



DEPARTMENT OF CITY PLANNING

APPEAL RECOMMENDATION REPORT

City Planning Commission

Date: November 10, 2016

Time: After 8:30 A.M.

Place: Los Angeles City Hall
200 North Spring Street
Council Chamber, Room 340
Los Angeles, CA 90012

Public Hearing Completed: September 21, 2016

Expiration Date: November 28, 2016

Appeal Status: Pursuant to LAMC Section 17.06, the Tract Map is appealable to City Council

Case No.: VTT-74131-1A
CEQA No.: ENV-2015-897-EIR
(SCH No. 2016011061)

Incidental Cases: VTT-74131;
CPC-2015-896-GPA-VZC-HD-MCUP-ZV-DB-SPR

Related Cases: None

Council No.: 5 – Paul Koretz

Plan Area: Wilshire

Specific Plan: None

Certified NC: Mid City West

GPLU: Neighborhood Office Commercial

Proposed GPLU: General Commercial

Zone: C2-1VL-O

Proposed Zone: (T)(Q)C2-2D-O

Applicant: CRM Properties

Representative: George J. Muhlsten
Latham & Watkins LLP

Appellants: (1) Joseph Bourgeois,
SoCal Environmental Justice Alliance

(2) Beverly Wilshire Homes Association, Inc.

PROJECT LOCATION: 333 S. La Cienega Boulevard

PROPOSED PROJECT: The project, as approved by the Deputy Advisory Agency on October 14, 2016, Vesting Tentative Tract Map No. 74131, consists of one master ground lot and four airspace lots for the development of a mixed-use development consisting of: a 16 percent Density Bonus to provide an additional 20 units in lieu of 125 base units, for a total of 145 residential units, with 10 percent of the permitted base density set aside for affordable housing, and 31,055 square feet of commercial uses consisting of a 27,685 square-foot grocery market and a 3,370 square-foot restaurant. Of the total 145 units, the project will set aside 7 units for Very Low Income Households and 6 units for Moderate Income Households. The project site is developed with a single-tenant department store space (formerly a Loehmann's). The project consists of demolition of the department store building and new construction.

REQUESTED ACTIONS:

1. Pursuant to LAMC Section 17.03 of the Los Angeles Municipal Code, **appeals** of the Deputy Advisory Agency's approval of **Vesting Tentative Tract No. 74131**;
2. Pursuant to Section 21082.1(c)(3) of the California Public Resources Code, the Certification of the Environmental Impact Report (EIR), ENV-2015-897-EIR, SCH No. 2016011061, for the above-

referenced project, and Adoption of the Statement of Overriding Considerations setting forth the reason and benefits of adopting the EIR with full knowledge that significant impacts may remain;

3. Pursuant to Section 21801.6 of the California Public Resources Code, the Adoption of the proposed Mitigation Monitoring Program; and,
4. Pursuant to Section 21081 of the California Public Resources Code, the Adoption of the required Findings for the adoption of the EIR.

RECOMMENDED ACTIONS:

1. **Deny** in part, **grant** in part, the appeals of VTT-74131-1A, denying the appeals of the overall project and to allow staff to make technical corrections to the Conditions of Approval.
2. **Find** that the City Planning Commission (CPC) has reviewed and considered the information contained in the Environmental Impact Report (EIR) prepared for this project, which includes the Draft EIR, No. **ENV-2015-897-EIR**, (SCH. No. **2016011061**) dated May 19, 2016, and the Final EIR dated September 12, 2016, (collectively, "333 S. La Cienega Project EIR"), as well as the whole of the administrative record.

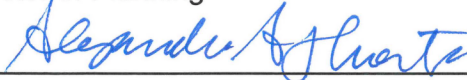
Certify the following:

- a. The 333 S. La Cienega Project EIR has been completed in compliance with the California Environmental Quality Act (CEQA);
- b. The 333 S. La Cienega Project EIR was presented to the CPC as a decision-making body of the lead agency; and
- c. The 333 S. La Cienega Project EIR reflects the independent judgment and analysis of the lead agency.

Adopt all of the following:

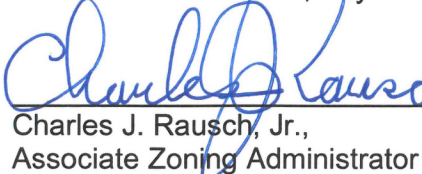
- a. The related and prepared 333 S. La Cienega Project EIR Environmental Findings;
- b. The Statement of Overriding Considerations; and
- c. The Mitigation Monitoring Program prepared for the 333 S. La Cienega Project EIR.

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ADVICE TO PUBLIC: *The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communications may be mailed to the *Commission Secretariat, 200 North Spring Street, Room 532, Los Angeles, CA 90012* (Phone No. 213-978-1300). While all written communications are given to the Commission for consideration, the initial packets are sent out the week prior to the Commission's meeting date. If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agendaed herein, or in written correspondence on these matters delivered to this agency at or prior to the public hearing. As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability, and upon request, will provide reasonable accommodation to ensure equal access to this programs, services and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or other services may be provided upon request. To ensure availability of services, please make your request not later than three working days (72 hours) prior to the meeting by calling the Commission Secretariat at (213) 978-1300.

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EIR: <http://planning.lacity.org/eir/333LaCienaga/index.html>

PROJECT SUMMARY

Two appeals have been filed against the Deputy Advisory Agency's approval of Vesting Tentative Tract Map No. 74131 to permit one master ground lot and four airspace lots for the development of a mixed-use development consisting of: a 16 percent Density Bonus to provide an additional 20 units in lieu of 125 base units, for a total of 145 residential units, with 10 percent of the permitted base density aside for affordable housing, and 31,055 square feet of commercial uses consisting of a 27,685 square-foot grocery market and a 3,370 square-foot restaurant. As part of the total 145 units, the project will set aside 7 units for Very Low Income Households and 6 units for Moderate Income Households.

The project site is relatively flat and irregularly shaped, totaling approximately 1.15 net acres (50,216 net square feet). The site is bounded by 3rd Street to the north, Burton Way to the south, La Cienega Boulevard to the east, and San Vicente Boulevard to the west. The project site is zoned C2-1VL-O.

The applicant, CRM Properties, is proposing to construct the aforementioned mixed-use development that includes a retail podium and a residential tower up to 240 feet tall. The project includes 362 parking spaces and 299 bicycle parking stalls. The project will contain 294,294 square feet of floor area upon full build out.

CONCLUSION

In consideration of the request, the Deputy Advisory Agency acted reasonably in approving Vesting Tentative Tract Map No. 74131. Specifically, the tract map and the project's proposed mix of uses are consistent with the proposed (T)(Q)C2-2D-O Zone and proposed General Commercial land use designation. In addition, the proposed project will serve the community by providing a new mixed-use development consisting of: a 16 percent Density Bonus to provide an additional 20 units in lieu of 125 base units, for a total of 145 residential units, with 10 percent of the permitted base density aside for affordable housing, and 31,055 square feet of commercial uses consisting of a 27,685 square-foot grocery market and a 3,370 square-foot restaurant. As part of the total 145 units, the project will set aside 7 units for Very Low Income Households and 6 units for Moderate Income Households. Therefore, in consideration of all the facts, Planning staff recommends that the decision of the Deputy Advisory Agency be denied in part and granted in part.

APPEAL ANALYSIS

Appellant 1: Joseph Bourgeois, SoCal Environmental Justice Alliance (SEJA)

The Appellant has resubmitted his Draft EIR comment letter dated July 5, 2016 as part of his appeal application (see attached Exhibit A for the Appellant's entire letter). The Appellant's statements are duplicative of his July 5, 2016 comment letter to the Draft EIR, which were fully responded to in the Final EIR Response to Comment Letter 7. In that letter, SEJA contended that the EIR is flawed and that it should be redrafted and recirculated for the reasons which include, but are not limited to, the following reasons below. The Appellant does not provide any new information or substantial evidence to justify the recirculation of the EIR or to otherwise dispute the findings of the EIR. A more detailed response to each of the Appellant's statements from the July 5, 2016 letter can be found in the Final EIR. However, below is a summary of the responses to the Appellant's July 5, 2016 comment letter.

Appellant's Statements: Air Quality

- The air quality impact analysis does not disclose its modeling assumptions, provides an inaccurate cumulative analysis, and does not contain mitigation measures.

Staff Response

The Lead Agency made the air quality analysis available to the public in conformance with standard practices. Project Design Features (PDFs) addressing potential air quality impacts are included in the Mitigation Monitoring Program (MMP) and as a Condition of Approval of the project. Contrary to the Appellant's assertion, these phases of construction were modeled using the California Emissions Estimator Model (CalEEMod), Version 2013.2.2, as recommended by SCAQMD. The methodology applied to the air quality cumulative analysis is appropriate and, as stated in the Section 3, Air Quality, of the Initial Study, the proposed project would not result in a cumulative air quality impact.

Appellant's Statements: GHG Emissions

- The EIR does not model GHG emissions from the construction of a concrete building.

Staff Response

The comment states that the EIR's GHG emissions analysis did not account for the construction of the concrete structure, citing a 7 percent GHG emissions rate for the entire state. However, applying a blanket 7 percent GHG emissions rate from across all projects that use concrete would be inappropriate for an individual project.

Appellant's Statements: Trip Generation

- Under operational assumptions, the EIR relies on speculations of trip generation that are not supported by substantial evidence. The EIR says that its calculations are reduced by 5% for "internal trip reductions" for the supermarket and restaurant uses, and that trips for all uses are reduced by 15% for transit and walk trips. This is improper double counting.

Staff Response

The comment erroneously contends that the EIR should use trip generation rates from an older, outdated version of the Institute of Transportation Engineers' Trip Generation Manual,

specifically the 8th edition. The project estimated using trip rates from the *Trip Generation Manual 9th Edition* (Institute of Transportation Engineers, 2012) as cited in *333 La Cienega Boulevard Project Traffic Study*. The Appellant is incorrect in stating that the methodology by which the trip reductions were applied constitutes “double counting.” The internal trip reduction was calculated first and then subtracted from the total number of trips the project is expected to generate. The trip reduction associated with transit and walk trips was then applied to the net total vehicle trips after the internal trips were subtracted. The same process was used in applying the trip reductions associated with the pass-by reductions.

Appellant’s Statements: Paleontological Resources

- Discussions of paleontological resources and relevant mitigation measures should be in the EIR as opposed to only in the Initial Study.

Staff Response

The Initial Study determined that there were no significant impacts with respect to paleontological resources and, therefore, the topic of paleontological resources was not carried forward to be analyzed in the EIR.

Appellant’s Statements: Liquefaction

- While prior investigations for the project site indicated that the liquefaction potential is “low,” the EIR does not provide substantial evidence to support this claim.

Staff Response

While the project site is located in an area considered to have high potential for liquefaction from seismic shaking (i.e., liquefiable area), as designated by the Los Angeles General Plan Safety Element and the California Geological Survey (CGS), the Geotechnical Constraints Review concluded that potential for liquefaction on the project site is considered low. Nonetheless, given the location of the project, liquefiable soils will be considered in the design of proposed structure and during construction site preparation activities. The Draft EIR included the Geotechnical Constraints Review report in its Appendix A.1 – Initial Study Appendices.

Appellant’s Statements: Soils

- The EIR does not provide adequate information with which to analyze the impacts of previously documented soils, and methane gas hazards. The EIR also fails to provide any specifics about the gas detection system.

Staff Response

The Initial Study determined that there were no significant impacts with respect to hazards and hazardous materials and, therefore, this topic was not carried forward to be analyzed in the EIR. Nonetheless, mitigation measures ensure the proper handling and removal of Lead Based Paint through the preparation and implementation of a site-specific Health and Safety Plan in accordance with federal OSHA regulations, and the preparation and implementation of a Soil and Groundwater Management Plan. The project site has been identified by the Los Angeles Department of Building and Safety (LADBS) as being located in a Methane Zone. However, none of the detected concentrations were above the threshold for significant impacts for methane as identified in the LADBS Methane Mitigation Standards. Nonetheless, the project would be required to comply with requirements set forth in the Los Angeles Building Code,

Division 71, and the Methane Mitigation Standards established by the LADBS, and would implement a gas-detection system as defined by Section § 91.7102 of the LAMC.

Appellant's Statements: Dewatering

- The Draft EIR fails to discuss the potential for dewatering to occur.

Staff Response

The Initial Study concluded that there would be no significant impacts as a result of dewatering after implementation of mitigation measures, including a requirement for the project applicant to file a Report of Waste Discharge, to reduce potential impacts.

Appellant's Statements: Police Services

- The EIR should have assessed the present ratio of residents to police officers and how the project and other cumulative projects will affect that ratio.

Staff Response

Consultation with the LAPD has indicated that, considering the density of the project vicinity and the location of the police station therein, the addition of 528 persons would not significantly impact service levels of the Wilshire Community Police Station. Thus, it was determined that there would be a less-than-significant impact on police protection services given the proposed project's contribution to the population in the service area, confirmation of service from the Wilshire Community Police Station, and the implementation of a private security plan.

Appellant's Statements: Quimby Fees

- The project applicant cannot rely on the payment of Quimby Fees as mitigation.

Staff Response

The payment of fees to the Park and Recreational Sites and Facilities Fund, combined with the amount of common open space and recreational amenities being proposed on the project site, are both considered features that would reduce the demand for park services as identified by the *L.A. CEQA Thresholds Guide*. Thus, the combination of these features would ensure that impacts to park and recreational facilities are less than significant.

Appellant's Statements: Trip Credit

- The EIR improperly takes credit for the former use as a Loehmann's Department Store even though the building has been vacant for 1.5 years.

Staff Response

LADOT Traffic Study Guidelines, Section F (3), allow trip credits to be taken for an existing use that was active for at least six months during the past two years. In addition, this methodology is consistent with CEQA's requirements that the existing conditions will normally constitute the baseline for purposes of analyzing a project's impacts, as set forth in *CEQA Guidelines* Section 15125(a) and 15126.2(a).

Appellant's Statements: Disaster Route

- Road closures during construction would cause a significant impact since La Cienega Boulevard is designated a disaster route by the County of Los Angeles; and there would not be adequate parking for construction workers in commercial areas.

Staff Response

La Cienega Boulevard is a designated disaster route in the General Plan Safety Element. To ensure that emergency access is maintained throughout construction, the Applicant would implement a Construction Traffic Management Plan (CTMP), thereby reducing potential impacts associated with interruption of emergency access during construction. As part of the CTMP, the project will notify the City of Los Angeles, City of Beverly Hills, and County of Los Angeles as to expected lane closures and their duration so that appropriate measures can be taken in the case of an emergency. As the expected closures would only require closing a single travel lane and not the entire roadway, emergency personnel would still be able to use La Cienega Boulevard to transportation equipment, personnel and supplies as normal. The CTMP would be approved by LADOT prior to any construction. The CTMP also includes a provision that requires the Applicant to identify locations in the immediate vicinity where construction workers could park their vehicles during project construction.

Appellant's Statements: Construction PM Peak Hour Trips

- The EIR does not analyze the cumulative impacts of construction workers during the PM peak hour and the impacts of the overlap of haul routes during project construction.

Staff Response

According to the project Traffic Study, the PM peak hour in the surrounding vicinity of the project site occurs from 4:45 p.m. to 5:45 p.m. Thus, construction worker trip departures that occur between the hours of 3:00 p.m. and 4:00 p.m. would be before the PM peak hour. Similarly, the related projects construction worker trips would likely arrive at the individual construction sites during the off-peak hours, for instance, arriving prior to 7:00 a.m. and leaving prior to 4:00 p.m. Accordingly, the departures for the proposed project and related projects would not occur during the PM peak hour, should construction of these projects occur at the same time. In regards to haul routes, the haul truck routes for the proposed project and related projects would be approved by LADOT and/or the Department of Building and Safety according to the location of the individual construction site and the ultimate destination. Furthermore, as required by LADOT, the proposed project and related projects would be required to prepare a CTMP. Implementation of the CTMP would ensure that disaster detour routes are established in the event that construction lane closures are necessary.

Appellant's Statements: General Plan Consistency

- The EIR claims that the project is "generally consistent" with the GP Framework Land Use chapter, but the project is increasing density all over the City in violation of existing zoning and General Plan provisions.

Staff Response

With regard to General Plan Amendments and density, City Charter Sections 555, 556 and 558 permit General Plan Amendments and Los Angeles Municipal Code (LAMC) 11.5.6 sets forth the requirements. The project is consistent with the relevant goals, objectives, and policies of the General Plan Framework Land Use Chapter, Urban Form and Neighborhood Design

Chapter, Open Space and Conservation Chapter, Economic Development Chapter and Infrastructure and Public Services Chapter. Section 4.2, *Land Use*, of the Draft EIR, contains a thorough discussion of the project's consistency with adopted environmental goals or policies in Table 4.2-1. As described therein, the project is consistent with the goals and policies of the General Plan Framework and Wilshire Community Plan. Furthermore, a discussion on an increase in population and housing, is included Section 13, *Population and Housing*, in the Initial Study. As described in that section, the project and related projects' cumulative population increase represent approximately 4.4 percent of the City's anticipated population increase; thus, growth anticipated from the project and related projects is within the City's growth projections and impacts were found not to be significant.

Appellant's Statements: Visual Character

- The EIR asserts that the project is "compatible" with neighboring uses even though it would be 20 stories tall.

Staff Response

Regarding visual character, the project design fits within the context of the high-density, highly urbanized project area. Furthermore, pursuant to SB 743, for projects like this one that meet the qualifications of a transit-oriented, infill project, aesthetic and parking impacts are not considered significant impacts under CEQA.

Appellant's Statements: Noise

- The EIR fails to acknowledge noise impacts.

Staff Response

Pages 4.3-37 through 4.3-38 of the Draft EIR clearly state that based on the estimated noise levels at the nearest offsite sensitive receptors to the project site, it was determined that an increase in ambient exterior noise levels by 5 dBA or more would occur at all of the identified offsite sensitive receptors, with the exception of the Cedars-Sinai Medical Center. Therefore, the EIR concludes that this impact would be significant and unavoidable.

Appellant's Statements: Alternatives

- The EIR fails to analyze any alternative that is based on a different site.

Staff Response

In addition to analyzing three alternatives, the Draft EIR discusses two alternatives that were considered, but not carried forward in the analysis due to their failure to meet most of the basic project objectives, the alternative's infeasibility, or the alternative's inability to avoid significant environmental impacts. The alternatives to the project that have been considered and rejected as infeasible include an All Commercial Alternative and an Offsite Locations Alternative.

Appellant's Statements: Energy

- The Draft EIR mentions energy saving features, but it does not specifically call out any measures that would qualify as mitigation measures.

Staff Response

Section 18, *Energy Resources*, in the Initial Study, discusses the project's potential impacts on energy resources, focusing on three energy resources: electricity, natural gas, and transportation related energy (petroleum-based fuels). As described therein, the proposed project would not result in impacts on energy resources and, thus, mitigation measures are not required to reduce impacts.

Appellant 2: Beverly Wilshire Homes Association, Inc. (BWHA)Appellant's Statements: Review Time of Letter of Determination

- The Deputy Advisory Agency did not give BWHA adequate time to evaluate the Letter of Determination (LOD) because the LOD was not mailed until October 14. The LOD was not posted on the City Planning Department's website until October 20. Two business days is not enough time for the public to review the 91 page LOD.
- BWHA did not receive a mailed copy of the LOD, even though BWHA's legal counsel signed up at the Deputy Advisory Agency hearing.

Staff Response

The LOD decision date was October 14, 2016 with a 10-day appeal period ending on October 24, 2016. The 10-day window begins on, and includes, the day of release, October 14th. Contrary to the Appellant's statements, tract LODs are not posted on the City Planning website. In addition, contrary to the Appellant's statements, BWHA's legal counsel did not sign up on the pink notification list per the instructions of the Hearing Officer at the Deputy Advisory Agency's September 21, 2016 hearing for the project. The pink notification list is located in the case file for VTT-74131.

Appellant's Statements: Adequacy of the EIR

- The findings of the EIR are not supported by substantial evidence.
- The Final EIR does not adequately respond to comments in violation of CEQA.

Staff Response

The Appellant does not provide any specific details about which EIR findings are not supported by substantial evidence. Notwithstanding, the LOD includes the full discussion of the EIR findings in the section "Findings of Fact (CEQA)" in the LOD beginning on page 40. The Appellant does not provide any specific details about how the Final EIR does not adequately respond to comments. Notwithstanding, the Final EIR, released on September 12, 2016, adequately responded to all of the comments that were received on the Draft EIR. The Appellant presents no evidence to the contrary.

Appellant's Statements: Health and Safety Infrastructure Impacts

- The EIR fails to adequately analyze health and safety infrastructure impacts.

Staff Response

The Appellant does not provide any specific details about how the EIR fails to adequately analyze health and safety infrastructure impacts. Notwithstanding, the project's Initial Study analyzed potential impacts from Hazards and Hazardous Materials and Utilities and Service Systems, and found those potential impacts to be less than significant. In regard to air quality health impacts, because off-road heavy-duty diesel equipment would be used only for short time periods, project construction does not expose sensitive receptors to substantial emissions of TACs. The LOD in the "Findings of Fact (CEQA)" section, beginning on page 40, summarized the analyses of the environmental impact categories from the Initial Study and Draft EIR. The

333 S. La Cienega EIR and Initial Study disclosed that there are less-than-significant health and infrastructure safety impacts from the project.

Appellant's Statements: Land Use Impacts

- The EIR fails to analyze and disclose the project's land use impacts.

Staff Response

The Appellant does not provide any specific details about how the EIR fails to analyze and disclose the project's land use impacts. Notwithstanding, the EIR includes an analysis of potential Land Use impacts in the section "Land Use and Planning" in the EIR beginning on page 4.2-1, which found that impacts are less than significant. The Draft EIR adequately analyzed land use impacts in the "Environmental Impact Analysis" section of the Draft EIR, beginning on page 4.2-1, and determined land use impacts to be less than significant.

Appellant's Statements: Mitigation Measures

- The mitigation measures do not lessen significant impacts to a level of insignificance, and not all feasible mitigation measures are adopted.

Staff Response

The Initial Study and Draft EIR concluded that all impacts are less than significant with the exception of a noise impacts during construction. Specifically, as the LOD discloses in the section "Environmental Impacts Found To Be Significant and Unavoidable" on page 67, short-term noise impacts from construction at sensitive off-site locations are significant and unavoidable. CEQA does not require that all impacts be reduced to a level of insignificance. Notwithstanding, the EIR considered all feasible mitigation measures to reduce the temporary impact during construction and determined that the impact would still be significant and unavoidable even after the implementation of mitigation measures. The LOD on page 69 clearly states that "[b]ased on the...analysis, the City finds, pursuant to CEQA Guidelines Section 15096(g)(2), that none of the alternatives or feasible mitigation measures within its powers would substantially lessen or avoid the significant effect from construction noise that the project would have on the environment." The Appellant does not provide any substantial evidence about feasible mitigation measures to reduce the short-term noise impacts from construction at sensitive off-site locations to less than significant.

Appellant's Statements: Project Alternatives

- Feasible project alternatives that are less impactful were not adopted.

Staff Response

CEQA does not require that feasible project alternatives that are less impactful be adopted. Rather, CEQA requires that a range of feasible alternatives be analyzed and, among those, that an Environmentally Superior Alternative be identified (CEQA Guidelines Section 15126.6(e)(2)). In addition, an important consideration in the analysis of alternatives is the degree to which the alternative achieves the project objectives. The LOD, beginning on page 68 in the "Alternatives to the Project" section, analyzed three alternatives: the No Project Alternative, the Existing Zoning Alternative (Option 1, Medical Office building + 2, Medical Office/Residential building) and a Reduced Density Alternative. In addition to analyzing these three alternatives, an All

Commercial Alternative and an Off-site Location Alternative were rejected as infeasible due to their failure to meet most of the basic project objectives, the alternative's infeasibility, or the alternative's inability to avoid significant environmental impacts. The LOD discloses on page 69 that none of the alternatives substantially lessen or avoid the significant effect from construction noise from the project. The Existing Zoning Alternative Option 2 was selected as the Environmentally Superior Alternative. However, as explained in the section "Statement of Overriding Considerations" beginning on page 80 of the LOD, the Lead Agency may approve the project if overriding considerations of economic, social, aesthetic and environmental benefits would be sufficient to outweigh the significant unavoidable impact of the project and justify the approval, adoption or issuance of all of the required permits, approvals and other entitlements for the project and the certification of the completed Final EIR. As such, pursuant to Section 21081 of the California Public Resources Code and Section 15093(b) of the CEQA Guidelines, the lead agency adopts a Statement of Overriding Considerations for the project stating the reasons to support its action based on the Final EIR and/or other information in the record. These findings and the Statement of Overriding Considerations are based on substantial evidence in the record, including but not limited to the Final EIR, the source references in the Final EIR, and other documents and material that constitute the record of proceedings. The Appellants does not provide evidence to the contrary.

Appellant's Statements: Statement of Overriding Considerations

- The Statement of Overriding Considerations is not supported by substantial evidence.

Staff Response

The Appellant does not provide any specific details about how the Statement of Overriding Considerations is not supported by substantial evidence. The Statement of Overriding Considerations is discussed beginning on page 80 of the LOD and, as stated therein, the City adopts the Statement of Overriding Considerations fully recognizing the unavoidable noise impact while balancing the project's contributions to the community. Specifically, the project will:

- Develop an infill site with a high-density, mixed-use development with much needed rental housing, including 7 units for Very Low Income Households and 6 units for Moderate Income Households, near employment centers like the Cedars-Sinai Medical Center and Beverly Center, and next to the mixed-use boulevard and district identified in the Wilshire Community Plan along 3rd Street between La Cienega Boulevard and Fairfax Avenue.
- Provide new retail with goods and services needed in the community, specifically a 27,685 square-foot grocery market and a 3,370 square-foot restaurant, that complements the commercial uses in the surrounding vicinity, including the Beverly Center, Beverly Connection, commercial/retail shops along 3rd Street and the ground floor retail located at 8500 Burton Way. These new retail uses will also generate 84 new jobs.
- Reinforce the City's commitment to facilitating a reduction in air quality, greenhouse gas and traffic impacts by locating employment-generating land uses and residences in an area well served by public transportation, including, but no limited to, the Metro Purple Line station at Wilshire Boulevard and La Cienega Boulevard (expected 2023) and existing Metro local bus lines, a Los Angeles Department of Transportation DASH route, and an Antelope Valley bus line, thereby reducing vehicles miles traveled and associated air quality and greenhouse gas emissions impacts.

- Support the City's policies related to encouraging multimodal transit by providing 299 bicycle parking spaces throughout the project site, including in a fully-covered and secured "bike lounge" with direct access to the bicycle lane on San Vicente Boulevard. In addition, the project improves bicyclist safety by adding green painted bicycle lanes with conflict markings along San Vicente Boulevard and Burton Way, and adding a bicycle signal request light on the west side of the project site along San Vicente Boulevard. The project further supports other modes of transit by adding a new bus shelter for the Metro Local Route 105 bus line along La Cienega Boulevard, north of San Vicente Boulevard.
- Add new open space by replacing an underutilized building currently used as a parking structure with a new, ground level 6,910 square-foot plaza with landscaping and a water feature with sitting areas at the corner of La Cienega Boulevard and San Vicente Boulevard that enhances the visual character of the neighborhood and creates a pedestrian-friendly environment within and around the project site. This new open space at this location also establishes a primary entry to the Cedars Sinai-Beverly Center as recommended by the Wilshire Community Plan.
- Activate the public realm and improve the pedestrian experience by enhancing the existing streetscape with improvements, such as new trees and sidewalk parkways. In addition, the project further supports pedestrian safety by adding the following: enhanced crosswalks from the project site across La Cienega Boulevard, San Vicente Boulevard and on Burton Way; a widened crosswalk in front of 8500 Burton Way; a new controlled right-turn light along the southbound lane of La Cienega Boulevard, north of San Vicente Boulevard; a new landscaped median with a pedestrian refuge island along La Cienega Boulevard, north of San Vicente Boulevard; and a new pedestrian signalized crossing with enhanced crosswalks at La Cienega Boulevard and Blackburn Avenue.
- Create a 1,650 square-foot community room with a small meeting room and preparation kitchen for the use of residents and other community members.

Appellant's Statements: Cumulative Impact Analysis

- The Cumulative Impact Analysis is flawed.

Staff Response

The Appellant does not provide any specific details or evidence as to how the Cumulative Impact Analysis is flawed. Nevertheless, the LOD in the "Findings of Fact (CEQA)" section beginning on page 40 summarizes the cumulative impact analyses of the Draft EIR and concludes that there are no significant cumulative impacts. In addition, the Draft EIR explains the process for the analysis of cumulative impacts for the project, specifically beginning on page 3-2. Each impact category section in Chapter 4: Environmental Analysis of the Draft EIR contains the corresponding cumulative impact analysis (pages 4.1-20, 4.2-28, 4.3-39, 4.4-45). The Appellant does not substantiate how the cumulative analysis is flawed.

Appellant's Statements: City Charter Section 555

- The Deputy Advisory Agency's approval of the project violates City Charter Section 555.

Staff Response

The Appellant does not provide any specific details about how the Deputy Advisory Agency's approval of the project violates City Charter Section 555. Regardless, City Charter Section 555 is about "General Plan – Procedures for Adoption," which is not under the purview of the Deputy Advisory Agency. City Charter Section 555(e) states that: "If both the City Planning Commission and the Mayor recommend approval of a proposed amendment, the Council may adopt the amendment by a majority vote." Therefore, the Appellant is incorrect in her statement that the Deputy Advisory Agency violated City Charter Section 555.

Regarding approval, LAMC Section 17.03 grants the Advisory Agency authority to conditionally approve tentative maps. The Deputy Advisory Agency has conditionally approved the proposed subdivision pursuant to the provisions of the Subdivision Map Act and contingent upon approval of the associated project entitlement requests by the City Planning Commission. Specifically, the Deputy Advisory Agency included the following condition, Condition No. 24, in the LOD:

Prior to the issuance of the building permit or the recordation of the final map, a copy of the CPC-2015-896-GPA-VZC-HD-MCUP-ZV-DB-SPR shall be submitted to the satisfaction of the Advisory Agency. In the event that CPC-2015-896-GPA-VZC-HD-MCUP-ZV-DB-SPR is not approved, the subdivider shall submit a tract modification.

Therefore, the Deputy Advisory Agency has full authority to approve Vesting Tentative Tract Map No. 74131 with conditions of approval and the Appellant has failed to provide evidence to the contrary.

Appellant's Statements: Subdivision Map Act Findings

- The Deputy Advisory Agency's Subdivision Map Act findings are not supported by substantial evidence.
- The Deputy Advisory Agency does not possess municipal code authority to deviate from the provisions of the zoning code and therefore the decision violates the Subdivision Map Act.

Staff Response

Regarding the Appellant's first point, there is no specific detail about how the Deputy Advisory Agency's Subdivision Map Act findings are not supported by substantial evidence. Notwithstanding, the LOD's Subdivision Map Act findings beginning on page 82 in the "Findings of Fact (Subdivision Map Act)" section make the prescribed findings according to Sections 66473.1, 66474.60, .61 and .63 of the State of California Government Code (the Subdivision Map Act).

The Appellant makes a blanket statement about deviations from the zoning code without evidence to support it. Nevertheless, the 2016 Subdivision Map Act Section 66474.7 states that an advisory agency may approve maps for a governing body. In addition, LAMC Section 17.03 grants the Advisory Agency authority to conditionally approve tentative maps. The Deputy Advisory Agency has conditionally approved the proposed subdivision pursuant to the provisions of the Subdivision Map Act and contingent upon approval of the associated project entitlement requests by the City Planning Commission. In conclusion, the Deputy Advisory Agency has full authority pursuant to LAMC Section 17.03 to approve Vesting Tentative Tract

Map No. 74131 with conditions of approval and the Appellant does not provide evidence to the contrary.

Appellant's Statements: Zoning

- The project constitutes unconstitutional spot zoning.

Staff Response

The Appellant does not provide any specific details or evidence to support his contentions on unconstitutional spot zoning. While the project's entitlement requests include a Zone Change and Height District Change to modify the land use designation and zoning on the project site, none of these requests are unconstitutional and are not discussed or otherwise granted under the tract map approval. The Deputy Advisory Agency has conditionally approved the proposed subdivision pursuant to the provisions of the Subdivision Map Act and contingent upon approval of the General Plan Amendment and Zone Change by the City Planning Commission. The General Plan Amendment to General Commercial is consistent with the General Commercial land use designation of other properties fronting La Cienega Boulevard to the east, southeast and south. Specifically, the properties to the east of the project site along La Cienega Boulevard between 3rd Street and 4th Street have a General Commercial land use designation. The properties to the southeast along San Vicente Boulevard and La Cienega Boulevard south of 4th Street also have a General Commercial land use designation. Finally, the property at 8500 Burton Way directly south of the project site has a General Commercial land use designation. The change from Neighborhood Office Commercial to General Commercial would eliminate the last portion of Neighborhood Office Commercial commercial from the La Cienega Boulevard corridor from 3rd Street to the Beverly Hills City limits at Colgate Avenue. The portion of the Wilshire Community Plan from Beverly Boulevard to the south is characterized by larger Regional Center and General Commercial uses such as the Cedars-Sinai Medical Complex, the Beverly Center and the Beverly Connection shopping centers. This forms both a physical and economic identity to this area for larger commercial, residential and institutional uses in a transit rich area while being set back from nearby Medium and Low Medium density areas to the east by the major wide streets constituting La Cienega and San Vicente Boulevards. In addition, the proposed Zone Change allows the construction of 125 residential units in conjunction with commercial uses under the corresponding C2 zone. While the Zone Change will change the project site's height district from Height District No. 1VL to Height District No. 2D, with approval of the General Plan Amendment from Neighborhood Office to General Commercial and modification of Footnote No. 5.1, the project will be consistent with the land use designation.

Appellant's Statements: General Plan Framework Element

- The project is inconsistent with the General Plan Framework Element.

Staff Response

The Appellant does not provide any specific details about how the project is inconsistent with the General Plan Framework Element. Notwithstanding, the LOD on page 85 concludes that the project is consistent with the City's Framework Element, which states that anticipated growth should be directed toward high-density, mixed-use centers and to the neighborhoods around its 80 rail stations. Furthermore, the Draft EIR beginning on page 4.2-14 and the Final EIR beginning on page 3-10 conclude that the project is consistent with the following goals, objectives and policies of the General Plan Framework Element:

- Policy 3.12.1: Accommodate the development of uses in areas designated as “General Commercial” in the community plans in accordance with Tables 3-1 and 3-7. The range/densities of uses permitted in any area shall be identified in the community plans.
- Objective 3.16: Accommodate land uses, and locate and design buildings, and implement streetscape amenities that enhance pedestrian activity.
- Objective 5.2: Encourage future development in centers and in nodes along corridors that are served by transit and are already functioning as centers for the surrounding neighborhoods, the community or the region.
- Policy 5.9-2: Encourage mixed-use development which provides for activity and natural surveillance after commercial business hours through the development of ground floor retail uses and sidewalk cafes. Mixed-use should also be enhanced by locating community facilities such as libraries, cultural facilities or police substations, on the ground floor of such building, where feasible.
- Policy 6.4.8: Maximize the use of existing public open space resources at the neighborhood scale and seek new opportunities for private development to enhance the open space resources of the neighborhoods.

Therefore, the project is consistent with the General Plan Framework and the Appellant does not provide evidence to the contrary.

Appellant’s Statements: Wilshire Community Plan Inconsistency

The Appellant references their Draft EIR comment letter dated July 5, 2016. The Appellant’s statements in his July 5, 2016 letter were fully responded to in the Final EIR Response to Comment Letter 6. In that letter, the Appellant contends that the project is inconsistent with the Wilshire Community Plan for the reasons which include, but are not limited to, the following reasons below. The Appellant does not provide any new information or substantial evidence. A more detailed response to each of the Appellant’s statements from the July 5, 2016 letter can be found in the Final EIR. However, below is a summary of the responses to the Appellant’s July 5, 2016 comment letter.

Appellant’s Statements: Wilshire Community Plan Update

- The project would severely compromise the Wilshire Community Plan prior to its update, which is long overdue, but expected to occur by 2027.

Staff Response

In accordance with CEQA, the Draft EIR relies on information that is currently available to establish baseline conditions and, as such, uses information from the 2000 Wilshire Community Plan. Therefore, the Appellant’s reference to a future update to the Wilshire Community Plan is speculative, and, therefore, not considered significant pursuant to CEQA.

Appellant’s Statements: Alternatives

- Alternatives 3, the Reduced Density Alternative, and 4, the proposed project, are “highly inconsistent” with goals and policies contained in the Wilshire Community Plan.

Staff Response

The Appellant quotes text from the Wilshire Community Plan, beginning on page II-2, contained in a section entitled “Purpose of the Wilshire Community Plan.” This planning goal and objective does not exclude new development projects. In addition, this goal relates to scale, height, bulk, setbacks and appearance generally as broad characteristics to consider in the Wilshire Community Plan Area. Thus, this text is not applicable to individual development projects.

Appellant’s Statements: Wilshire Community Plan Conformance

- The Plan requires a decision maker to make a finding of conformance with the applicable design standards for discretionary projects.
- The Department of City Planning has not prepared any monitoring reports for the Wilshire Community Plan.

Staff Response

The text of the Wilshire Community Plan that the Appellant quotes is contained in the sections entitled “Plan Consistency” of the Wilshire Community Plan. The text lifted out of context from this “Plan Consistency” section refers to Chapter V: Urban Design of the Wilshire Community Plan. The Appellant fails to provide any details about which standards the project does not meet under Chapter V. Regarding the “Plan Monitoring” text that the Appellant refers to, this section establishes that the Department of City Planning is responsible for developing a monitoring system to report annually on growth and infrastructure within the Community Plan area. CEQA and the *L.A. CEQA Thresholds Guide* only require an analysis of consistency with applicable land use plans, policies, or regulations adopted for the purpose of mitigating an environmental effect.

Appellant’s Statements: High Rises

- Premise #1 of the Wilshire Community Plan Land Use Plan Policies and Programs related to residential uses concludes that the proposed project would conflict with the community plan because it is the only high rise within the Wilshire Community Plan area.
- Policies 1-1.1 and 1-1.2 from the Wilshire Community Plan conclude that Wilshire Boulevard is the only appropriate location for high-rise residential buildings.

Staff Response

The Appellant incorrectly applies Premise #1 to the project since it is not a goal, policy, or program. In addition, premise #1 refers to residential densities in neighborhoods. The project site is currently zoned for commercial uses. Therefore, the Appellant’s assertion that the project site predominantly consists of “low-rise single family homes” is grossly inaccurate.

The policies listed by the Appellant are part of the Wilshire Community Plan’s Objective 1-1: “Provide for the preservation of existing quality housing, and for the development of new housing to meet the diverse economic and physical needs of the existing residents and expected new residents in the Wilshire Community Plan Area to the year 2010.” This objective clearly refers to two different aspects of housing: preserving existing housing, and allowing for the development of new housing. Therefore, the policies mentioned by the Appellant do not exclude development of new housing. In addition, Policy 1-1.1 is not applicable because the project site is not a single family home neighborhood. In addition, the Appellant has incorrectly identified Wilshire Boulevard as the only location for high-rise residential buildings. The Generalized Land Use Map for the Wilshire Community Plan clearly shows, as shown on Figure 4.4-2 in Section 4.2, *Land Use and Planning*, on page 4.4-4 of the Draft EIR, that Wilshire Boulevard is zoned for commercial uses.

Appellant's Statements: Project Traffic

- The proposed project would create heavy traffic which is inconsistent with the policies and goals of the Wilshire Community Plan.

Staff Response

The Appellant quotes premise #3 of the Wilshire Community Plan out of context. Specifically, premise #3 applies to residential land uses generally, and is not a mandate on individual projects. Regarding infrastructure mentioned in this premise, the Initial Study did analyze infrastructure – sewerage, schools, police and fire services and transportation – in Section 14, *Public Services*, and Section 17, *Utilities and Service Systems*, and found that there would be less-than-significant impacts. The EIR's Chapter 5, *Other CEQA Considerations*, Section 5.4, *Growth Inducing Impacts* discloses that the project could potentially increase the City's infrastructure to service the site. However, the proposed project is located on an already developed site and would utilize existing infrastructure connections, and will not result in the need for additional infrastructure in the project vicinity. Therefore, the Appellant's assertions related to premise #3 are not supported by substantial evidence.

Furthermore, the Appellant is incorrect in stating that the traffic conditions along Burton Way and San Vicente Boulevard were not measured in the Draft EIR intersection analysis. Traffic conditions along Burton Way were analyzed in the intersection analysis at Robertson Boulevard and Burton Way (Intersection #6 on Table 4.4-7 in Section 4.4., *Transportation and Circulation*, on page 4.4-37 of the Draft EIR), as were traffic conditions at San Vicente Boulevard and Burton Way (Intersection #12 in Draft EIR), and along San Vicente Boulevard in the intersection analysis at 3rd Street (Intersection #11 in Draft EIR), and at La Cienega Boulevard (Intersection #18 in Draft EIR). Traffic conditions at the intersection of La Cienega Boulevard and 3rd Street (Intersection #16 in Draft EIR) were also analyzed. The Draft EIR, on page 4.4-38, discloses that these intersections would have less-than-significant impacts.

Appellant's Statements: Compatibility

- Policy 1-3.1 concludes that the proposed project is incompatible with the existing architecture, character, and scale of the existing neighborhoods.

Staff Response

The Appellant fails to mention that this policy is part of Objective 1-3: "Preserve and enhance the varied and distinct residential character and integrity of existing residential neighborhoods." This objective clearly refers to development in existing residential neighborhoods. As mentioned above, the project site currently has commercial uses, and is located directly south of a commercial strip mall and adjacent to multifamily residences. It is not inside a residential neighborhood. Further, the program associated with this policy refers to developing a Community Design Overlay (CDO) and companion Streetscape Plan for 3rd Street between Fairfax and La Cienega.

Appellant's Statements: Affordable Housing

- The proposed project would be incompatible with Objective 1-4 regarding affordable housing and increased accessibility to more population segments.

Staff Response

The Wilshire Community Plan does not dictate the provision of affordable housing – only that affordable housing should be considered. Notwithstanding, while the project did not originally include an affordable housing component, the project will now set aside 10 percent of its residential units for affordable housing.

Appellant's Statements: Policy 1

- The proposed project would be incompatible with Policy 1 regarding development of housing for senior citizens, the physically challenged, and low-income persons in close proximity to health and community service facilities, retail services, and public transportation.

Staff Response

The Appellant omits that this text is not a policy. Rather, this is an action in Chapter IV: Coordination Opportunities for Public Agencies. Therefore, this action does not apply to individual development projects. In addition, the Wilshire Community Plan recognizes the need for, but does not dictate, the provision of housing for senior citizens, the physically challenged, and low-income persons in the Wilshire Community Plan area.

Appellant's Statements: Design Goals

- The proposed project would be incompatible with the "Design Goals and Purposes" section, which states that multiple-family residential areas should promote architectural design that enhances the quality of life, living conditions, and neighborhood pride of the residents.

Staff Response

The project includes a 6,910 square foot publicly accessible ground level plaza, new landscaped parkways and street trees, a neighborhood-serving grocery market, and significant streetscape, bike, and pedestrian safety improvements to promote walkability, in addition to constructing a contemporary building designed to enhance the streetscape and enhance a site. All of these features are intended to promote the quality of life for all residents in the neighborhood and to meet the intent of the Wilshire Community Plan's design goals.

Appellant's Statements: Pedestrian-Oriented Design

- The proposed project is not a pedestrian-oriented development.

Staff Response

As described in Chapter 2, *Project Description*, and throughout the Draft EIR, the proposed project includes a ground-floor 6,910 sf plaza located at the southernmost tip of the site at the confluence of Burton Way, San Vicente Boulevard, and La Cienega Boulevard that includes a water fountain, landscaped areas, trees, and pedestrian walkways. This plaza enhances the visual character of the neighborhood and creates a pedestrian environment. In addition, there will be a 3,370 sf restaurant that fronts the plaza and a grocery market will wrap around a portion of the building along La Cienega Boulevard, thereby enlivening the streetscape along La Cienega Boulevard. In addition, the proposed project will encourage pedestrian activity by enhancing the streetscape with walkability and safety improvements, landscaping, and high-quality architecture, including features such as transparent ground floor treatment articulated with prominent entries. The project is similar to the pedestrian-oriented 8500 Burton Way development, which features ground floor retail and multifamily residences above. In addition, the project is accessible via various transit lines, which collectively achieved 30,019,890 transit rides in 2015. Finally, members of the local community living near the project site testified at the September 21, 2016 Hearing Officer/Deputy Advisory Agency hearing that they could walk to the project's grocery market and restaurant.

Appellant's Statements: Spillover Traffic

- The proposed project is inconsistent Goal 14 and Policy 14-1.1 regarding traffic flow and parking because it would create spillover parking impacts because of the lack of available vehicle spaces and cut-through traffic in adjacent residential neighborhoods.

Staff Response

As described in Section 4.4, *Transportation and Circulation*, on page 4.4-22 of the Draft EIR, access to the project site is provided by major roadways, including La Cienega Boulevard, San Vicente Boulevard, and 3rd Street. Given these major roadways, it is unlikely that traffic from the project would be distributed through the surrounding residential neighborhood since these neighborhoods do not provide direct access to the project site. Thus, it was determined in Section 4.4, *Transportation and Circulation*, on page 4.4-35 of the Draft EIR that there would be no impacts and further analysis is not required. Policy 14-1.1 regarding cut-through traffic is part of Objective 14-1: "Initiate and continue existing Residential Neighborhood Protection Plans to mitigate traffic and parking impacts throughout the Wilshire Community Plan Area." This objective identifies the geographic scope as being the Wilshire Community Plan area generally and the action as the initiation of Residential Neighborhood Protection Plans. Therefore, the objective and its corresponding policies do not apply to individual development projects.

Appellant's Statements: Parking

- The proposed project is inconsistent with Goal 15 and Policy 15-1.1 regarding parking and minimizing the number of ingress and egress points on major highways, respectively.

Staff Response

Goal 15 does not apply to the project because it clearly calls for "parking lots and facilities *throughout the plan area*." Therefore, Goal 15 does not mandate that individual developments include parking lots or facilities. Policy 15-1.1 also applies generally to the entire Wilshire Community Plan Area. The program that is associated with this policy – "The City Planning Department with LADOT should develop a phased, coordinated parking management strategy to implement this policy" – clearly states that the Department of City Planning and LADOT are responsible for implementing this policy, not individual development projects.

Appellant's Statements: Intersections

- The proposed project would be in violation of Goal 16 and Policy 16-1.1 from the Wilshire Community Plan regarding satisfactory traffic levels.

Staff Response

Goal 16 – "Provide a community-wide circulation system of freeways, highways, and streets which supports existing and planned land uses and anticipated traffic flow volumes, while maintaining acceptable levels of service at all intersections" – clearly refers to developing a community-wide circulation system and, as such, does not mandate that individual projects achieve this goal. Policy 16-1.1 therefore also applies generally to the entire Wilshire Community Plan area and to the area's Class II Major Highways, Secondary Highways and Collector Streets, not to individual projects. Notwithstanding, the project does not result in a substantial change in the volume-to-capacity ratio and no significant traffic impact will occur during construction or operation of the project.