Appellant has submitted all include the same assumptions about the use of composite wood materials regardless of the project and the product type, where not all projects use composite wood materials. Rather than relying on information about the Project, Mr. Offermann cites his own, 16-year-old, 2009 study—the California New Home Study (CNHS)—and calculates the lifetime cancer risk conclusion for the Project an even higher total 180 in one million figure based on this outdated 2009 study.

In addition, Mr. Offermann bases his final impact conclusion on the updated CNHS, conducted in 2016-2018 (Singer et. Al., 2019), which found that the median indoor concentrations of formaldehyde in new homes built after 2009 with California Air Resources Board (CARB) Phase 2 Formaldehyde Airborne Toxic Control Measure (ATCM) materials had lower indoor formaldehyde concentrations, with a median indoor concentration of 22.4 µg/m3 (18.2 ppb), as compared to a median of 36 µg/m3 found in the 2007 CNHS, thus demonstrating the significant reductions achieved based on 2009 standards. The ATCM regulations are included as Exhibit A. However, while new homes built after the 2009 CARB formaldehyde ATCM have a 33% lower median indoor formaldehyde concentration and cancer risk, Mr. Offermann states that the median lifetime cancer risk is still allegedly 120 per million for homes built with CARB-compliant composite wood products.

The Offermann Report is substantively flawed and invalid, failing to address a CEQA impact in the first instance, failing to assess the Project, itself, and relying on speculation and unjustifiable assumptions that are plainly engineered to overstate health risks. First, the claim that the Project would result in a significant human health impact to indoor air in a manner that impacts future residents does not address a valid CEQA impact, which does not regulate indoor air impacts and does not address alleged impacts to only future residents of residential projects.[6]

The air quality technical analysis performed for the Project in the CE is fully compliant with CEQA in its focus on regional and localized impacts from emissions of criteria pollutants and other relevant air quality concerns, including potential emissions of TACs related to outdoor air quality. This scope of analysis is appropriate in light of CEQA's general focus on projects' potential impacts on the human environment in

6 See, e.g., See CEQA Guidelines, Appendix G, Air Quality; Parker Shattuck Neighbors v. Berkeley City Council (2013) 222 Cal.App.4th 768, 767 (It "is far from clear that adverse effects confined only to the people who build or reside in a project can ever suffice to render significant the effects of a physical change. In general, CEQA does not regulate environmental changes that do not affect the public at large." [citing Mira Mar Mobile Community v. City of Oceanside (2004) 119 Cal.App.4th 477, 492 and Topanga Beach Renters Assn. v. Department of General Services (1976) 58 Cal.App.3d 188, 194].)

general and not future project users.[7] In furtherance of this scope and general focus of CEQA analyses, the State's CEQA Guidelines require CEQA-compliant air quality impacts analyses to assess the impacts a project would have on outdoor air quality, directing air quality analyses to address whether a project would conflict with or obstruct implementation of the applicable air quality plan, contribute to an existing air quality violation, or result in a cumulatively considerable increase in a criteria pollutant for which the region is in non-attainment, among other similar relevant factors.[8] Indoor air quality is also not regulated by the applicable air quality plan, the SCAQMD's 2020 Air Quality Management Plan (AQMP). The USEPA, the California Air Resources Board (CARB) and SCAQMD have also not promulgated ambient air quality standards for indoor air quality.

The Offerman Report is also based on speculation and false assumptions that fail to produce a valid assessment of the Project's potential environmental impacts. First, the Offermann Report assumes the proposed Project would use formaldehyde containing materials during construction based on pure speculation and based on outdated information about the building materials generally available in the market. The Offermann Report states that the Project will be exclusively built using CARB Phase 2 Formaldehyde ATCM materials. First, this is pure speculation; the Offerman Report cites no evidence in the record indicating the Project will use composite wood materials. Notably, the Project plans' materials data does not include the use of any composite wood materials in the construction of the Project. Even so, as discussed further below, it bears noting that CARB has approved a class of no-added formaldehyde (NAF) and ultra-low-emitting formaldehyde (ULEF) resins that are available for use in construction of the proposed Project. Though the use of NAF or ULEF materials would not be required to address a valid CEQA impact to indoor air from formaldehyde gas emissions from construction materials, the Offermann Report nonetheless relies exclusively on speculation and unsupported assumptions based on the use of composite wood materials in the construction of the Project.

As indicated above, the Offermann Report's risk assessment also relies on irrelevant and outdated data that is not consistent with the Project and numerous other unreasonable assumptions that appear to be engineered to falsely inflate purported health risk levels from alleged formaldehyde emissions. First, the Offermann Report assumes the project would be similar to the results of a 2020 published study with data collected in 70 detached single-family houses built in 2011-2017, which were built in compliance with the mechanical ventilation requirements of California's building energy efficiency standards in existence at those times for that product type. The single-family homes relied on in the Offermann Report are, however, at least two generations of green building, energy code and Title 24 standards for ventilation and filtration removed from the current, 2023 standards currently applicable to the Project, which is not a single-family home project but a multi-family building over four stories in height with different and significantly more stringent filtration and ventilation standards as compared to single family homes built prior to 2017. Indeed, the next building code expected to be published in 2026 may apply depending on when the Project is permitted, which may have even more stringent standards. The study relied on by the Offermann Report thus does not analyze the Project or provide a valid basis for comparison with the Project. The 2023 multi-family building code standards that would apply to the Project are not at all analyzed by the Offermann Report, instead, if relies on outdated standards for a different product type with less stringent ventilation requirements and filtration requirements and, as a result, does not analyze the Project but rather single family houses built 8 to 15 years ago.

7 California Building Industry Association v. Bay Area Air Quality Management District (2015) 62 Cal.4th 369, 377 ("In light of CEQA's text, statutory structure, and purpose, we conclude that agencies subject to CEQA generally are not required to analyze the impact of existing environmental conditions on a project's future users or residents.").

8 See CEQA Guidelines, Appendix G.

Another key improper assumption in the Offermann Report is that residents would be inside their homes for 24 hours per day, 52 weeks per year. This assumption is unrealistic as people do not stay in their homes one hundred percent of the time and ignores the Fraction of time At Home (FAH) factor for residential receptors recommended by the California Office of Environmental Health Hazard Assessment (OEHHA) to account for residents traveling to work, school, or time otherwise outside of their homes daily or for extended periods for vacation and other trips. Therefore, as recommended by OEHHA, the appropriate FAH for residential receptors is 0.85, resulting in a 15-percent reduction in the speculative pollutant exposures assumed in the Offermann Report.[9] In addition, the Offermann Report ignores the application of the OEHHA-recommended Exposure Frequency (EF) for residential receptors. As recommended by OEHHA, the appropriate EF for residential receptors is 0.96, to represent 350 days per year of potential pollutant exposure to account for the assumption of a two-week period away from home each year, resulting in another calculated 4-percent reduction in pollutant exposure the Offermann Report fails to include in its analysis. Thus, the Offermann Report unjustifiably fails to rely on the reasonable assumptions regarding the amounts people tend to stay away from home that are reflected in expert agency guidance that it is industry standard to rely on, which in turn overstates the alleged health risks to indoor air.

Further, the Offermann Report assumes a daily air intake for individual model receptors of 20 cubic meters; however, this assumption is unsupported, and the report ignores the more detailed daily breathing rates normalized to body weight (L/kg body weight per day) that OEHHA recommends for health risk assessments.[10] The Offermann Report also substantially overstates human formaldehyde ingestion; according to the American Lung Association, the average person inhales approximately 2,000 gallons, or roughly 7.57 cubic meters of air per day, less than half the 20 cubic meter inhalation assumed in the Offermann Report, yet another basis upon which the report drastically overstates exposures and, consequently, human health risks.[11] The Offermann Report also improperly assumes that the daily exposure level of formaldehyde would be constant for a 70-year lifetime period. In so doing, it significantly overestimates the amount of potential formaldehyde emissions from the proposed Project in several regards. First, as indicated above, the Offermann Report unreasonably assumes constant exposures for 70 years, for 24 hours per day, every day to calculate residential formaldehyde exposure, thus vastly overestimating any potential formaldehyde exposure to residents who would occupy the proposed project who should not be assumed to stay in their homes 100 percent of the time. As stated, assumptions regarding time spent away from home promulgated by OEHHA are appropriate and reflect the industry standard for human health risk analyses. The Offermann Report also assumes that residents would live at the Project for an entire 70-year lifespan. Estimations of how many times a person living in the United States moves in his or her lifetime have ranged from 9 times to 11 times, depending on age, race, and socioeconomic status, among other categories. Thus, it is unreasonable to assume that the residents who occupy the proposed Project would remain in the Project and be continuously exposed all day every day for a full 70 years.

Moreover, there are several variables that contribute to formaldehyde concentrations within residential dwellings including:

- The age of the building, since the release of formaldehyde decreases over time;
- Temperature and relative humidity;

9 California Office of Environmental Health Hazard Assessment (OEHHA). 2015. Air Toxics Hot Spots Program Guidance Manual, Risk Assessment Guidelines.

10 California Air Resources Board, Consolidated Table of OEHHA/ARB Approved Risk Assessment Health Values. https://ww2.arb.ca.gov/sites/default/files/classic/toxics/healthval/contable05012023.pdf

11 American Lung Association, How Your Lungs Get the Job Done. https://www.lung.org/blog/how-your-lungs-work, accessed July 10. 2025.

- Air exchange rate; and
- The season.

The Offermann Report's assumptions about indoor formaldehyde concentrations for the proposed residences do not consider these factors and therefore cannot be considered reliable. For instance, the appeal states composite wood products that contain formaldehyde off-gas formaldehyde "over a very long period of time," but Mr. Offermann provides no reference to support this statement and misleadingly fails to specify the total duration of formaldehyde emissions, ultimately assuming emissions over the 70-year period analyzed. However, critically, the Agency for Toxic Substances and Disease Registry cites one study that shows that most formaldehyde is released from products within two years, after which emissions tail off substantially.[12] Therefore, Mr. Offerman's assumption that the proposed Project's residents would be exposed to continuous high formaldehyde concentrations for an extended period of 70 years, is a gross overestimation and does not consider the fact that indoor formaldehyde levels in formaldehyde-containing construction materials decrease substantially after the first few years after construction. Moreover, Mr. Offermann does not include any information or analysis regarding temperature, humidity, seasonal conditions, or air exchange technology specific to the Project site, all of which he concedes are relevant to indoor formaldehyde concentrations but are nonetheless not taken into consideration in the analysis. Mr. Offermann's speculation, and self-servingly overstated assumptions do not provide valid evidence that the Project would result in significant human health risks from interior air quality impacts from formaldehyde. Indeed, the Offermann Report appears to stack various unreasonable and inaccurate assumptions with the explicit purpose of overstating alleged indoor air quality impacts from formaldehyde.

Moreover, as noted above, the Project would comply with applicable regulations that address formaldehyde in construction materials that are not addressed by Appellant or in the Offerman Report. The State of California addresses indoor air and formaldehyde emissions from construction materials through state law and regulations other than CEQA. These include the California Green Building Standards Code (CALGreen Code), applicable to new commercial and industrial buildings, which is designed to promote "environmentally responsible, cost-effective, healthier places to live and work." More specifically, Section 4.5, Environmental Quality, of the CALGreen Code provides mandatory residential measures to reduce the quantity of air contaminants that are odorous, irritating and/or harmful to the comfort and wellbeing of a building's installers, occupants and neighbors. It includes VOC limits for paints, coatings, adhesives, adhesive bonding primers, sealants, sealant primers, and caulk. Section 4.504.3, Carpet Systems, of the CALGreen Code establishes product requirements to meet one of the following: (1) Carpet and Rug Institute's Green Label Plus Program; (2) California Department of Public Health, "Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions from Indoor Sources Using Environmental Chambers," Version 1.1; (3) NSF/ANSI 140 at the Gold Level; or (4) Scientific Certifications Systems Indoor Advantage Gold. Furthermore, Section 4.504.5, Composite Wood Products, of the CALGreen Code establishes limits for formaldehyde as specified in ARBS's Air Toxics Control Measure for Composite Wood (e.g., particle board). These measures have been established through the CALGreen Code and reduce the quantity of air contaminants in indoor air to levels determined to be appropriate to protect human health by the state.

In addition, CARB's ATCM (Airborne Toxic Control Measure to Reduce Formaldehyde Emissions from Composite Wood Products) has a purpose of "reducing formaldehyde emissions from composite wood products, and finished goods that contain composite wood products, that are sold, offered for sale,

12 Agency for Toxic Substances and Disease Registry. Formaldehyde in Your Home: What you need to know (citing Park and Ikeda, Variations of formaldehyde and VOC levels during 3 years in new and older homes, Journal of Indoor Air, 2006.) https://archive.cdc.gov/www_atsdr_cdc_gov/formaldehyde/home/index.html#:~:text=Most%20people%20don't%20have,formaldehyde%20exposure%20in%20their%20homes, accessed July 10, 2025.

supplied, used, or manufactured for sale in California. The composite wood products covered by this regulation are hardwood plywood, particleboard, and medium density fiberboard."[13] The control measure assures that all building materials and furnishings manufactured, distributed, imported and used in new construction in California meet the maximum allowable concentrations that assure healthful indoor air quality. CARB confirms that its Composite Wood Products (CWP) Regulation's emission standards are set at low levels intended to protect public health.[14] The CWP Regulation, first adopted in 2007, established two phases of emissions standards: an initial Phase I, and later, a more stringent Phase II that requires all finished goods, such as flooring, destined for sale or use in California to be made using complying composite wood products.

Moreover, as noted above, provisions were added to ATCM for manufacturers of hardwood plywood, particleboard, and medium density fiberboard who plan to use no-added formaldehyde (NAF) based resins or ultra-low-emitting formaldehyde (ULEF) resins.[15] The U.S. EPA TSCA Title VI formaldehyde regulation includes a similar NAF/ULEF exemption provision and allows a manufacturer to be approved by CARB or a TPC recognized by U.S. EPA.[16] NAF-based resins are resins formulated with no added formaldehyde as part of the resin cross linking structure, and include resins made from soy, polyvinyl acetate, or methylene diisocyanate. ULEF resins are formaldehyde containing resins formulated such that the formaldehyde emissions from composite wood products are consistently below applicable Phase 2 emission standards. These products are becoming increasingly available in the state; as of July 2023, California had approved nearly 600 NAF/ULEF manufacturers.[17] The Offerman Report's assumption that such products would not be used in the Project is based on outdated data from a different housing product with less stringent indoor air requirements that is not relevant to the Project. The state, however, appropriately deals with the issue of indoor air quality and formaldehyde in construction materials with strict regulations that have become more stringent over time.

Lastly, the Offermann Report states that the project should install high-capacity air filters to reduce formaldehyde exposure. The 2023 California Building Standards Code (Title 24), Part 6 (California Building and Energy Efficiency Standards) as well as Part 11 (CALGreen) has standards for enhanced filtration for multi-family residential buildings to improve indoor air quality. As a result, high-efficiency air filters and mechanical ventilation are already required for the Project by current building code requirement that are not addressed by the Offerman Report.

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B. The Project does not qualify for CEQA's Infill Exemption due to the Unusual Circumstances Exception.

The Unusual Circumstances Exception ("Exception") prohibits categorical exemptions where there is a "reasonable possibility" that a project will significantly impact the environment "due to unusual circumstances." (14 CCR§ 15300.2(c).) To determine whether the Exception applies, agencies use a two-part test. They first ask whether a project presents unusual circumstances. If it does, they then ask whether

13 See, Exhibit A; CARB, Composite Wood Products Airborne Toxic Control Measure: https://ww2.arb.ca.gov/ourwork/programs/composite-wood-products-program, accessed July 10, 2025.

14 CARB, Frequently Asked Questions for Consumers, Reducing Formaldehyde Emissions from Composite Wood Products,https://ww3.arb.ca.gov/toxics/compwood/consumer_faq.pdf?_ga=2.32900281.682464648.15731698 741026610208.1565143819, accessed July 10 2025.

15 Exhibit B (17 C.C.R., §§ 93120.3(c), 93120.3(d).)

16 40 C.F.R, §§ 770.7 (c)(4)(iii), 770.17, and 770.18.

17 See, CARB, Change in Approval Process for NAF/ULEF Manufacturers, Updated July 25, 2023, found at https://ww2.arb.ca.gov/sites/default/files/2023-07/Change%20in%20Approval%20Process%20for%20NAFULEF%20Manufacturers-updated_2.pdf, last accessed July 10, 2025.

there is a reasonable possibility that a significant environmental effect will result from those unusual circumstances. (Berkeley Hillside Preservation v. City of Berkeley (2015) 60 Cal.4th 1086, 1098 (Berkeley Hillside).) The California Supreme Court has held that "a party may establish an unusual circumstance with evidence that the project will have a significant environmental effect." (Id. at 1105 [emph. added].) That evidence, if convincing, necessarily also establishes a reasonable possibility that the project will significantly affect the environment due to those unusual circumstances. (Id.)

As discussed above, we have submitted substantial evidence that the Project will have significant impacts related to air quality and indoor air quality. The fact that these impacts will occur constitutes an unusual circumstance, thereby precluding the City's reliance on the Exemption.

Also, the close proximity of sensitive receptors only five feet away from the Project is an unusual circumstance. As a result of this circumstance, the health risk created by DPM is highly significant. (See, Lewis v. Seventeenth Dist. Agric. Assn. (1985) 165 Cal. App. 3d 823 (close proximity of homes to proposed racetrack was an unusual circumstance and resulted in increased noise and dust impacts).)

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The Project does not involve unusual circumstances. As documented in the Class 32 CE, the Project is located within a fully urbanized area; is less than one acre (0.87 acres); involves development consistent with existing zoning ([Q]R4-2); is surrounded on all sides by existing multi-family and commercial development. In Berkeley Hillside, the Court distinguished between a project of standard urban infill character (which is not unusual) and those located in environmentally sensitive, rural, or uniquely situated areas. Similarly, in Lewis v. Seventeenth Dist. Agric. Assn. (1985) 165 Cal.App.3d 823, the court invalidated an exemption for a racetrack proposed next to homes in a previously quiet, residential area—facts not comparable here. This project is entirely typical of infill housing in East Hollywood, and the circumstances surrounding it are not unusual under CEQA case law.

There is no substantial evidence of significant air quality impacts. The commenter claims air quality impacts, including from diesel particulate matter (DPM), are significant and thus constitute both an impact and an unusual circumstance. However, as shown in the CE, Section 2 subsection 7: Air Quality (pp. 2-84 to 2-92) and Appendix C (CalEEMod results), construction emissions for PM10, PM2.5, NOx, ROG, and CO were modeled using CalEEMod and emissions were found to be well below SCAQMD regional and localized thresholds (see CE, Table 7-2 and Table 7-3). Diesel emissions were considered and found to be de minimis, particularly because construction will be temporary, phased, and subject to CARB diesel regulations. Standard dust control BMPs and exhaust controls are required by law and will be enforced. Speculation or general health concerns, do not rise to the level of substantial evidence under CEQA.

Sensitive receptors near the Site do not constitute unusual circumstances. Proximity to residential uses is typical of urban infill housing projects, especially in Los Angeles. CEQA does not prohibit development near existing homes; rather, it requires evaluation of whether those receptors will be exposed to significant impacts, which the CE has already analyzed and ruled out. The Lewis case, cited by the commenter, involved construction of a loud racetrack in an otherwise quiet residential neighborhood—a situation factually distinguishable from infill housing in a dense, already impacted urban corridor. Unlike Lewis this Project does not introduce a fundamentally new or intense land use and the baseline environment already includes dense residential development, traffic, and noise. The Project's impacts are within typical ranges for the area and were found to be less than significant.

The Project does not meet either prong of the Unusual Circumstances Exception under CEQA Guidelines §15300.2(c) and Berkeley Hillside. The Project is typical infill development and does not involve unusual

circumstances. There is no substantial evidence of significant environmental effects from air quality, indoor exposure, or proximity to residents. All air quality and sensitive receptor concerns were analyzed using standard methods, and all impacts are below CEQA significance thresholds. Therefore, the Class 32 CE remains valid, and no EIR is required.

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IV. CONCLUSION

The City cannot rely on a CEQA Infill Exemption because the Project does not meet the terms of the Exemption. Instead, in accordance with CEQA, the City must prepare an initial study, followed by either an MND or EIR to examine the Project's effects on air quality and indoor air quality before approval. Therefore, SAFER respectfully requests that the Planning Commission deny approval of the Project.

Response to SAFER Appeal 10

The comment is a conclusion. Furthermore, as set forth in the responses above, as well as additional responses and evidence contained in the administrative record such as the CE, the Project will not result in potential air quality, health risk impacts, or biological impacts. The CE complied with CEQA, conducted a project-level analysis. The comment letter does not provide substantial evidence to the contrary.

The comment does not state a specific concern or question regarding the adequacy of the CE in identifying and analyzing the environmental impacts of the Project, nor does the comment identify any physical environmental impacts caused by the Project. Therefore, this comment does not require a detailed response. (CEQA Guidelines, § 15088(c); *Citizens for East Shore Parks v. State Lands Comm'n (2011) 202 Cal.App.4th 549.*)