Appendix A
3. NOP Public Comments

NOTICE OF PREPARATION SUMMARY OF COMMENTS 676 Mateo Street Project	Subject and Draft EIR Section																		
	II. Project Description	IV.A. Air Quality	IV.B. Cultural Resources	IV.C. Geology and Soils	IV.D. Greenhouse Gas Emissions	IV.E. Hazards and Hazardous Materials	IV.F. Hydrology and Water Quality	IV.G. Land Use and Planning	IV.H. Noise	IV.I. Population and Housing	IV.J. Public Services	IV.K. Transportation/Traffic	IV.L. Tribal Cultural Resources	IV.M. Utilities and Service Systems	IV.N. Energy Conservation	VI. Alternatives	VII. Effects Not Found to be Significant	Other	Explanation of "Other"
State and Regional Agencies and Departments																			
State of California, Governor's Office of Planning and Research. State Clearinghouse and Planning Unit																		●	**Section I (Introduction).** The Lead Agency has complied with State Clearinghouse requirements for the NOP.
State of California, Department of Transportation	●						●					●							
State of California, Native American Heritage Commission			●										●						
South Coast Air Quality Management District		●			●											●			
County and City Agencies and Departments																			
Los Angeles Department of Water and Power														●					
City of Los Angeles Bureau of Sanitation Wastewater Engineering Services Division							●							●					
Organizations and Individuals																			
Carpenters Contractors Cooperation Committee, Boris Gresely																		●	Requests information regarding the status of the project.

NOTICE OF PREPARATION SUMMARY OF COMMENTS 676 Mateo Street Project	Subject and Draft EIR Section																		
	II. Project Description	IV.A. Air Quality	IV.B. Cultural Resources	IV.C. Geology and Soils	IV.D. Greenhouse Gas Emissions	IV.E. Hazards and Hazardous Materials	IV.F. Hydrology and Water Quality	IV.G. Land Use and Planning	IV.H. Noise	IV.I. Population and Housing	IV.J. Public Services	IV.K. Transportation/Traffic	IV.L. Tribal Cultural Resources	IV.M. Utilities and Service Systems	IV.N. Energy Conservation	VI. Alternatives	VII. Effects Not Found to be Significant	Other	Explanation of "Other"
Tiffany Steffens		●							●	●		●							
John P. Given, Law Office of John P. Given								●										●	Evidence to support the exclusion of Aesthetics from the EIR analysis. Cumulative and indirect land use impacts.

State of California, Governor's Office of Planning and Research. State Clearinghouse and Planning Unit

The Lead Agency has complied with State Clearinghouse requirements for the NOP. No substantial comments to be addressed in EIR analysis.

State of California, Department of Transportation

Caltrans requests public elements, including a publicly accessible pedestrian paseo and electric chargers for parking are incorporated into the project design. They also support requests to reduce the amount of parking required and that a Transportation Demand Management (TDM) program be implemented as part of the project. TDM measures could include providing bicycle parking in accordance with the City's Bicycle Parking Ordinance while reducing the amount of car parking.

Caltrans recommends that large-size construction trucks are limited to off-peak commute periods, and that stormwater runoff during construction is discharged as clean water.

State of California, Native American Heritage Commission

The NAHC explains the tribal consultation requirements under AB 52 and SB 18. They also suggest mitigation measures that could be used to reduce impacts, if needed. In addition, they discuss the requirements for an archaeological resources survey and recommend mitigation measures if needed.

South Coast Air Quality Management District

The SCAQMD recommends that the Lead Agency use their CEQA Air Quality Handbook (1993) when preparing the air quality analysis for the EIR. They request that all air quality modeling files be sent to them.

The SCAQMD explains the methodology and analyses that they expect to see in the EIR air quality analysis. They suggest guidance for developing mitigation measures, alternatives to the project, and their role as a responsible agency.

Los Angeles Department of Water and Power

The LADWP states that, in general, projects that conform to the demographic projection in the Regional Transportation Plan by the Southern California Association of Governments and are located in the City are considered to have been included in the LADWP's water supply planning efforts in the Urban Water Management Plan.

City of Los Angeles Bureau of Sanitation Wastewater Engineering Services Division

The Wastewater Division explains the projected wastewater for the project and the sewer infrastructure availability to handle the project flows. The letter also explains stormwater requirements during and after construction of the project.

Last, the letter also discusses the requirements for a recycling area within the project.

Carpenters Contractors Cooperation Committee, Boris Gresely

Requests information regarding the status of the project. The City replied to their request.

Tiffany Steffens

Ms. Steffens is concerned about cumulative traffic impacts, traffic-pedestrian safety, air quality, aesthetics, noise, and population/housing (more housing than is needed).

John P. Given, Law Office of John P. Given

Mr. Given is concerned about "spot zoning" and land use consistency. He is concerned about the reference to the repealed Hybrid Industrial Ordinance in the Initial Study. He is also concerned about analysis to support the conclusion in the Initial Study that the project is exempt from an aesthetics analysis.

STATE OF CALIFORNIA

Governor's Office of Planning and Research

State Clearinghouse and Planning Unit

Edmund G. Brown Jr.
Governor

Ken Alex
Director

Notice of Preparation

February 26, 2018

To: Reviewing Agencies

Re: 676 Mateo Street Project
SCH# 2018021068

Attached for your review and comment is the Notice of Preparation (NOP) for the 676 Mateo Street Project draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

Please direct your comments to:

Will Lamborn
Los Angeles Department of City Planning
200 N. Spring Street, Room 750
Los Angeles, CA 90012

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all correspondence concerning this project.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

Scott Morgan
Director, State Clearinghouse

RECEIVED
CITY OF LOS ANGELES
MAR 16 2018
MAJOR PROJECTS UNIT

Attachments
cc: Lead Agency

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
TEL 1-916-445-0613 FAX 1-916-558-3164 www.opr.ca.gov

Document Details Report
State Clearinghouse Data Base

SCH# 2018021068
Project Title 676 Mateo Street Project
Lead Agency Los Angeles, City of

Type NOP Notice of Preparation

Description Project proposes the demolition of the existing warehouse building and surface parking, and the construction of an up to 197,355 sq. ft mixed-use building containing up to 185 live/work units and approx. 15,320 sq. ft. of open space and recreational amenities for residents, up to 23,380 sq. ft. of commercial uses, and associated parking facilities providing approx. 270 parking spaces and approx. 228 bicycle parking spaces. The proposed building would be up to 110 feet (8 levels) tall and would include a three-level subterranean parking structure.

Lead Agency Contact

Name Will Lamborn
Agency City of Los Angeles
Phone 213-978-1470 **Fax**
email
Address 200 N. Spring Street, Room 750
City Los Angeles **State** CA **Zip** 90012

Project Location

County Los Angeles
City Los Angeles, City of
Region
Cross Streets MAteo Street & E. 7th St.
Lat / Long 34° 2' 8.364" N / 118° 13' 55.76" W
Parcel No. 5164-020-021
Township 1S **Range** 13W **Section** 34 **Base** SBBM

Proximity to:

Highways I-10, US-101, I-5, SR-60
Airports
Railways REd/Purple/Gold Metro
Waterways LA River
Schools Various LAUSD
Land Use Warehouse land use/m3-1-RIO (Heavy Industrial Zone)/Heavy Industrial designation

---

Project Issues Aesthetic/Visual; Air Quality; Archaeologic-Historic; Drainage/Absorption; Economics/Jobs; Flood Plain/Flooding; Geologic/Seismic; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Growth Inducing; Toxic/Hazardous; Traffic/Circulation; Tribal Cultural Resources; Vegetation; Water Quality; Water Supply; Landuse; Cumulative Effects

---

Reviewing Agencies Resources Agency; Department of Parks and Recreation; Department of Fish and Wildlife, Region 5; Native American Heritage Commission; Public Utilities Commission; State Lands Commission; Caltrans, District 7; Air Resources Board, Major Industrial Projects; Santa Monica Bay Restoration; Baldwin Hills Conservancy

---

Date Received 02/26/2018 **Start of Review** 02/26/2018 **End of Review** 03/27/2018

Note: Blanks in data fields result from insufficient information provided by lead agency.

NOP Distribution List

County: Los Angeles

SCH# 2018021068

Resources Agency

- [x] **Resources Agency**
  Nadell Gayou
- [ ] **Dept. of Boating & Waterways**
  Denise Peterson
- [ ] **California Coastal Commission**
  Allyson Hitt
- [ ] **Colorado River Board**
  Lisa Johansen
- [ ] **Dept. of Conservation**
  Crina Chan
- [ ] **Cal Fire**
  Dan Foster
- [ ] **Central Valley Flood Protection Board**
  James Herota
- [ ] **Office of Historic Preservation**
  Ron Parsons
- [x] **Dept of Parks & Recreation**
  Environmental Stewardship Section
- [ ] **S.F. Bay Conservation & Dev't. Comm.**
  Steve Goldbeck
- [ ] **Dept. of Water Resources**
  Resources Agency
  Nadell Gayou

Fish and Game

- [ ] **Depart. of Fish & Wildlife**
  Scott Flint
  Environmental Services Division
- [ ] **Fish & Wildlife Region 1**
  Curt Babcock
- [ ] **Fish & Wildlife Region 1E**
  Laurie Harnsberger
- [ ] **Fish & Wildlife Region 2**
  Jeff Drongesen
- [ ] **Fish & Wildlife Region 3**
  Craig Weightman
- [ ] **Fish & Wildlife Region 4**
  Julie Vance
- [x] **Fish & Wildlife Region 5**
  Leslie Newton-Reed
  Habitat Conservation Program
- [ ] **Fish & Wildlife Region 6**
  Tiffany Ellis
  Habitat Conservation Program
- [ ] **Fish & Wildlife Region 6 I/M**
  Heidi Calvert
  Inyo/Mono, Habitat Conservation Program
- [ ] **Dept. of Fish & Wildlife M**
  William Paznokas
  Marine Region

Other Departments

- [ ] **California Department of Education**
  Lesley Taylor
- [ ] **OES (Office of Emergency Services)**
  Monique Wilber
- [ ] **Food & Agriculture**
  Sandra Schubert
  Dept. of Food and Agriculture
- [ ] **Dept. of General Services**
  Cathy Buck
  Environmental Services Section
- [ ] **Housing & Comm. Dev.**
  CEQA Coordinator
  Housing Policy Division

Independent Commissions,Boards

- [ ] **Delta Protection Commission**
  Erik Vink
- [ ] **Delta Stewardship Council**
  Anthony Navasero
- [ ] **California Energy Commission**
  Eric Knight
- [x] **Native American Heritage Comm.**
  Debbie Treadway
- [x] **Public Utilities Commission**
  Supervisor
- [x] **Santa Monica Bay Restoration**
  Guangyu Wang
- [x] **State Lands Commission**
  Jennifer Deleong
- [ ] **Tahoe Regional Planning Agency (TRPA)**
  Cherry Jacques

Cal State Transportation Agency CalSTA

- [ ] **Caltrans - Division of Aeronautics**
  Philip Crimmins
- [ ] **Caltrans – Planning HQ LD-IGR**
  Christian Bushong
- [ ] **California Highway Patrol**
  Suzann Ikeuchi
  Office of Special Projects

Dept. of Transportation

- [ ] **Caltrans, District 1**
  Rex Jackman
- [ ] **Caltrans, District 2**
  Marcelino Gonzalez
- [ ] **Caltrans, District 3**
  Susan Zanchi - North
- [ ] **Caltrans, District 4**
  Patricia Maurice
- [ ] **Caltrans, District 5**
  Larry Newland
- [ ] **Caltrans, District 6**
  Michael Navarro
- [x] **Caltrans, District 7**
  Dianna Watson
- [ ] **Caltrans, District 8**
  Mark Roberts
- [ ] **Caltrans, District 9**
  Gayle Rosander
- [ ] **Caltrans, District 10**
  Tom Dumas
- [ ] **Caltrans, District 11**
  Jacob Armstrong
- [ ] **Caltrans, District 12**
  Maureen El Harake

Cal EPA

Air Resources Board

- [ ] **Airport & Freight**
  Jack Wursten
  - [ ] **Transportation Projects**
    Nesamani Kalandiyur
  - [x] **Industrial/Energy Projects**
    Mike Tollstrup
- [ ] **California Department of Resources, Recycling & Recovery**
  Sue O'Leary
- [ ] **State Water Resources Control Board**
  Regional Programs Unit
  Division of Financial Assistance
- [ ] **State Water Resources Control Board**
  Cindy Forbes – Asst Deputy
  Division of Drinking Water
- [ ] **State Water Resources Control Board**
  Div. Drinking Water #_____
- [ ] **State Water Resources Control Board**
  Student Intern, 401 Water Quality Certification Unit
  Division of Water Quality
- [ ] **State Water Resouces Control Board**
  Phil Crader
  Division of Water Rights
- [ ] **Dept. of Toxic Substances Control Reg. #**_____
  CEQA Tracking Center
- [ ] **Department of Pesticide Regulation**
  CEQA Coordinator

Regional Water Quality Control Board (RWQCB)

- [ ] **RWQCB 1**
  Cathleen Hudson
  North Coast Region (1)
- [ ] **RWQCB 2**
  Environmental Document Coordinator
  San Francisco Bay Region (2)
- [ ] **RWQCB 3**
  Central Coast Region (3)
- [ ] **RWQCB 4**
  Teresa Rodgers
  Los Angeles Region (4)
- [ ] **RWQCB 5S**
  Central Valley Region (5)
  - [ ] **RWQCB 5F**
    Central Valley Region (5)
    Fresno Branch Office
  - [ ] **RWQCB 5R**
    Central Valley Region (5)
    Redding Branch Office
- [ ] **RWQCB 6**
  Lahontan Region (6)
  - [ ] **RWQCB 6V**
    Lahontan Region (6)
    Victorville Branch Office
- [ ] **RWQCB 7**
  Colorado River Basin Region (7)
- [ ] **RWQCB 8**
  Santa Ana Region (8)
- [ ] **RWQCB 9**
  San Diego Region (9)

Other

- [x] Baldwin Hills Conservancy

Last Updated 2/01/18

DEPARTMENT OF TRANSPORTATION
DISTRICT 7-OFFICE OF REGIONAL PLANNING
100 S. MAIN STREET, MS 16
LOS ANGELES, CA 90012
PHONE (213) 897-0067
FAX (213) 897-1337
www.dot.ca.gov

Serious drought!
Making Conservation
a California Way of Life.

March 27, 2018

Will Lamborn
City of Los Angeles
Los Angeles Dept. City Planning
200 N. Spring Street, Room 750
Los Angeles, CA 90012

RE: 676 Mateo Street Project
Vic: LA-10 / PM: 17.708
GTS# 07-LA-2018-01361
SCH# 2018021068

Dear Mr. Lamborn,

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above referenced project. The project consists of demolishing an existing warehouse building and surface parking lot, and constructing up to 197,355sf mixed-use building containing up to 185 live/work units and approximately 15,320 sf of open space and recreational amenities for residents, up to 23,380 sf of commercial uses and associated parking facilities to provide approximately 270 parking spaces and 228 bicycle parking spaces. The proposed building would be up to 110 feet tall and would include a three-level subterranean parking structure.

After reviewing the Notice of Preparation (NOP), Caltrans has the following comments:

State-level policy goals related to sustainable transportation seek to reduce the number of trips made by driving, reduce greenhouse gas emissions, and encourage alternative modes of travel. Caltrans' Strategic Management Plan has set targets of tripling trips made by bicycling and doubling trips made by walking and public transit by 2020. The Strategic Plan also seeks to achieve a 15% reduction in statewide per capita vehicle miles traveled by 2020. Similar ambitious goals are embedded in Caltrans' 2040 Transportation Plan, and Southern California Association of Governments' Regional Transportation Plan. Statewide legislation such as AB 32 and SB 375, as well as Executive Orders S-3-05 and B-16-12, echo the need to pursue more sustainable development. Such climate change goals can only be achieved through active support from local partners- a "business as usual" approach will not work.

In general, the project type and pedestrian-oriented design is consistent with local and State initiatives to promote walking, bicycling, and public transit. Further, project elements such as

including a publicly accessible pedestrian paseo and electric chargers for parking are welcomed and encouraged.

With regards to parking, Caltrans supports requests to reduce the amount of parking required. Research on parking suggests that abundant car parking enables and encourages driving. Research looking at the relationship between parking and transit-oriented development in particular suggests the amount of car parking supplied can undermine a project's ability to encourage public transit use.

In order for any project to better promote public transit and reduce vehicle miles traveled, we recommend the implementation of Transportation Demand Management (TDM) improvement measures. The simplest TDM measure that could be included deal directly with parking such as taking full advantage of the City's Bicycle Parking Ordinance to reduce the amount of car parking supplied. Other measures can also help ensure the project is actively consistent with efforts to reduce vehicle trips, transportation-related GHG emissions while promoting public transit.

As a reminder, be aware any transportation of heavy construction equipment and/or materials which requires use of oversized-transport vehicles on State highways will need a Caltrans transportation permit. We recommend large size truck trips be limited to off-peak commute periods. Also, storm water run-off is a sensitive issue for Los Angeles and Ventura counties. The project needs to be designed to discharge clean run-off water.

If you have questions regarding these comments, contact project coordinator Severin Martinez at (213)-897-0067 or severin.martinez@dot.ca.gov and refer to GTS# 07-LA-2018-01361.

Sincerely,

FRANCES LEE
Acting IGR/CEQA Branch Chief

cc: Scott Morgan, State Clearinghouse

Connect Create Collaborate

William Lamborn <william.lamborn@lacity.org>

SCH# 2018021068 676 Mateo Street

1 message

NAHC <NAHC@nahc.ca.gov> Wed, Feb 28, 2018 at 2:51 PM
Reply-To: NAHC@nahc.ca.gov
To: william.lamborn@lacity.org

Reply to: NAHC <NAHC@NAHC.ca.gov>
Device Name: Not Set
Device Model: MX-4141N
Location: Not Set

File Format: PDF (Medium)
Resolution: 200dpi x 200dpi

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NAHC_20180228_145150.pdf
763K

STATE OF CALIFORNIA
NATIVE AMERICAN HERITAGE COMMISSION
Environmental and Cultural Department
1550 Harbor Blvd., Suite 100
West Sacramento, CA 95691
Phone (916) 373-3710

Edmund G. Brown Jr., Governor

February 28, 2018

William Lamborn
Los Angeles Department of City Planning
200 North Spring Street, Room 750
Los Angeles, CA 90012

Sent via e-mail: William.lamborn@lacity.org

RE: SCH# 2018021068; 676 Mateo Street Project, City of Los Angeles; Los Angeles County, California

Dear Mr. Lamborn:

The Native American Heritage Commission has received the Notice of Preparation (NOP) for Draft Environmental Impact Report for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code § 21000 et seq.), specifically Public Resources Code section 21084.1, states that a project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, § 15064.5 (b) (CEQA Guidelines Section 15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an environmental impact report (EIR) shall be prepared. (Pub. Resources Code § 21080 (d); Cal. Code Regs., tit. 14, § 15064 subd. (a)(1) (CEQA Guidelines § 15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources with the area of project effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a **separate category of cultural resources**, "tribal cultural resources" (Pub. Resources Code § 21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment (Pub. Resources Code § 21084.2). Please reference California Natural Resources Agency (2016) "Final Text for tribal cultural resources update to Appendix G: Environmental Checklist Form," http://resources.ca.gov/ceqa/docs/ab52/Clean-final-AB-52-App-G-text-Submitted.pdf. Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code § 21084.3 (a)). **AB 52 applies to any project for which a notice of preparation or a notice of negative declaration or mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements**. If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. § 800 et seq.) may also apply.

The NAHC recommends **lead agencies consult with all California Native American tribes** that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments. **Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws**.

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a **lead agency** shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
    - **a.** A brief description of the project.
    - **b.** The lead agency contact information.
    - **c.** Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code § 21080.3.1 (d)).
    - **d.** A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code § 21073).

2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A **lead agency** shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code § 21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or environmental impact report. (Pub. Resources Code § 21080.3.1(b)).
    - **a.** For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code § 65352.4 (SB 18). (Pub. Resources Code § 21080.3.1 (b)).

3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
    - **a.** Alternatives to the project.
    - **b.** Recommended mitigation measures.
    - **c.** Significant effects. (Pub. Resources Code § 21080.3.2 (a)).

4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:
    - **a.** Type of environmental review necessary.
    - **b.** Significance of the tribal cultural resources.
    - **c.** Significance of the project's impacts on tribal cultural resources.
    - **d.** If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code § 21080.3.2 (a)).

5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code sections 6254 (r) and 6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code § 21082.3 (c)(1)).

6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
    - **a.** Whether the proposed project has a significant impact on an identified tribal cultural resource.
    - **b.** Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code section 21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code § 21082.3 (b)).

7. Conclusion of Consultation: Consultation with a tribe shall be considered concluded when either of the following occurs:
   a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
   b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code § 21080.3.2 (b)).

8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code section 21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code § 21082.3 (a)).

9. Required Consideration of Feasible Mitigation: If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code section 21084.3 (b). (Pub. Resources Code § 21082.3 (e)).

10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:
    a. Avoidance and preservation of the resources in place, including, but not limited to:
       i. Planning and construction to avoid the resources and protect the cultural and natural context.
       ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
    b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
       i. Protecting the cultural character and integrity of the resource.
       ii. Protecting the traditional use of the resource.
       iii. Protecting the confidentiality of the resource.
    c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
    d. Protecting the resource. (Pub. Resource Code § 21084.3 (b)).
    e. Please note that a federally recognized California Native American tribe or a nonfederally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code § 815.3 (c)).
    f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code § 5097.991).

11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An environmental impact report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
    a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 21080.3.2.
    b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
    c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code section 21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code § 21082.3 (d)).

    This process should be documented in the Cultural Resources section of your environmental document.

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires **local governments** to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code § 65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf

Some of SB 18's provisions include:

1. Tribal Consultation: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code § 65352.3 (a)(2)).
2. No Statutory Time Limit on SB 18 Tribal Consultation. There is no statutory time limit on SB 18 tribal consultation.
3. Confidentiality: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code section 65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code sections 5097.9 and 5097.993 that are within the city's or county's jurisdiction. (Gov. Code § 65352.3 (b)).
4. Conclusion of SB 18 Tribal Consultation: Consultation should be concluded at the point in which:
    a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
    b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: http://nahc.ca.gov/resources/forms/

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
    a. If part or all of the APE has been previously surveyed for cultural resources.
    b. If any known cultural resources have been already been recorded on or adjacent to the APE.
    c. If the probability is low, moderate, or high that cultural resources are located in the APE.
    d. If a survey is required to determine whether previously unrecorded cultural resources are present.

2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
    a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.

b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
   a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
   b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.

4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
   a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, section 15064.5(f) (CEQA Guidelines section 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
   b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
   c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code section 7050.5, Public Resources Code section 5097.98, and Cal. Code Regs., tit. 14, section 15064.5, subdivisions (d) and (e) (CEQA Guidelines section 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

Please contact me if you need any additional information at gayle.totton@nahc.ca.gov.

Sincerely,

Gayle Totton

Gayle Totton, M.A., PhD.
Associate Governmental Program Analyst
(916) 373-3714

cc: State Clearinghouse

South Coast
Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 • www.aqmd.gov

SENT VIA USPS AND E-MAIL: March 27, 2018
William.lamborn@lacity.org
William Lamborn
City of Los Angeles, Department of City Planning
200 N. Spring Street, Room 750
Los Angeles, CA 90012

Notice of Preparation of Environmental Impact Report for the 676 Mateo Street Project (ENV-2016-3691-EIR)

The South Coast Air Quality Management District (SCAQMD) staff appreciates the opportunity to comment on the above-mentioned document. SCAQMD staff's comments are recommendations regarding the analysis of potential air quality impacts from the Proposed Project that should be included in the Environmental Impact Report (EIR). Please send SCAQMD a copy of the EIR upon its completion. Note that copies of the EIR that are submitted to the State Clearinghouse are not forwarded to SCAQMD. Please forward a copy of the EIR directly to SCAQMD at the address shown in the letterhead. **In addition, please send with the EIR all appendices or technical documents related to the air quality, health risk, and greenhouse gas analyses and electronic versions of all air quality modeling and health risk assessment files[1]. These include emission calculation spreadsheets and modeling input and output files (not PDF files). Without all files and supporting documentation, SCAQMD staff will be unable to complete our review of the air quality analyses in a timely manner. Any delays in providing all supporting documentation will require additional time for review beyond the end of the comment period.**

Air Quality Analysis

SCAQMD adopted its California Environmental Quality Act (CEQA) Air Quality Handbook in 1993 to assist other public agencies with the preparation of air quality analyses. SCAQMD recommends that the Lead Agency use this Handbook as guidance when preparing its air quality analysis. Copies of the Handbook are available from SCAQMD's Subscription Services Department by calling (909) 396-3720. More guidance developed since this Handbook is also available on SCAQMD's website at: http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/ceqa-air-quality-handbook-(1993). SCAQMD staff also recommends that the Lead Agency use the CalEEMod land use emissions software. This software has recently been updated to incorporate up-to-date state and locally approved emission factors and methodologies for estimating pollutant emissions from typical land use development. CalEEMod is the only software model maintained by the California Air Pollution Control Officers Association (CAPCOA) and replaces the now outdated URBEMIS. This model is available free of charge at: www.caleemod.com.

SCAQMD has also developed both regional and localized significance thresholds. SCAQMD staff requests that the Lead Agency quantify criteria pollutant emissions and compare the results to SCAQMD's CEQA regional pollutant emissions significance thresholds to determine air quality impacts. SCAQMD's CEQA regional pollutant emissions significance thresholds can be found here: http://www.aqmd.gov/docs/default-

[1] Pursuant to the CEQA Guidelines Section 15174, the information contained in an EIR shall include summarized technical data, maps, plot plans, diagrams, and similar relevant information sufficient to permit full assessment of significant environmental impacts by reviewing agencies and members of the public. Placement of highly technical and specialized analysis and data in the body of an EIR should be avoided through inclusion of supporting information and analyses as appendices to the main body of the EIR. Appendices to the EIR may be prepared in volumes separate from the basic EIR document, but shall be readily available for public examination and shall be submitted to all clearinghouses which assist in public review.

source/ceqa/handbook/scaqmd-air-quality-significance-thresholds.pdf. In addition to analyzing regional air quality impacts, SCAQMD staff recommends calculating localized air quality impacts and comparing the results to localized significance thresholds (LSTs). LSTs can be used in addition to the recommended regional significance thresholds as a second indication of air quality impacts when preparing a CEQA document. Therefore, when preparing the air quality analysis for the Proposed Project, it is recommended that the Lead Agency perform a localized analysis by either using the LSTs developed by SCAQMD staff or performing dispersion modeling as necessary. Guidance for performing a localized air quality analysis can be found at: http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/localized-significance-thresholds.

The Lead Agency should identify any potential adverse air quality impacts that could occur from all phases of the Proposed Project and all air pollutant sources related to the Proposed Project. Air quality impacts from both construction (including demolition, if any) and operations should be calculated. Construction-related air quality impacts typically include, but are not limited to, emissions from the use of heavy-duty equipment from grading, earth-loading/unloading, paving, architectural coatings, off-road mobile sources (e.g., heavy-duty construction equipment) and on-road mobile sources (e.g., construction worker vehicle trips, material transport trips). Operation-related air quality impacts may include, but are not limited to, emissions from stationary sources (e.g., boilers), area sources (e.g., solvents and coatings), and vehicular trips (e.g., on- and off-road tailpipe emissions and entrained dust). Air quality impacts from indirect sources, such as sources that generate or attract vehicular trips, should be included in the analysis.

In the event that the Proposed Project generates or attracts vehicular trips, especially heavy-duty diesel-fueled vehicles, it is recommended that the Lead Agency perform a mobile source health risk assessment. Guidance for performing a mobile source health risk assessment ("*Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis*") can be found at: http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/mobile-source-toxics-analysis. An analysis of all toxic air contaminant impacts due to the use of equipment potentially generating such air pollutants should also be included.

In addition, guidance on siting incompatible land uses (such as placing homes near freeways) can be found in the California Air Resources Board's *Air Quality and Land Use Handbook: A Community Health Perspective*, which can be found at: http://www.arb.ca.gov/ch/handbook.pdf. CARB's Land Use Handbook is a general reference guide for evaluating and reducing air pollution impacts associated with new projects that go through the land use decision-making process. Guidance[2] on strategies to reduce air pollution exposure near high-volume roadways can be found at: https://www.arb.ca.gov/ch/rd_technical_advisory_final.PDF.

Mitigation Measures

In the event that the Proposed Project generates significant adverse air quality impacts, CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized during project construction and operation to minimize these impacts. Pursuant to CEQA Guidelines Section 15126.4 (a)(1)(D), any impacts resulting from mitigation measures must also be discussed. Several resources are available to assist the Lead Agency with identifying potential mitigation measures for the Proposed Project, including:

- Chapter 11 of SCAQMD's CEQA Air Quality Handbook

[2] In April 2017, CARB published a technical advisory, *Strategies to Reduce Air Pollution Exposure Near High-Volume Roadways: Technical Advisory*, to supplement CARB's Air Quality and Land Use Handbook: A Community Health Perspective. This technical advisory is intended to provide information on strategies to reduce exposures to traffic emissions near high-volume roadways to assist land use planning and decision-making in order to protect public health and promote equity and environmental justice. The technical advisory is available at: https://www.arb.ca.gov/ch/landuse.htm.

- SCAQMD's CEQA web pages available here: http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/mitigation-measures-and-control-efficiencies
- SCAQMD's Rule 403 – Fugitive Dust, and the Implementation Handbook for controlling construction-related emissions and Rule 1403 – Asbestos Emissions from Demolition/Renovation Activities
- SCAQMD's Mitigation Monitoring and Reporting Plan (MMRP) for the 2016 Air Quality Management Plan (2016 AQMP) available here (starting on page 86): http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2017/2017-mar3-035.pdf
- CAPCOA's *Quantifying Greenhouse Gas Mitigation Measures* available here: http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf

Alternatives

In the event that the Proposed Project generates significant adverse air quality impacts, CEQA requires the consideration and discussion of alternatives to the project or its location which are capable of avoiding or substantially lessening any of the significant effects of the project. The discussion of a reasonable range of potentially feasible alternatives, including a "no project" alternative, is intended to foster informed decision-making and public participation. Pursuant to CEQA Guidelines Section 15126.6(d), the EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the Proposed Project.

SCAQMD Rule 1403 – Asbestos Emissions from Demolition/Renovation Activities

Since the Proposed Project would include demolition of a 27,000-square-foot warehouse and 20,000 square feet of parking, asbestos may be encountered during demolition. As such, SCAQMD staff recommends that the Lead Agency include a discussion to demonstrate compliance with SCAQMD Rule 1403 in the EIR.

Permits

In the event that the Proposed Project requires a permit from SCAQMD, SCAQMD should be identified as a responsible agency for the Proposed Project. For more information on permits, please visit SCAQMD webpage at: http://www.aqmd.gov/home/permits. Questions on permits can be directed to SCAQMD's Engineering and Permitting staff at (909) 396-3385.

Data Sources

SCAQMD rules and relevant air quality reports and data are available by calling SCAQMD's Public Information Center at (909) 396-2039. Much of the information available through the Public Information Center is also available at SCAQMD's webpage at: http://www.aqmd.gov.

SCAQMD staff is available to work with the Lead Agency to ensure that project air quality impacts are accurately evaluated and any significant impacts are mitigated where feasible. If you have any questions regarding this letter, please contact me at lsun@aqmd.gov or call me at (909) 396-3308.

Sincerely,

Lijin Sun

Lijin Sun, J.D.
Program Supervisor, CEQA IGR
Planning, Rule Development & Area Sources

LS
LAC180223-03
Control Number

Los Angeles LADWP Department of Water & Power

ERIC GARCETTI
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General Manager

March 20, 2018

RECEIVED
CITY OF LOS ANGELES
MAR 22 2018
MAJOR PROJECTS
UNIT

Mr. William Lamborn
City of Los Angeles, Department of City Planning
200 North Spring Street, Room 750
Los Angeles, CA 90012

Dear Mr. Lamborn:

Subject: Comment Letter Regarding the Notice of Preparation of an Environmental Impact Report (EIR) for the 676 Mateo Street Project

The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to review the Initial Study (IS) for the 676 Mateo Street Project. The mission of the LADWP is to provide clean, reliable water and power to the City of Los Angeles (City). In reviewing the IS, the LADWP has determined that the project may have impacts to water resources. The following comments reflect our review for matters related to water resources for the project. You may receive additional comments from other divisions at the LADWP separately referring to other respective areas.

Water Resources Comment:

PAGE B-56, XVIII. d) Utilities and Services Systems

The LADWP develops and updates our Urban Water Management Plan (UWMP) every five years. The UWMP is the planning document for future water demands for the City of Los Angeles. The UWMP identifies short-term and long-term water resources management measures to meet growing water demands during normal, single-dry, and multiple-dry years over a 20-year horizon. The City's water demand projection in the UWMP was developed based on the Regional Transportation Plan (RTP) demographic projection by the Southern California Association of Governments (SCAG).

In general, projects that conform to the demographic projection from RTP by SCAG and are currently located in the City's service area are considered to have been included in the LADWP's water supply planning efforts in the UWMP.

For any questions regarding the above comments, please contact Mr. Brian Gonzalez of my staff at (213) 367-2612 or at brian.gonzalez@ladwp.com.

Sincerely,

Charles C. Holloway
Manager of Environmental Planning and Assessment

BG:ns
c: Mr. Brian Gonzalez

FORM GEN. 160 (Rev. 8-12)

CITY OF LOS ANGELES

INTER-DEPARTMENTAL CORRESPONDENCE

RECEIVED
CITY OF LOS ANGELES
MAR 22 2018
MAJOR PROJECTS UNIT

DATE: March 8, 2018

TO: Vincent P. Bertoni, Director of Planning
Department of City Planning

Attn: William Lamborn, City Planner
Department of City Planning

FROM: Ali Poosti, Division Manager
Wastewater Engineering Services Division
LA Sanitation

SUBJECT: **676 MATEO STREET PROJECT - NOTICE OF PREPARATION OF ENVIRONMENTAL IMPACT REPORT**

This is in response to your February 23, 2018 letter requesting a review of your proposed mixed-use project located at 668-678 S. Mateo Street, 669-679 S. Imperial Street, Los Angeles, CA 90021. The project will consist of residential, commercial, and open space. LA Sanitation has conducted a preliminary evaluation of the potential impacts to the wastewater and stormwater systems for the proposed project.

WASTEWATER REQUIREMENT

LA Sanitation, Wastewater Engineering Services Division (WESD) is charged with the task of evaluating the local sewer conditions and to determine if available wastewater capacity exists for future developments. The evaluation will determine cumulative sewer impacts and guide the planning process for any future sewer improvement projects needed to provide future capacity as the City grows and develops.

Projected Wastewater Discharges for the Proposed Project:

Type Description	Average Daily Flow per Type Description (GPD/UNIT)	Proposed No. of Units	Average Daily Flow (GPD)
Existing			
Warehouse	30 GPD/1000 SQ.FT	27,000 SQ.FT	(810)
Proposed			
Residential: Unit 1-BDRM	110 GPD/DU	159 DU	17,490
Residential: Unit 3-BDRM	190 GPD/DU	26 DU	4,940
Commercial	50 GPD/1000 SQ.FT	23,380 SQ.FT	1,169
Open Space	50 GPD/1000 SQ.FT	15,320 SQ.FT	766
Total			**23,555**

SEWER AVAILABILITY

The sewer infrastructure in the vicinity of the proposed project includes an existing 8-inch line on South Mateo St. The sewage from the existing 8-inch line feeds into a 38-inch line on Bay St before discharging into a 40-inch sewer line on 8th St. Figure 1 shows the details of the sewer system within the vicinity of the project. The current flow level (d/D) in the 8-inch line and the 38-inch line cannot be determined at this time without additional gauging.

The current approximate flow level (d/D) and the design capacities at d/D of 50% in the sewer system are as follows:

Pipe Diameter (in)	Pipe Location	Current Gauging d/D (%)	50% Design Capacity
8	Mateo St.	*	245,921 GPD
38	Wilson St.	*	8.65 MGD
38	Bay St.	10	10.08 MGD
40	8 TH St.	24	11.25 MGD

* No gauging available

Based on the estimated flows, it appears the sewer system might be able to accommodate the total flow for your proposed project. Further detailed gauging and evaluation will be needed as part of the permit process to identify a specific sewer connection point. If the public sewer has insufficient capacity then the developer will be required to build sewer lines to a point in the sewer system with sufficient capacity. A final approval for sewer capacity and connection permit will be made at that time. Ultimately, this sewage flow will be conveyed to the Hyperion Water Reclamation Plant, which has sufficient capacity for the project.

If you have any questions, please call Christopher DeMonbrun at (323) 342-1567 or email at chris.demonbrun@lacity.org.

STORMWATER REQUIREMENTS

LA Sanitation, Watershed Protection Program (WPP) is charged with the task of ensuring the implementation of the Municipal Stormwater Permit requirements within the City of Los Angeles. We anticipate the following requirements would apply for this project.

POST-CONSTRUCTION MITIGATION REQUIREMENTS

In accordance with the Municipal Separate Storm Sewer (MS4) National Pollutant Discharge Elimination System (NPDES) Permit (Order No. R4-2012-0175, NPDES No. CAS004001) and the City of Los Angeles Stormwater and Urban Runoff Pollution Control requirements (Chapter VI, Article 4.4, of the Los Angeles Municipal Code), the Project shall comply with all mandatory provisions to the Stormwater Pollution Control Measures for Development Planning (LID Ordinance) and as it may be subsequently amended or modified. Prior to issuance of grading or building permits, the Applicant shall submit a LID Plan to the City of Los Angeles, Bureau of Sanitation, Watershed Protection Division (WPD), for review and approval. The LID Plan shall be prepared consistent with the requirements of the Development Best Management Practices Handbook.

Current regulations prioritize infiltration, capture/use, and then biofiltration as the preferred stormwater control measures. The relevant documents can be found at: www.lacitysan.org. It is advised that input regarding LID requirements be received in the early phases of the project from WPD's plan-checking staff.

GREEN STREETS

The City is developing a Green Street Initiative that will require projects to implement Green Street elements in the parkway areas between the roadway and sidewalk of the public right-of-away to capture and retain stormwater and urban runoff to mitigate the impact of stormwater runoff and other environmental concerns. The goals of the Green Street elements are to improve the water quality of stormwater runoff, recharge local ground water basins, improve air quality, reduce the heat island effect of street pavement, enhance pedestrian use of sidewalks, and encourage alternate means of transportation. The Green Street elements may include infiltration systems, biofiltration swales, and permeable pavements where stormwater can be easily directed from the streets into the parkways and can be implemented in conjunction with the LID requirements. Green Street standard plans can be found at: www.eng2.lacity.org/techdocs/stdplans/

CONSTRUCTION REQUIREMENTS

All construction sites are required to implement a minimum set of BMPs for erosion control, sediment control, non-stormwater management, and waste management. In addition, construction sites with active grading permits are required to prepare and implement a Wet Weather Erosion Control Plan during the rainy season between October 1 and April 15. Additionally, construction sites that disturb more than one-acre of land are subject to the NPDES Construction General Permit issued by the State of California, and are required to prepare, submit, and implement the Storm Water Pollution Prevention Plan (SWPPP).

If there are questions regarding the stormwater requirements, please call WPP's plan-checking counter at (213) 482-7066. WPD's plan-checking counter can also be visited at 201 N. Figueroa, 3rd Fl, Station 18.

GROUNDWATER DEWATERING REUSE OPTIONS

The Los Angeles Department of Water and Power (LADWP) is charged with the task of supplying water and power to the residents and businesses in the City of Los Angeles. One of the sources of water includes groundwater. The majority of groundwater in the City of Los Angeles is adjudicated, and the rights of which are owned and managed by various parties. Extraction of groundwater within the City from any depth by law requires metering and regular reporting to the appropriate Court-appointed Watermaster. LADWP facilitates this reporting process, and may assess and collect associated fees for the usage of the City's water rights. The party performing the dewatering should inform the property owners about the reporting requirement and associated usage fees.

On April 22, 2016 the City of Los Angeles Council passed Ordinance 184248 amending the City of Los Angeles Building Code, requiring developers to consider beneficial reuse of groundwater as a conservation measure and alternative to the common practice of discharging groundwater to the storm drain (SEC. 99.04.305.4). It reads as follows: "Where groundwater is being extracted and discharged, a system for onsite reuse of the groundwater, shall be developed and constructed. Alternatively, the groundwater may be discharged to the sewer."

Groundwater may be beneficially used as landscape irrigation, cooling tower make-up, and construction (dust control, concrete mixing, soil compaction, etc.). Different applications may require various levels of treatment ranging from chemical additives to filtration systems. When onsite reuse is not available the groundwater may be discharged to the sewer system. This allows the water to be potentially reused as recycled water once it has been treated at a water reclamation plant. If groundwater is discharged into the storm drain it offers no potential for reuse. The onsite beneficial reuse of groundwater can reduce or eliminate costs associated with sewer and storm drain permitting and monitoring. Opting for onsite reuse or discharge to the sewer system are the preferred methods for disposing of groundwater.

To help offset costs of water conservation and reuse systems, LADWP offers the Technical Assistance Program (TAP), which provides engineering and technical assistance for qualified projects. Financial incentives are also available. Currently, LADWP provides an incentive of $1.75 for every 1,000 gallons of water saved during the first two years of a five-year conservation project. Conservation projects that last 10 years are eligible to receive the incentive during the first four years. Other water conservation assistance programs may be available from Metropolitan Water District of Southern California. To learn more about available water conservation assistance programs, please contact LADWP Rebate Programs 1-888-376-3314 and LADWP TAP 1-800-544-4498, selection "3".

For more information related to beneficial reuse of groundwater, please contact Greg Reed, Manager of Water Rights and Groundwater Management, at (213)367-2117 or greg.reed@ladwp.com.

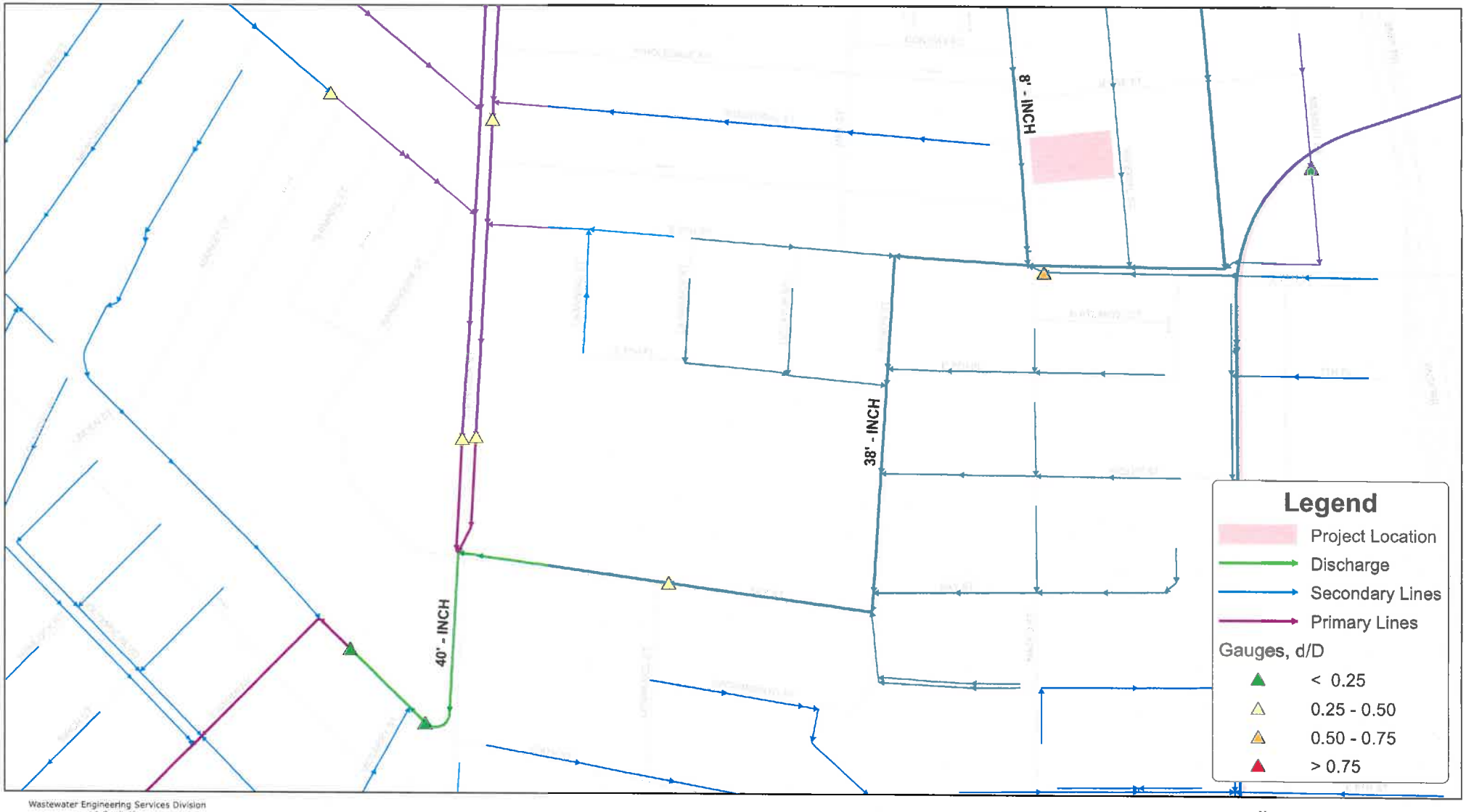
SOLID RESOURCE REQUIREMENTS

The City has a standard requirement that applies to all proposed residential developments of four or more units or where the addition of floor areas is 25 percent or more, and all other development projects where the addition of floor area is 30 percent or more. Such developments must set aside a recycling area or room for onsite recycling activities. For more details of this requirement, please contact LA Sanitation Solid Resources Recycling hotline 213-922-8300.

CD/AP: sa

Attachment: Figure 1 – Sewer Map

c: Kosta Kaporis, LASAN
Christopher DeMonbrun, LASAN



Wastewater Engineering Services Division
LA Sanitation
City of Los Angeles

Figure 1
676 Mateo Street Project
Sewer Map

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W E
S

0 140 280 560 840 1,120
Feet

Thomas Brother Data reproduced with permission granted by THOMAS BROS MAP

Connect Create Collaborate

William Lamborn <william.lamborn@lacity.org>

676 Mateo Street Project

Tiffany Steffens <tiffany@monotoneinc.com> Mon, Feb 26, 2018 at 2:29 PM
To: "william.lamborn@lacity.org" <william.lamborn@lacity.org>

Dear Mr. Lamborn,

I'm writing you regarding the above mentioned property that I received notice about. I have lived at the Toy Factory Lofts located at Mateo and Industrial Streets, almost directly across the street from this proposed new development, for almost 14 years so I've obviously seen a lot change in the neighborhood during this time. That being said, not all has been positive, and I'm finding it increasingly more often that city officials aren't taking into account the neighborhood and those existing communities that are directly affected by these new builds, but instead only seem to have developers interest and money in mind.

There are already numerous other loft buildings currently being built in the area and once those vacancies are filled I can only imagine how the traffic is going to get increasingly worse than it is currently, already being an extreme nuisance as well as a health and safety issue at our building because of the bridge also being torn down and drivers having total disregard for pedestrian cross walks and the fact that Industrial Street is a one way street that is constantly being driven down in the wrong direction. The exhaust from cars stuck in gridlock traffic outside of my window inevitably penetrates into my home causing increasing allergens and cancer causing materials to affect my health.

The Arts District is being looked at like a cash cow and soon the reason that folks like to visit the area won't matter because there is no parking, bad traffic and many, many years of car break ins that still go unresolved. I am not against development of our neighborhood but I am against development without its residents in mind. Please re-develop current buildings and stop destroying all of the original character our neighborhood has. We don't need another homogenized neighborhood that looks like all of the rest.

We already have to live through years of bridge construction that involves noise and air pollution but at least with that there is a positive outcome in the end as it reunites us with our neighbors in Boyle Heights and takes more cars off of our local streets that commuters are now using to get to the other bridges. Adding more apartments to the area is only going to increase all of the negatives and not the positives because you aren't able to build more roads and create more parking spaces for everyone along the way.

Also, please take into account all of the building that's happened in downtown in the last 5 years, now resulting in more apartments than there are people to fill them. We don't need that to be a problem in our area as well.

Thanks for taking the time to read this and I hope you will consider how approving all of these new loft buildings is affecting our tiny community.

Kind regards,

Tiffany Steffens

1855 Industrial Street #320

Los Angeles, CA 90021

Tiffany Steffens | **MONOTONE, INC.** | 820 Seward Street, Los Angeles, CA 90038 | O: 323-450-4593
LBI ENTERTAINMENT | 2000 Avenue of the Stars, Los Angeles, CA 90067

LAW OFFICE OF JOHN P. GIVEN
2461 Santa Monica Blvd., #438
Santa Monica, CA 90404
john@johngivenlaw.com
(310) 471-8485

March 27, 2018

VIA HAND DELIVERY and EMAIL to william.lamborn@lacity.org

William Lamborn
City of Los Angeles
Department of City Planning
200 N. Spring St., Suite 750
Los Angeles, CA 90012

RE: Scoping Comments for ENV-2016-3691-EIR
Project address: 676 Mateo Street (668-78 S. Mateo St., 669-679 S. Imperial St.)

Dear Mr. Lamborn:

Thank you for the opportunity to provide scoping comments for environmental review of the above-captioned 676 Mateo Street Project (the "Project"). In preparation for this letter I have reviewed the Project's Notice of Preparation and February 2018 Initial Study and Appendix and a variety of other documents as cited herein. This letter is intended to provide brief general comments with respect to the appropriate scope of the Draft Environmental Impact Report ("DEIR"), but should not be construed as an exhaustive review of all potentially significant impacts not yet studied or identified.

As a preliminary matter, please provide notice for all hearings, actions, events, and decisions related to the project at the above mail and/or email addresses, as appropriate.

I. Comments on Initial Study Attachment A.

A. Project Description and Environmental Setting.

The Project proposes the demolition of the existing structures on the Project site (a warehouse building and surface parking), and the construction of up to 197,355 square foot predominantly residential mixed-use building containing up to 185 live/work units on a 1.03-acre site. The Project proposes approximately 15,320 square feet of residential open space and recreational amenities. The commercial area of the project includes up to 23,380 square feet of commercial uses. The Project proposes approximately 270 parking spaces and 228 bicycle parking spaces. Approximately 20 live/work units would be deed-restricted for Very Low Income households (eleven percent of the live/work units). The structure would be up to 110 feet tall (8 stories) with a three-level subterranean parking structure. The resulting Floor Area Ratio of the Project (FAR) as proposed would be 4.74:1, more than tripling the existing 1.5:1 FAR. (ISA, p. A-6.)

The Initial Study correctly notes that the Project site is located within the Arts District. (Initial Study, Attachment A, p. A-2.)[1] It also states "the majority of properties in the surrounding area are designated and zoned heavy industrial and manufacturing." (IS, p. 1.) To be more clear, every parcel located between Alameda Street to the west, the Los Angeles River to the east, 4th Place and 4th Street to the north, and the I-10 Freeway to the south, is zoned M3-1-RIO, except for several public facility zoned parcels, and three parcels that recently received General Plan Amendments to allow a land use designation of Regional Commercial and Zone Changes to some form of C2. Two of those are the Firehouse Hotel, an adaptive reuse of a vacant historic firehouse into a ten-room boutique hotel located at 710 S. Santa Fe Avenue, and a project at 400 S. Alameda Street, an adaptive reuse of a manufacturing building into a 66-room boutique hotel.[2]

The third project, the only one of the three not an adaptive reuse project, is a major residential mixed-used project located at 1525 Industrial Street, which approved 344 live/work units in new construction and 29,500 square feet of commercial uses in an approximately 336,304 square foot project located on a 2.59 acre parcel. That project is located outside the Arts District boundaries, and its approval by the City has been challenged in Los Angeles Superior Court. (*Arts District Community Council Los Angeles, et al. v. City of Los Angeles (Camden)*, BS172014, filed January 16, 2018.)

Construction of live/work spaces in new ground up construction has never been permitted in the immediate vicinity of the Project site by the City of Los Angeles, save for the challenged 1525 Industrial project. The Initial Study acknowledges that live/work uses are available in the Arts District in the M3 zone only as an adaptive reuse. (ISA pp. A-1-2; *see* Los Angeles Municipal Code ("LAMC") § 12.24.X.13.) Residential uses are not otherwise permitted within the M3 zone. (LAMC § 12.20.A.1(b).)

All of the properties in the project vicinity are industrially zoned and designated, but for several public facilities-zoned parcels, two small boutique hotels approved as adaptive reuse projects, and a third large mixed-use project that is outside the Arts District boundaries and currently being challenged. Thus, while it may be technically correct to say that the "the majority of properties in the surrounding area" retain their industrial designation and zoning, the implication is that many properties do not, supporting an inference that the redesignated and zoned Project site would be similar to other nearby properties. As the discussion above shows, this implication is incorrect and is likely to confuse community members and decisionmakers. The reality is that the Project, if approved, would represent a small island of C2 zoned land within a vast sea of M3 industrially zoned parcels. The DEIR should be drafted so as not to create an inference that the Project is just like other nearby parcels that include live/work uses created through the adaptive reuse process, which is likely to mislead decisionmakers and members of the public.

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[1] All references herein are to the Initial Study ("IS"), Attachment A ("ISA"), or Attachment B ("ISB") unless otherwise designated.

[2] *See* City Planning Cases CPC-2017-536-GPA-VZC-CUB-CUX and CPC-2016-3655-GPA-ZA-HD-CUB-ZAA-SPR, respectively.

B. Project Characteristics.

The Initial Study describes that "[t]he Project has been designed to incorporate specific design standards the City has developed to address the Arts District's unique urban form and architectural characteristics." (ISA, p. A-5.) The Initial Study references Los Angeles Ordinance 184099 and notes the ordinance was ordered set aside in a recent Los Angeles Superior Court decision. (*Ibid*., note 3.) The HI Zone ordinance was repealed by Los Angeles Ordinance 185423 on January 31, 2018. Section 1 of the repeal ordinance states in its entirety:

> "Ordinance No. 184,099, which established an "HI" Hybrid Industrial Live/Work Zone in the City's Zoning Ordinance, is repealed."[3]

The Initial Study also notes that the Project was "*required* to incorporate the design standards set forth in the Hybrid Industrial Ordinance . . ." (ISA, p. A-5, note 3 (emphasis added).) Thus, the Project is properly regarded as a Hybrid Industrial project, even though the HI Zone ordinance has been repealed.[4] What the Initial Study fails to disclose is the Court's reasoning in requiring the HI Zone ordinance to be set aside, which is the City's failure to undertake adequate environmental review of the HI Zone ordinance itself. As the Court's final ruling made clear, it was not sufficient that future projects would analyze their own environmental impacts, it was also necessary to consider whether the ordinance "may cause reasonably foreseeable indirect changes in the environment."[5] But the City has never undertaken a program-level environmental review of the HI Zone, whether during its consideration of that ordinance, or while allowing numerous projects to submit HI Zone-like project applications.

Before the City may approve HI Zone-like project applications such as the 676 Mateo Project, regardless how the City or applicant proposes they be zoned or their land use designated, it must first undertake appropriate program-level review of potentially significant environmental impacts of the program, consistent with the Court's ruling in the HI Zone case.

The Initial Study discloses that the Project will require numerous land use entitlements, including a General Plan Amendment to change the land use designation of the site to Regional Center Commercial from Heavy Industrial, a Vesting Zone Change from the M3 Zone to the C2 Zone, a Height District Change from Height District No. 1 to Height District No. 2, Site Plan Review, Density Bonus to reduce the required open space by twenty percent, a Vesting Tentative Tract Map to merge and re-subdivide commercial spaces and live/work condominium spaces, a deviation from parking requirements, certification of an EIR, and other approvals as required by the City. (ISA, p. A-14.)

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[3] The repeal ordinance is available online at: http://clkrep.lacity.org/onlinedocs/2015/15-1013_ORD_185423_03-25-2018.pdf.

[4] *See also* ISB, pp. B-14-15 (additional discussion of the intention that the Project comply with provisions of the now-repealed HI Zone ordinance with respect to height and massing).

[5] *See Bar-Zemer, et al. v City of Los Angeles* (BS161448), Final Ruling (April 11, 2017), pp. 13-14. A copy of the entire ruling is attached as Exhibit A.

Based on the Project's land use entitlement requests for a General Plan Amendment and certification of an Environmental Impact Report (*ibid.*), the Project meets the California Environmental Quality Act ("CEQA") definition for a "Project of Statewide, Regional, or Areawide Significance." (CEQA Guidelines § 15206(b)(1).) The lead agency must therefore submit the DEIR to the State Clearinghouse for review and comment by responsible state agencies, and should also submit the DEIR to the Southern California Association of Governments for its review and comment. (CEQA Guidelines §§ 15205(b)(3), 15206(a)(1).) In addition, CEQA encourages the lead agency to contact responsible state agencies, and the CEQA Guidelines require the lead agency to "consult with transportation planning agencies and public agencies that have transportation facilities within their jurisdictions that could be affected by the project." (Pub. Res. Code § 21092.4.)

II. Comments on Initial Study Attachment B.

A. General Comments.

The Initial Study's assessment of the environmental analysis areas requiring additional study in the DEIR is generally very thorough. It identifies 11 of 15 standard analysis categories requiring further study. (IS, p. IS-3.) The categories where the Initial Study asserts no additional environmental review is required are Aesthetics, Agriculture and Forestry Resources, Biological Resources, and Mineral Resources.

The analysis of the Aesthetics category discloses no potentially significant aesthetic impacts, but the Initial Study also asserts that the Project is exempt from analysis of aesthetics and parking impacts under SB 743 / Public Resources Code section 21099 (because it is an infill mixed-used residential project located within a Transit Priority Area). (ISB, p. B-1.) This analysis may be absolutely correct, but the Initial Study does not present sufficient evidence to evaluate the conclusion. Presumably additional documentation is available to adequately support the conclusion within the Project application file.

B. Comments on the Land Use and Planning analysis category.

With respect to the Land Use and Planning analysis category, the Initial Study asserts that an evaluation of subcategory (b) is required to determine whether the Project would "conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect." (ISB, p. B-42.) The Initial Study lists two factors reflecting the scope of necessary review. (*Ibid.*, *see also* LA CEQA Thresholds Guide p. H.1-2.)[6] These two factors generally require analysis of the proposed Project's consistency with applicable General Plan components and other adopted environmental goals and policies.

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[6] The LA CEQA Thresholds Guide is available online at http://planning.lacity.org/Documents/MajorProjects/CEQAThresholdsGuide.pdf.

The brief discussion of further study required omits discussion of the three screening criteria found in LA CEQA Thresholds Guide section H.2. At least two of these require further study. They ask:

> "Would the project include a land use type that is incompatible with existing or proposed adjacent land uses (due to size, intensity, density or type of use)?" (LA CEQA Threholds Guide, p. H.2-1.)
>
> And:
>
> "Would the project result in a "spot" zone?" (*Id.*, p. H.2-2.)

As discussed above, the proposed Project calls for a C2 Regional Commercial land use within a sea of M3 Industrial parcels, and thus answers to both screening criteria must be answered in the affirmative and both require further study in the DEIR.[7]

The DEIR should include a thorough discussion and analysis of the availability and appropriateness of a General Plan Amendment, taking into consideration the ongoing Community Update Plan process for the Central City North Community Plan. (*See* http://www.dtla2040.org/news--events, showing the public process for the community plan update has been ongoing for some time, including the scoping process, which preceded this Project's scoping process by approximately one year; the City should update the community on the status of this apparently stalled community plan update, since the proposed Project appears to be inconsistent with both the existing community plan and the currently proposed community plan with respect to the Project site's land use designation and zoning.)

The DEIR should include a thorough analysis of the consistency of the proposed Zone Change and Height District Change relative to the *existing* general plan as well as to the currently proposed draft of the Central City North Community Plan (see link above).

The DEIR should include a thorough analysis of the availability and appropriateness of a Vesting Tentative Tract Map for a Project that is inconsistent with the existing and currently proposed update to the General Plan.

The DEIR should include a thorough analysis of the "spot zone" that will result from approval of the Project.

C. Mandatory Findings of Significance.

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[7] In considering the appropriate response to the screening criterion for a "spot zone," the DEIR should be careful to utilize the definition found within the LA CEQA Thresholds Guide, and not some other definition. (*See* LA CEQA Threshold Guide, p. H.2-4 ["A "spot" zone occurs when the zoning or land use designation for only a portion of a block changes, or a single zone or land use designation becomes surrounded by more or less intensive land uses."].)

The Initial Study acknowledges that there may be significant cumulative impacts when the Project is considered in connection with related (past, current, and probable future) projects. (ISB, p. B-57.) The cumulative impact analysis should include consideration of the diminution in industrially zoned and designated land, and whether due to that diminution there may be cumulative secondary impacts in other parts of the City and region due to displacement of industrial uses. (*See Muzzy Ranch Co. v. Solano County Airport Land Use Com.* (2007) 41 Cal.4th 372, 383 [noting that impacts from foreseeable displaced development are properly reviewable under CEQA]; *see also Bar-Zemer v. City of LA*, Final Ruling, pp. 27-32, supra note 5.)

The proposed Project site is located within a Los Angeles community that has seen unusually high development activity in recent years. The list of related projects whose cumulative impacts must be considered along with the Project when determining whether total impacts are "cumulatively considerable" must be carefully compiled in order to be thorough. In addition to individual development projects, the related project list should include the ongoing Central City North Community Plan Update, whose own scoping process preceded the Project's by approximately one year. (*See* discussion supra, p. 5.)

III. Conclusion

Thank you for the opportunity to provide these comments.

Sincerely,

John P. Given

EXHIBIT A

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 04/11/17			DEPT. 82
HONORABLE MARY H. STROBEL	JUDGE	N. DIGIAMBATTISTA	DEPUTY CLERK
HONORABLE 10	JUDGE PRO TEM		ELECTRONIC RECORDING MONITOR
B. HALL C/A	Deputy Sheriff	B. JAMES CSR# 9296	Reporter

9:30 am	BS161448	Plaintiff Counsel	JOHN P. GIVEN (x)
	YUVAL BAR-ZEMER ET AL VS CITY OF LOS ANGELES	Defendant Counsel	KATHRYN PHELAN (X) JOHN FOX (x)
	CEQA		

NATURE OF PROCEEDINGS:

HEARING ON PETITION FOR WRIT OF MANDATE

Matter comes on for hearing and is argued.

Petitioner's exhibit 1 (administrative record) is admitted into evidence. The court takes the matter under submission.

LATER: The court rules as follows:

Petitioners Yuval Bar-Zemer, Mark Borman, Paul Solomon, Arts District Community Council LA, and Los Angeles River Artists and Business Association ("Petitioners") seek a writ of mandate compelling Respondent City of Los Angeles ("Respondent" or "City") to set aside its adoption of the Hybrid Industrial Live/Work Zone ordinance ("HI Zone Ordinance" or "Ordinance"). Petitioners contend that the HI Zone Ordinance is a project under CEQA, and that Respondent erred in determining that adoption of the Ordinance is exempt from environmental review.

Judicial Notice

Petitioners' Exhibits A-F - Granted. (Evid. Code § 452(b), (c), (f).)

Respondent's Exhibits A-V - Granted. (Evid. Code § 452(b), (c), (f).)

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04/11/17
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SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 04/11/17			DEPT. 82
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	CEQA		

NATURE OF PROCEEDINGS:

Petitioners' Supplemental RJN, filed 3/23/17, Exhibits A-C - Granted. 1 (Evid. Code § 452(b), (c), (f).)

Statement of the Case
City's Adoption of the HI Zone Ordinance

On June 10, 2015, City released the draft HI Zone Ordinance, which evolved out of a prior initiative to develop tailored guidance for live-work housing in new construction within the Arts District in Downtown Los Angeles. (AR 62, 97, 131.) On August 13, 2015, the City Planning Commission held a public hearing on the issue and recommended that the City adopt the ordinance. (AR 196-197, 298-299.) After hearings, the Planning and Land Use Management (PLUM) Committee of the City Council recommended adoption of the Ordinance with amendments. (AR 153-154.) On February 10, 2016, the City Council adopted the Ordinance. (AR 30-31.)

The HI Zone Ordinance established a "Hybrid Industrial Live/Work Zone in order to enable and regulate live/work uses in areas of the City with a General Plan land use designation of Hybrid Industrial." (AR 30.) The Ordinance added a new zone, the HI Hybrid Industrial Live/Work Zone (HI Zone), to the list of 35 existing zones; added development standards for the new HI Zone; and added

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a new definition for "Live/Work Unit." (AR 10-28; see also AR 2-6 [CEQA narrative] and 51-52 [staff report].)

The Ordinance explains the purpose of the HI Zone as follows:

1. The purpose of this Zone is to regulate live/work and nonresidential uses in areas of the City with a General Plan land use designation of Hybrid Industrial as a means to preserve land for jobs and to foster job creation.
2. The use regulations of this Section are intended to delineate permitted, limited and prohibited uses that preserve the productive functions of industrial mixed use areas ... and generate jobs.
3. The development standards of this Section are intended to facilitate the creation of new live/work units and productive space in hybrid industrial areas in the City in a manner that preserves the surrounding industrial and artistic character .... These standards are meant to create a mix of productive and industrial spaces and encourage the reuse of existing structures. (AR 13-14.)

The HI Zone Ordinance did not rezone any land to the HI Zone. (AR 10-28; see also AR 2-6 [CEQA narrative]

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and 51-52 [staff report].) Rezoning land to the HI Zone requires the City to amend the City's Zoning Map to designate the land with the HI Zone. (AR 14.) Applications for a change of zone to the HI Zone are limited to properties that are (1) located in an industrial zone; and (2) located in an area in which the corresponding Community Plan General Plan Land Use Map includes the Hybrid Industrial land use designation. (Ibid.)

The City's General Plan land use element is broken into 35 community plans with 35 land use maps. (AR 36.) With two exceptions, none of the City's Community Plan Land Use Maps currently include a hybrid industrial land use designation or identify the HI Zone as a corresponding zone. (AR 51.) The two exceptions, the Central City North Community Plan (CCNCP) and the Northeast Los Angeles Community Plan (NELACP) have parcels with the Hybrid Industrial land use designation. (AR 36.) The HI Zone designation has not yet been given to any parcels in the Arts District, Palms/Mar Vista, Westchester-Playa del Rey or the Venice Community Plan areas, "despite these areas being identified by members of the public as possible suitable locations for the hybrid industrial designation." (AR 36.) According to a staff analysis, "Future Community Plan updates may identify additional areas for the Hybrid Industrial Land Use designation, and the proposed HI Zone would provide an option for

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implementing such policies." (AR 51, 124.)

The staff report identifies the following "permitted uses" under the Ordinance: "The proposed zone would allow a mix of light industrial, commercial, live/work and hotel uses. It establishes standards for live/work units, requires a minimum amount of space for 'Arts and Productive Uses' non-residential square footage (at a ratio of 200 square feet per unit); requires an onsite Resident Production or Art Gallery Space at a minimum of 500 square feet; and allows hotels with a maximum of 100 guest rooms. 2The ordinance also establishes size limitations for retail and restaurant uses to promote neighborhood-serving establishments; however, only 50% of retail and restaurant uses count toward the minimum square footage requirements for Arts and Productive Uses as a means to promote job generation beyond service jobs." (AR 53.)

CEQA Determination for the HI Zone Ordinance

After conducting preliminary CEQA analysis, the City approved the HI Ordinance and determined the adoption of the HI Ordinance was exempt from CEQA under the "common sense exemption" (Guidelines, section 15061(b)(3)), and the Class 6 categorical exemption (Guidelines, Section 15306). (AR 1, 7-9.)

The Arts District; and the Proposed Interim Arts

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 04/11/17			DEPT. 82
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HONORABLE 10	JUDGE PRO TEM		ELECTRONIC RECORDING MONITOR
B. HALL C/A	Deputy Sheriff	B. JAMES CSR# 9296	Reporter

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	CEQA		

NATURE OF PROCEEDINGS:

District Live/Work Zone Ordinance

The HI Zone Ordinance "evolved out of a prior initiative to develop tailored guidance for live/work housing in new construction within the Arts District in Downtown Los Angeles." (AR 58.) As explained in a staff report, "The Arts District is located in the Central City North Community Plan Area and has a legacy of a creative and entrepreneurial resident community. Due to the nature of activities present in this historically industrial area, the ILUP Study [Industrial Land Use Policy Study of 2007] identified the Arts District as an 'industrial Mixed Use District,' among a range of locations around the City, including areas in Central City, West Los Angeles and Hollywood - Wilshire. As such, the Hybrid Industrial Live/Work Zone took cues from the insight and analysis collected as part of this prior policy initiative." (AR 58.)

In early 2014, the City embarked on a policy initiative "specifically tailored for the Arts District" to allow live/work units in new construction for the first time (AR 16205, 16207.) The policy initiative applied only to the Artists-in-Residence (A-I-R) Study Area, which included both the historic Arts District and an expansion into an adjacent area between 6th Street and 7th Place east of Alameda Street. (AR 15815,

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16132, 16519.)
Draft language for the "Interim Arts District Live/Work Zone" ordinance was released during the summer of 2014. (AR 15759-70.) The temporary interim zone would have allowed only a "limited number of new units" while the City "create[d] a permanent zone as part of the Community Plan Update." (AR 16205.)

City issued an initial study/mitigated negative declaration for the interim zone and two mixed-use live work projects. (AR 16488.) A hearing on the Arts District Policy Initiative before the City Planning Commission was cancelled. (AR 17162.) It appears from the record that the interim ordinance did not proceed further in the administrative process. (AR 17740.)

Procedural History

On March 16, 2016, Petitioners filed a petition for writ of mandate. On November 10, 2016, Respondent filed an answer. The court has received Petitioners' opening brief, Respondent's opposition, Petitioners' reply, the joint appendix, and the administrative record.

Violation of Rule of Court

In citing UMMP v. City of San Diego (2016) 4

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Cal.App.5th 103, City did not "note the grant of review and any subsequent action by the Supreme Court," as required by California Rule of Court, Rule 8.1115(e)(1). City's counsel should be prepared to explain at the hearing why the grant of review was not disclosed in the opposition brief.

Standard of Review

In an action challenging an agency's decision under CEQA, the trial court reviews the agency's decision for a prejudicial abuse of discretion. (Pub. Res. Code, § 21168.5.) "Abuse of discretion is established if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence." (Ibid.; see also Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, 435.)

Substantial evidence is defined as "enough relevant evidence and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." (Title 14 Cal. Code Regs. ("CEQA Guidelines") § 15384(a).) An agency is presumed to have regularly performed its official duties. (Evidence Code § 664.) "The reviewing court must resolve reasonable doubts in favor of the administrative finding and decision." (Laurel

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Heights Improvement Association v. Regents of the University of California (1988) 47 Cal.3d 376, 393.)

Analysis

CEQA uses a three-tiered process. The first tier is jurisdictional and concerns whether the activity is a "project." (Muzzy Ranch Co. v. Solano County Airport Land Use Com'n (2007) 41 Cal.4th 372, 380.) "The second tier concerns exemptions from CEQA review." (Ibid.) If a public agency properly finds that a project is exempt from CEQA, no further environmental review is necessary and the agency need only prepare and file a notice of exemption, as City did in this case. (Ibid.) If a project does not fall within an exemption, the agency must "conduct an initial study to determine if the project may have a significant effect on the environment." (Ibid.) "CEQA's third tier applies if the agency determines substantial evidence exists that an aspect of the project may cause a significant effect on the environment. In that event, the agency must ensure that a full environmental impact report is prepared on the proposed project." (Id. at 381.)

This writ petition concerns the first two tiers. Petitioners contend that the HI Zone Ordinance is a project under CEQA, and that City erred in determining that adoption of the Ordinance is exempt

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from environmental review. Although a Planning Commission report suggested that adoption of the Ordinance was not a project (see AR 76), the final CEQA determination referred to the Ordinance as a "project" under CEQA. (AR 7.) In any event, City now argues in opposition that the Ordinance is not a CEQA project, and that City made a no-project determination. (Oppo. 6.) City also contends that it correctly found that the adoption of the Ordinance is exempt under the common sense exemption and the Class 6 categorical exemption. (Oppo. 7-14.)

Is Adoption of the Ordinance a Project?

"Project" is defined as an "activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment...." (Pub. Resources Code § 21065; see also CEQA Guidelines § 15378.) "Activity" includes "[a]n activity directly undertaken by any public agency." (§ 21065(a).)

"'Project' is given a broad interpretation ... to maximize protection of the environment.' [Citation.] 'Project' refers to 'the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment....' (Cal.Code Regs., tit. 14, § 15378, subd. (a), italics added.)" (Riverwatch v.

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Olivenhain Mun. Water Dist. (2009) 170 Cal.App.4th 1186, 1203.)

"Whether an activity is a project is an issue of law that can be decided on undisputed data in the record ...." (Muzzy Ranch, supra at 381-382.) "Whether an activity constitutes a project subject to CEQA is a categorical question respecting whether the activity is of a general kind with which CEQA is concerned, without regard to whether the activity will actually have environmental impact." (Ibid.) Based on this authority, the court disagrees with City's assertion that the issues of whether the Ordinance is a project and whether the common sense exemption applies are identical. (See Oppo. 7.) While the issues may overlap conceptually, the court does not analyze exemptions unless the activity is a CEQA project.

"Ordinances passed by cities are clearly activities undertaken by a public agency and thus potential 'projects' under CEQA." (Union of Medical Marijuana Patients, Inc. v. City of Upland (2016) 245 Cal.App.4th 1265, 1272 ("City of Upland"); see also CEQA Guidelines § 15378(a).)

Petitioners assert that the HI Zone Ordinance is "categorically" a CEQA project for the sole reason it is a zoning ordinance. (See Opening Brief (OB) 6.) Public Resources Code section 21080(a)

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provides, in part, as follows: "Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, ..."
Although not cited by the parties, the Court of Appeal in Upland, supra held that a city ordinance prohibiting mobile medical marijuana dispensaries was not a project under CEQA. 3 (See Upland, supra.) The Upland court stated that when the potential physical changes in the environment are "too 'speculative or unlikely' to be considered 'reasonably foreseeable,' then the ordinance is 'not a project subject to CEQA.'" (Upland, supra at 1276; see CEQA Guidelines § 15064(d)(3).) However, Petitioners cite contrary authority which suggests that zoning ordinances, and other activities listed in Public Resources Code section 21080(a), are "categorically" CEQA projects. (See Rominger v. County of Colusa (2014) 229 Cal.App.4th 690, 702.)

In the opposition brief, City relies heavily on another recent case filed by the Union of Medical Marijuana Patients ("UMMP"), and decided by the same appellate panel which decided Upland, which interpreted Public Resources Code section 21080(a). In that case the court held that zoning ordinances do not qualify as CEQA projects unless they have the potential for resulting in a physical change to the

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environment. (See Oppo. 5-14; see UMMP v. City of San Diego (2016) 4 Cal.App.5th 103, 116-118.) The California Supreme Court granted review of the UMMP case on January 11, 2017. The UMMP case therefore has no binding or precedential effect. (Rule 8.1115(e)(1).) Because the Supreme Court has not issued an order to the contrary, the UMMP opinion may be cited "for potentially persuasive value only" while review is pending. 4 (Ibid.)

The court need not decide whether all zoning ordinances are categorically CEQA projects. Based on the undisputed record, the court concludes that the HI Zone Ordinance is "of a general kind with which CEQA is concerned, without regard to whether the activity will actually have environmental impact." (Muzzy Ranch, supra at 381-382.)

In staff analysis regarding CEQA, City stated: "The proposed ordinance adds a new zone to the Zoning Code and is not a project under the CEQA Guidelines because there is no development, change in land use, intensity or density proposed as part of this project. Future plan amendments and/or rezoning actions to use this new zone will require future environmental review." (AR 61.) 5 City has made similar arguments in its opposition brief. Respondent appears to be analyzing only the direct effects of adoption of the ordinance, without considering whether it may cause reasonably

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foreseeable indirect physical changes in the environment.

"That further governmental decisions need to be made before a land use measure's actual environmental impacts can be determined with precision does not necessarily prevent the measure from qualifying as a project." (Muzzy Ranch, supra at 383.) It is also not controlling that future environmental review is contemplated or even required. (Bozung v. Local Agency Formation Com. (1975) 13 Cal.3d 263, 282.)

The HI Zone could be adopted in select industrial areas throughout the City. 6 The Central City North Community Plan and the Northeast Los Angeles Community Plan already have parcels with the Hybrid Industrial land use designation. (AR 36.) City and members of the public have identified other areas, including the Arts District, "as possible suitable locations for the hybrid industrial designation." (AR 36.) At the administrative hearing, City staff stated that the HI Zone "ordinance would be applicable only to select industrial areas" including the Arts District. (AR 212-13; see also AR 221.) At a Planning Commission meeting, Director of Planning Michael LoGrande testified that the "primary users of this new ordinance, assuming it's adopted, will be this area downtown known as the Arts District." (AR 273.) Other testimony of Director LoGrande suggested the likelihood that the

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HI Zone would be used in development, and the challenges in modifying the zone later:

> [W]e're trying to strike a balance [in the ordinance]. It may seem aggressive at this point [referring to a limitation on hotel rooms]. I think it [the HI Zone] will be highly utilized, especially in the hot real estate market we're seeing in these transitional areas, but also it's the type of thing we might need to come back in a year or two and say let's re-evaluate some of these goals and objectives, and did we get the sweet point right. It's going to be very hard, in development in Los Angeles, to go back and make it more stringent.... [T]o make it stronger, after it's in place, is almost impossible. (AR 293-94.)

Under these circumstances, the court concludes that adoption of the ordinance is a project within the meaning of CEQA. It is an activity undertaken by a public agency which may cause a reasonably foreseeable indirect physical change in the environment.

In the non-precedential UMMP case cited by Petitioners, as well as the precedential City of Upland case, the courts found that medical marijuana ordinances were not "projects" based on analyses of

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the likely effects of the ordinances. In City of Upland, for instance, the ordinance "merely restate[d] the prohibition on mobile dispensaries that was first imposed" by a prior ordinance from 2007. (Id. at 1273.) These cases do not support City's argument that the Ordinance is not a project simply because future zoning changes and CEQA review may be required. City has not argued that the HI Zone, if used in areas throughout the City such as the Arts District, would not impose new development standards or have a potential to result in reasonably foreseeable indirect physical change in the environment. City's opposition largely rests on the argument that further CEQA review is required, but that is not a sufficient basis to find that the Ordinance is not a project. (See Bozung v. Local Agency Formation Com. (1975) 13 Cal.3d 263, 282; California Unions for Reliable Energy v. Mojave Desert AQMD (2009) 178 Cal.App.4th 1225, 1242.)

City also cites to Christward Ministry v. Sup. Ct. (1986) 184 Cal.App.3d 180, which held in part that an agency was not required to do CEQA analysis on the siting of solid waste facilities in all areas of a 4000 acre community plan, where the new land use designation applied only to a 202-acre sanitary landfill and a general plan amendment would be required for other plan areas. (Id. at 189.) Christward did not hold that the new land use designation at issue was not a "project." It also

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held an EIR was required for the 202-acre sanitary landfill, even though any new use at the site would require a special use permit and an additional EIR. (Id. at 192-195.) The court found that "the fact future development is not certain to occur" did not support the agency's decision to not prepare an EIR. Christward is distinguishable and ultimately does not support City's argument that the Ordinance is not a project.

Whether a particular agency action is in fact a "project" for CEQA purposes is a question of law. (Muzzy Ranch , supra, 41 Cal.4th at 382). The court finds that adoption of the Ordinance is a project under CEQA.

Does the Common Sense Exception Apply?

The common sense exemption, found in CEQA Guidelines section 10561(b)(3), states that a project is exempt if "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." (§ 10561(b)(3).) "If, however, there is a reasonable possibility that a proposed project will have a significant effect upon the environment, then the lead agency must conduct an initial study." (California Farm Bureau Federation v. California Wildlife Conservation Bd. (2006) 143 Cal.App.4th 173, 194.) "Whether a particular activity qualifies

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for the common sense exemption presents an issue of fact, that the agency invoking the exemption has the burden of demonstrating it applies." (Muzzy Ranch, supra, 41 Cal.4th at 386.)

"A remote or outlandish possibility of an environmental impact will not remove a project from the common sense exemption, but if legitimate, reasonable questions can be raised about whether the project might have a significant impact, the agency cannot find with certainty the project is exempt. The common sense exemption is 'reserved for those 'obviously exempt' projects, 'where its absolute and precise language clearly applies.' The lead agency has the burden to show the project comes within the common sense exemption." (California Farm Bureau Federation, supra at 194, quoting Davidon Homes v. City of San Jose (1997) 54 Cal.App.4th 106, 117-118.)

Where the agency claims the common sense exemption based on logic, if the logic is flawed or contrary to the evidence, the claim of exemption must fail. (See California Unions for Reliable Energy v. Mojave Desert AQMD (2009) 178 Cal.App.4th 1225, 1241.)

The court first analyzes the reasons stated for the common sense exemption by City in its notice of exemption, and whether those findings are supported by substantial evidence. The court then analyzes

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9:30 am BS161448

YUVAL BAR-ZEMER ET AL
VS
CITY OF LOS ANGELES

CEQA

Plaintiff Counsel JOHN P. GIVEN (x)

Defendant Counsel KATHRYN PHELAN (X)
JOHN FOX (x)

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Petitioners' arguments that there is a reasonable possibility that adoption of the HI Zone Ordinance will have a significant effect upon the environment, and City's response to those arguments.

No Rezoning of Land

In its Notice of Exemption, City found that "there is no possibility that the proposed new zone classification would have a significant effect on the environment because the project does not involve any construction activities, does not change the use or intensity of any existing site, does not affect density distribution nor rezone any specific parcel." (AR 7.)

The HI Zone Ordinance did not rezone any land to the HI Zone. (AR 10-28; see also AR 2-6 [CEQA narrative] and 51-52 [staff report].) Rezoning land to the HI Zone requires the City to amend the City's Zoning Map to designate the land with the HI Zone. (AR 14.)

According to City's notice of exemption, the Central City North Community Plan (CCNCP) and the Northeast Los Angeles Community Plan (NELACP) have parcels with the Hybrid Industrial land use designation. (AR 6, 36.) Those parcels are located within the Cornfield Arroyo Specific Plan (CASP). (Ibid.) To implement the Hi Zone in these areas, City argues both a specific plan amendment and a zone map

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amendment would be required. As to areas outside of the CASP, implementation would require both a general plan amendment and a zone change.

City also represents that the Arts District area, which is the focus of much of Petitioners' trial briefs, is not in the CASP. (Oppo. 3, fn. 5; RJN Exh. A.) Petitioners have not disputed that assertion. Therefore, use of the HI Zone in the Arts District area would also require an amendment to a general plan and a zone change.

At the August 13, 2015 hearing, a City staff member indicated that the HI Zone "would not be suited for all industrial areas, but instead is only geared for unique hybrid industrial areas that have seen a transition." (AR 221.) To initiate use of the HI Zone, City would need to take legislative action through a general plan amendment and a zone-change process. (Ibid.) According to a staff analysis, "Future Community Plan updates may identify additional areas for the Hybrid Industrial Land Use designation, and the proposed HI Zone would provide an option for implementing such policies." (AR 51, 124.)
Based on the foregoing, the record supports that additional actions in the form of general plan amendments, or specific plan amendments in the CASP, and zone changes must occur before a particular parcel can use the HI Zone.

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However, City has not cited to substantial evidence establishing that these changes are unlikely to occur. (See Oppo. 8.) Indeed, City's decision to adopt the Ordinance strongly suggests that City believes that developers will seek to use the HI Zone in projects. The purpose of the HI Zone Ordinance is to give developers and others the zoning tools to develop the "live/work use" in "select industrial areas" in the City. (AR 212-213; see AR 215-221, 369.) As stated by a supporter, the Ordinance "creates a toolbox for additional projects to go through the same process" of CEQA and design review. (AR 401.) Councilmember Huizar, the PLUM Committee Chair, noted that "the demand and pressure to build in the Arts District or anywhere in this city is there." (AR 401.) Petitioners cite evidence of requests for general plan amendments made to city staff, and the process for obtaining these zoning changes. (Reply 9; see e.g. AR 15087, 15824, 16945-46; see also AR 16205 [showing project review process].)
In fact, the record contains evidence that the City had considered where the HI Zone is most likely to be utilized. Senior Planner Diefenderfer stated it would be applied only in "select industrial areas" and described specific areas including along the Expo line, in the vicinity of Santa Monica and LaBrea, and in the Arts District (AR 212-213), Planner Eck similarly stated it would be suited for

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those "unique hybrid industrial areas that have seen a transition" (AR221), and Planning Director LoGrande stated that the primary users of this new ordinance will be "this area downtown known as the Arts District." (AR 273). Moreover, as discussed above, with their supplemental request for judicial notice, Petitioners submit city records which appear to show that City recently adopted an ordinance on March 8, 2017 that includes the Hybrid Industrial land use designation within portions of the West Adams Community Plan Implementation Overlay District. (Pet. Suppl. RJN Exh. A-C; Suppl. Givens Decl. ¶ 5.) While not rezoning any parcel as falling within the Hi Zone, the ordinance does make it easier to rezone parcels within that community plan to that zone.

Based on the evidence that the HI Zone could be used in a number of specific areas in the City, including the Arts District, the West Adams CPIO, and in the CCNCP and NELACP areas, and that there is demand from developers to use the HI Zone, substantial evidence does not support City's finding that the need for further legislative actions establishes that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. (See also California Unions for Reliable Energy v. Mojave Desert AQMD (2009) 178 Cal.App.4th 1225, 1231 [even though adoption of rule related to road paving did

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not require road paving to occur, the rule caused the paving to be reasonably foreseeable.].)

The fact future development is not certain to occur does not establish "with certainty that there is no possibility that the activity in question may have a significant effect on the environment." (CEQA Guidelines § 10561(b)(3) [emphasis added]; see Christward Ministry v. Sup. Ct. (1986) 184 Cal.App.3d 180, 194-195.)

Uniqueness of HI Zone

In its notice of exemption, City found that it could not "ascertain where and how the proposed zone will be used because the eligibility criteria and development standards for the HI Zone are entirely unique as compared to any zone previously considered or adopted by the City." (AR 7-8.) City asserts that the HI Zone is a "first-of-its-kind zone type" and an "experiment" to address "the intense demand to use industrial land for other uses." (Oppo. 4.) While testimony suggests some questions about economic feasibility of the HI Zone for developers, it would be unreasonable to conclude from this evidence that developers would not use the HI Zone. 7 (See e.g. Oppo. 8, citing AR 7, 247, 296.)

Substantial evidence in the record, including comments from developers, shows that there is demand

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to use the HI Zone "toolbox" in the Arts District and similar areas. (AR 400; see AR 211-221.) City staff referred to the Ordinance as a "much-needed tool." (AR 216.) The Ordinance "regulates a new set of uses which includes light industrial, creative office, hotel, retail and live/work" and "reinforce[s] hybrid industrial areas as job-producing places." (AR 216.) It is apparent from City staff comments and the City's decision to adopt the Ordinance that City believes there is real demand to use the HI Zone. That the HI Zone Ordinance is unique or "one-of-its-kind" is not substantial evidence that the uses of the HI Zone are too remote or speculative to be studied. If anything, the uniqueness and lack of prior history using the HI Zone weighs for a need for at least an initial study under CEQA.

Too Speculative to Analyze Reasonably Foreseeable Environmental Effects

In its notice of exemption, City found that "the types of projects that could potentially make use of the HI Zone regulations could vary widely" and that "it is too speculative at this time to determine the potential impacts of development projects that could be permitted under the new HI Zone." (AR 7.) City also stated that "it is too speculative to know where the new zone will be applied because it has the potential to be used in any industrial area in

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the City." (AR 8.)

Applications for a change of zone to the HI Zone are limited to properties that are (1) located in an industrial zone; and (2) located in an area in which the corresponding Community Plan General Plan includes the Hybrid Industrial land use designation. (AR 14.) Petitioners cite evidence that industrial zones account for only approximately 8 percent of the City, and up to 25 percent of industrial zoning has already been lost to non-industrial uses. (Reply 9; AR 1855-1857.) While the HI Zone could be applied to several different areas zoned as industrial, that is not substantial evidence that there is "no possibility" that the Ordinance will have an environmental impact. Also, as discussed above, City staff members indicated at the hearing that they believed the HI Zone would be "highly utilized" in at least some industrial areas, including the Arts District. (See e.g. AR 293-294; see also AR 36, 212-13, 273.)

At the hearing, City emphasized that it had studied the economic feasibility of projects which could be built under the HI Zone designation (AR 3994, 4015) and had studied other cities' ordinances which incorporate a live/work zone. Rather than supporting its argument that the effects of the HI zone are too speculative to assess, the fact of these studies cuts the other way. Despite its contention that the

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City cannot guess about potential environmental effects without a specific project in mind or a history of growth forecasts for the area, the City has shown it does have information about similar zoning ordinances in other cities which could help as a starting point for analysis. Further the analysis previously completed for the policy initiative applicable to the Artists-in-Residence study area (which zoning never went into effect) would also appear to provide some information as a starting point or comparison for analysis.

City has not pointed to substantial evidence in the record that the types of projects that could use the HI Zone are so diverse that environmental review is impossible. Moreover, the CEQA Guidelines recognize that different levels of specificity may be required for CEQA review of a zoning ordinance, as compared to a specific construction project. (CEQA Guidelines § 15146(b).)

Requirement of Future CEQA Review

In its notice of exemption, City noted that "any developer applying for this new zone must undergo a full CEQA analysis." (AR 8.) As discussed above, it is not controlling that future environmental review is contemplated or even required. (Bozung v. Local Agency Formation Com. (1975) 13 Cal.3d 263, 282; California Unions for Reliable Energy v. Mojave

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Desert AQMD (2009) 178 Cal.App.4th 1225, 1242.)

Based on the foregoing, the reasons asserted by City to support the common sense exemption are not supported by substantial evidence and are not persuasive. The court also addresses below the potential impacts asserted by Petitioners.

Impacts to Character of Arts District

Petitioners argue that the HI Zone will affect the character of the Arts District. Petitioners cite to letters submitted in the administrative proceedings that read:

> The developers are promising "fitting" their building to the neighborhood. But the HI Zone will in fact allow them to build type Ill & type V apartments. These types of buildings will harm the availability of productive and creative space, will impact the neighborhood character, ignore existing rules and destroy the unique nature of our community which is the prime reason these developers were attracted to this area in the first place. (See OB 8, citing AR 654; see AR 653-698.)

City is correct that these letters appear to identify some social economic impacts. (Oppo. 9.) "CEQA addresses physical changes in the environment,

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and under CEQA '[e]conomic and social changes resulting from a project shall not be treated as significant effects on the environment.' (Guidelines, § 15064, subd. (e); see Pub. Resources Code, §§ 21060.5; 21151, subd. (b) ....)" (Friends of Davis v. City of Davis (2000) 83 Cal.App.4th 1004, 1019.)

However, as City indicates, the letters also can be read to raise arguments about aesthetic impacts. City contends that 85 percent of the Arts District is a "transit priority area" that would qualify for an aesthetic impact exemption. (See Pub. Res. Code § 21099(d)(1).) 8 City contends that "substantial sections of the remaining fifteen percent (8 of 46 acres) have undergone redevelopment and would be unlikely to redevelop under the HI Zone." (Oppo. 9-10.) City's evidence, from outside of the administrative record, is speculative as to whether or not any portions of the Arts District are likely to develop under the HI Zone. Moreover, City apparently concedes that there are 38 acres in the Arts District where aesthetic impacts could occur. City points to no substantial evidence that there is "no possibility" that the HI Zone will lead to aesthetic impacts in the Arts District or other areas where the HI Zone could be used.

City argues that the letters cited by Petitioners are not substantial evidence. (Oppo. 9.) City

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misunderstands its burden under the common sense exemption. "If a reasonable argument is made to suggest a possibility that a project will cause a significant environmental impact, the agency must refute that claim to a certainty before finding that the exemption applies." (Davidon Homes v. City of San Jose (1997) 54 Cal.App.4th 106, 117-118.)

Historical Resources

Petitioners contend that the HI Zone Ordinance may cause reasonably foreseeable impacts to historical resources. (OB 8-9.) Petitioners cite, inter alia, statements of Adrian Scott Fine of the LA Conservancy that the HI Zone Ordinance will make it easier to develop in the HI zone, will jeopardize the historic buildings and character of the Arts District, and may allow projects that impact older buildings to avoid CEQA review. (AR 413-414.)

City contends that the evidence cited by Petitioners, including Scott Fine's statements, are not substantial evidence that any of the older buildings in the Arts District are historical resources under CEQA or how the HI Zone would impact such resources. (Oppo. 10-11.) As stated above, City misconstrues its burden. Petitioners need only make a "'slight' showing of a reasonable possibility of a significant environmental impact." (Davidon Homes v. City of San Jose (1997) 54 Cal.App.4th 106,

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117-118.) Fine's testimony, read in light of evidence that the Arts District is considered "regionally significant as a historical and cultural center" (AR 3904) 9, presents a "reasonable argument" that the HI Zone Ordinance could put pressure on historic resources in those areas where the HI Zone could be used.

City also asserts that impacts to historic resources are unlikely to occur because the HI Zone incentivizes the use of existing buildings, the City is undergoing a survey of designated and eligible historical resources in the Arts District, and any development will be subject to "rigorous" review for compliance with CEQA and city land use policies. (Oppo. 10-11.) These arguments appear to concede the potential for impacts on historic resources in the Arts District. City also does not address historic resources in other areas of the City where the HI Zone could be used.

Other Impacts

Petitioners cite to concerns of Planning Commissioner Dake Wilson and Councilmember Krekorian that loss of industrial land would move industrial uses elsewhere in the City, causing adverse impacts. (See OB 10; see AR 279, 506-508, 513-515.) Planning Commissioner Dake Wilson and other speakers also expressed concern about displacement of affordable

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housing from the Arts District. (AR 279-281, 233, 389.) City did not respond directly to the statements of Commissioner Wilson or Councilmember Krekorian about displacement of industrial uses or affordable housing to other parts of the city. (Oppo. 11-12.) To the extent City argues these statements are not substantial evidence (see ibid.), City misunderstands its burden under the common sense exemption. Moreover, City does not assert any persuasive reason to assume that developers will not seek to use the HI Zone as a zoning tool, or that displaced development of industrial uses or affordable housing is not a potential. (See Muzzy Ranch, supra, 41 Cal.4th at 383 ["Depending on the circumstances, a government agency may reasonably anticipate that its placing a ban on development in one area of a jurisdiction may have the consequence, notwithstanding existing zoning or land use planning, of displacing development to other areas of the jurisdiction."].)

While the court understands City's argument that it is difficult to assess effects on the environment when specific projects have not been proposed, the CEQA Guidelines anticipate and recognize this issue. For example, CEQA Guidelines § 15146 provides that "the degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR." Further, an EIR on a project such as the

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adoption or amendment of a zoning ordinance should focus on the secondary effects expected to follow from its adoption. (Id. at (b)). While the court does not address whether an EIR needs to be prepared, City has not cited to substantial evidence in the record establishing that there is "no possibility" that adoption of the HI Zone Ordinance would not lead to substantial environmental impacts (CEQA Guidelines § 10561(b)(3)), or that it is unable to prepare an initial study that focuses at least on those areas of the City identified as most likely to utilize the Hi Zone.

Class 6 Exemption

City also found that the HI Zone Ordinance was categorically exempt under the "class 6" exemption for "Information Collection." CEQA Guidelines section 15306 exempts the following activity: "[B]asic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded."

CEQA requires public agencies to include a list of "projects often handled by the agency that the agency has determined to be exempt." (CEQA

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Guidelines § 15061(c).) The City's list of projects ordinarily exempt in this class includes: "(1) Permits for test holes in public areas ... for engineering evaluations" for streets, buildings, or utilities or storm strains; "(2) Basic data collection, field testing, research, experimental management and resource activities of City Departments ... which do not result in serious or major disturbances to an environmental resource"; and "(3) Permits to drill test holes in navigable waters or submerged lands." (Pet. RJN Exh.F, p.19.) The first and third activities clearly could not encompass the HI Zone Ordinance. The second activity, which mirrors the language of the exemption, could apply here if the HI Zone Ordinance involves "Basic data collection, field testing, research, experimental management and resource activities of City Departments." However, City has not cited any portion of the Ordinance that requires data collection, research, or similar activity.

The City found that the adoption of the HI Zone Ordinance would "result in an ability for the City to determine whether the novel approach to zoning for live/use results in the intended benefit of retaining industrial lands by determining whether the zone and its elements are utilized in future development proposals." (AR 9.) As there are no data collection or research mechanisms in the Ordinance, substantial evidence does not support

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 04/11/17			DEPT. 82
HONORABLE MARY H. STROBEL	JUDGE	N. DIGIAMBATTISTA	DEPUTY CLERK
HONORABLE 10	JUDGE PRO TEM		ELECTRONIC RECORDING MONITOR
B. HALL C/A	Deputy Sheriff	B. JAMES CSR# 9296	Reporter

9:30 am	BS161448	Plaintiff Counsel	JOHN P. GIVEN (x)
	YUVAL BAR-ZEMER ET AL VS CITY OF LOS ANGELES	Defendant Counsel	KATHRYN PHELAN (X) JOHN FOX (x)
	CEQA		

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City's reliance on the class 6 exemption.

Other Arguments

Petitioners challenge City's assertion that the Ordinance is exempt under the Los Angeles City Guidelines Article II, section 2(m) for "the adoption of ordinances that do not result in impacts on the physical environment." (OB 13-14.) City did not respond to these arguments. The section 2(m) exemption is derivative of the common sense exemption discussed above. For the reasons stated, the section 2(m) exemption is not supported by substantial evidence.

Petitioners argue that City's comments that future projects using the HI Zone will be subject to CEQA review constitutes improper mitigation. (OB 15.) The court need not reach this argument based on the conclusion that the project is not exempt from environmental review.

Conclusion

The petition is GRANTED. Petitioner is ordered to serve and lodge a proposed form of judgment and proposed form of writ of mandate within 10 days.

1- The supplemental RJN relates to a city ordinance that was not adopted until on or

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about March 8, 2017, after Petitioners' reply brief was due. Accordingly, the court exercises its discretion to consider these judicially noticeable records.

2- The PLUM Committee amended the Ordinance to increase the number of hotel rooms permitted per project from a maximum of 100 to 149, and reduced the required set asides for non-residential arts and productive uses, particularly for larger projects. (AR 151.)

3- City of Upland was cited in the UMMP case discussed below and relied on by City.

4- UMMP did not analyze a common sense exemption.

5- In other documents, the City analyzes the ordinance under as falling within an exemption, but does not claim it is not a "project." (See, e.g., AR 8-9)

6- With their supplemental request for judicial notice, Petitioners submit city records showing that City recently adopted an ordinance on March 8, 2017 that includes the Hybrid Industrial land use designation within portions of the West Adams Community Plan Implementation Overlay District. (Pet. Suppl. RJN Exh. A-C; Suppl. Givens Decl. ¶ 5.) City contends the Industrial Land use designation in the West Adams community Plan is irrelevant as the ordinance did not apply the HI Zone classification to any property.

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7- The record also reflects efforts from City to structure the HI Zone Ordinance so that it would be used. As one example, the PLUM Committee amended the Ordinance to increase the number of hotel rooms permitted per project from a maximum of 100 to 149, and reduced the required set asides for non-residential arts and productive uses, particularly for larger projects. (AR 151; see also AR 293-94.)

8- "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." (Pub. Res. Code § 21099(d)(1).) "'Transit priority area' means an area within one-half mile of a major transit stop that is existing or planned." (Pub. Res. Code § 21099(a)(7).)

9- At the hearing, Petitioner correctly pointed out that this quote is from a graduate thesis concerning possible land use regulations for the Arts District, and not a statement by the City. At the hearing, City's counsel said the City does not dispute this characterization of the Arts District.

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Petitioner's exhibit 1 is ordered returned forthwith to the party who lodged it, to be preserved

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 04/11/17			DEPT. 82
HONORABLE MARY H. STROBEL	JUDGE	N. DIGIAMBATTISTA	DEPUTY CLERK
HONORABLE 10	JUDGE PRO TEM		ELECTRONIC RECORDING MONITOR
B. HALL C/A	Deputy Sheriff	B. JAMES CSR# 9296	Reporter

9:30 am	BS161448	Plaintiff Counsel	JOHN P. GIVEN (x)
	YUVAL BAR-ZEMER ET AL VS CITY OF LOS ANGELES	Defendant Counsel	KATHRYN PHELAN (X) JOHN FOX (x)
	CEQA		

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unaltered until a final judgment is rendered in this case and is to be forwarded to the court of appeal in the event of an appeal.

A copy of this minute order is mailed to counsel of record via U.S. Mail addressed as follows:

JOHN P. GIVEN, ESQ., 2461 SANTA MONICA BLVD., #438, SANTA MONICA, CA 90404

JOHN FOX, DEPUTY CITY ATTY, 200 N. MAIN ST., CHE-ROOM 701, LOS ANGELES, CA 90012

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