

Council File 17-1041 Re: 12575 Beatrice Street

Spencer Kallick

Jan 25, 2018 2:42 PM

Posted in group: **Clerk-PLUM-Committee**

Zina,

Please ensure that the document linked below is added to the record for Council File No. 17-1041 (12575 Beatrice Street).

<https://www.dropbox.com/s/9lr843x8t6xpf0i/CF%2017-1041%20%2812575%20Beatrice%20Street%29.pdf?dl=0>

Best,

Spencer

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SUPPLEMENTAL RESPONSES TO COMMENTS

COMMENTS RECEIVED

On November 20, 2017, Luna & Glushon submitted an additional comment letter (Comment Letter 9) including two attachments (Comment Letters 10 and 11) regarding the Draft Initial Study/Mitigated Negative Declaration (IS/MND) prepared for the proposed New Beatrice West Project (proposed Project). The comment letters contain substantially the same comments and subject matter as was presented in the two Luna & Glushon letters and attachments previously submitted on May 17, 2017 and June 1, 2017. The comments and subject matter of the previous two letters were addressed in full and did not raise any substantial issues for purposes of California Environmental Quality Act (CEQA). Therefore, the following supplemental responses only address new comments or subject matter contained in Comment Letters 9, 10 and 11, which were not previously addressed in responses prepared for previous comment letters.

Each comment letter received has been assigned a number (i.e., Comment Letter 1, Comment Letter 2, etc.). The body of each comment letter has been separated into individual comments, which also have been numbered. This results in a tiered numbering system, whereby the first comment, Comment Letter 1, is depicted as Comment 1-1, and so on.

Material in Comment Letter 9 and Comment Letter 10 which are repetitive of previous comments are annotated in the right margin to show where the comment was originally made and where the response is found. All numbered comment letters are included in their entirety, followed by the corresponding responses. Copies of Comment Letters 9, 10 and 11 are included in Attachment A.

- Comment 9. Luna & Glushon Letter submitted on November 20, 2017
- Comment 10. CAJA Environmental Services, LLC letter dated May 31, 2017 submitted as Exhibit 3 to Comment Letter 9 submitted on November 20, 2017
- Comment 11. Coco Traffic Planners, Inc. letter dated October 13, 2017 submitted as Exhibit 6 to Comment Letter 9 on November 20, 2017

ATTACHMENTS

- A Comment Letters 9, 10 and 11
- B Previously Submitted Responses (1 through 8)
- C Previously Submitted Comment Letters (1 through 8)
- D Responses to Coco Traffic Planners letter (Response 11) prepared by Linscott Law & Greenspan Engineers

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LETTER 9: LUNA & GLUSHON

COMMENT 9-1

First and foremost, the Council Office should be aware that while the Applicant has applied for a lot line adjustment to create an approximately 20 x 20,317 square foot "lot" adjacent to Beatrice Street on which no structure will built, as of today, no such lot line adjustment has been approved.

RESPONSE 9-1

The proposed Project approvals include a lot line adjustment (Parcel Map Exemption [PMEX] under the Subdivision Map Act) designed to create a building site for the new building. Approval of the PMEX is a condition of approval for the proposed Project. In particular, Condition of Approval 18 states that prior to the issuance of a building permit, a copy of an approved Case No. AA-2017-397-PMEX shall be submitted to the satisfaction of the Department of City Planning (City Planning Commission Letter of Determination, August 18, 2017). This condition ensures that the proposed Project will not be built until the lot line adjustment is approved and final.

COMMENT 9-2

What's more, the lot line adjustment requested by the Applicant cannot be approved because it would be illegal under the Subdivision Map Act. The Subdivision Map Act limits lot line adjustments to those existing between four or fewer existing adjoining parcels. See Government Code §66412(d). Here, the Applicant's request is to adjust a line within five contiguous lots. Accordingly, it cannot be legally granted.

RESPONSE 9-2

The pending lot line adjustment (Case No. AA-2017-397-PMEX) is legally filed under the Subdivision Map Act and effects an adjustment within three existing lots. The lot line adjustment is intended to allow for a landscaped lot to separate the proposed Project from the abutting uses. Approval of the PMEX is a condition of approval for the proposed Project.

COMMENT 9-3

The Applicant claims that revision of the proposed Project (it was originally proposed at 323,923 square feet) eliminated the need for Floor Area Averaging under LAMC §12.24.W.19. Again, the Applicant is wrong. The proposed Project continues to propose a 199,500 square foot building on the 12575 Beatrice Street lot which will be expanded to 103,353 square feet with the lot line adjustment. Accordingly, as to that lot, the FAR will be 1.93, which exceeds the allowable 1.5:1 FAR limit. Without Floor Area Averaging, there is no legal way to build the proposed Project, as proposed.

RESPONSE 9-3

The proposed Project's floor area ratio (FAR) is 1.46:1. No floor area averaging is requested or contemplated as the proposed Project will be developed within the allowable FAR over the entire proposed Project Site in accordance with the Los Angeles Municipal Code (LAMC).

COMMENT 9-4

Indeed, as set forth herein below, the proposed Project will create a substantially increased hazard at the intersection of Jandy and Beatrice, a condition that is neither addressed nor mitigated in the MND.

RESPONSE 9-4

Both the Project Traffic Study and the supplemental traffic analysis prepared for the IS/MND (IS/MND, Appendix H – LLG Traffic Impact Study and LLG Construction Traffic Analysis) sufficiently evaluate the effects of the proposed Project at the Jandy Place/Beatrice Street intersection. Further, the November 21, 2016 assessment letter issued by the Los Angeles Department of Transportation (LADOT) (IS/MND, Appendix I – LADOT TIA Letter) provides LADOT's recommended Project-related traffic mitigation at the Jandy Place/Beatrice Street intersection and concludes that any impacts will be mitigated. The comment states that the proposed Project will create "hazardous" conditions on local streets but does not provide any data, analysis or evidence to support this assertion. (See Attachment D, LLG Responses 11-8, attached.)

COMMENT 9-5

Finally, the MND fails to conduct a Health Risk Assessment (HRA) to assess potential construction impacts to neighboring schools and nearby residential sensitive receptors, including the residential receptors just 50 feet to the south which will be directly next to one of the proposed truck routes (trucks are a known source of carcinogens).

RESPONSE 9-5

An HRA is not necessary for the proposed Project. As outlined in the IS/MND (pages 3-14 to 3-15), an HRA is recommended for projects that cause operational emissions that represent substantial long-term sources of diesel particulates. The comment fails to provide any data, analysis or evidence to show a potential significant health risk.

The comment addresses temporary construction impacts. The air quality impact assessment in the IS/MND concluded that maximum daily emissions of PM₁₀ from on-site sources (construction equipment and fugitive dust) would not exceed the South Coast Air Quality Management District (SCAQMD) localized significance threshold (LST) values. (Initial Study Checklist & Evaluation, page 3-12, Table 3-1.) Furthermore, concentrations of diesel PM₁₀ resulting from construction equipment use would decrease



by over 80 percent by the time emissions from construction activities reached the nearest school. (Initial Study Checklist & Evaluation, page 3-14.)

The IS/MND analysis is consistent with City of Los Angeles current guidance for assessing air quality impacts, which does not include HRAs for infill development. There is no formal SCAQMD or City guidance requiring HRAs for construction impacts to residential receptors. An HRA is typically conducted for projects that have high operational toxic emissions such as rail yards, refineries, and freeways.¹ The proposed Project is a mixed-use office development and construction is typical of urban infill developments. In addition, it was determined that an HRA for construction activities was not warranted based on a review of publicly available meteorological data and applicable guidance methodologies from the SCAQMD. The comment correctly identifies that residential receptors are situated in close proximity to the south and southwest of the property boundary. However, according to meteorological data collected at the Santa Monica Airport—located approximately three miles northwest of the project site—the predominant wind direction during the daily construction period is from the southwest, away from the residential use.²

Winds measured at the Santa Monica Airport during the day have a northerly vector component (i.e., blow generally or partially in the direction of the nearest residential receptors) less than 20 percent of the time. During daytime construction activities, emissions of diesel PM₁₀ generated in construction equipment exhaust would be blown away from residential receptors a vast majority of the time (>80 percent). Therefore, based on the infrequency of winds blowing in the direction of residential receptors, the fact that residential uses are often unoccupied during daytime construction hours, and the temporary nature of construction activities, an HRA is not required for construction of the proposed Project.

¹ CAPCOA, *Health Risk Assessments for Proposed Land Use Projects*, July 2009.

² SCAQMD, *SCAQMD Meteorological Data for AERMOD Applications*, 2017

COMMENT 9-6

The MND does not adequately identify or discuss 2030 and 2050 GHG targets, codified by SB 32 and fails to provide substantial, if any, evidence that the proposed Project will further the state's GHG reduction targets. What's more, while the MND mentions the SCAQMD CEQA Threshold Working Group's GHG threshold, it fails to note that the proposed Project exceeds this threshold.

RESPONSE 9-6

As outlined in the IS/MND, a significant impact with regard to Greenhouse Gas (GHG) emissions would occur if construction or operation of a project would generate quantities of GHG emissions that would interfere with State, regional, and local efforts or plans to meet GHG emissions reduction targets in accordance with State law. (Initial Study Checklist & Evaluation, pages 3-25 to 3-29.) The comment inaccurately suggests that a 2050 Greenhouse Gas (GHG) emissions reduction target is codified within Senate Bill (SB) 32. First, SB 32 was enacted after the date of preparation of the air quality analysis for the IS/MND, which is dated April 2017. Therefore, a discussion of SB 32 in the IS/MND was not feasible nor required. SB 32 specifically sets a GHG emissions reduction target for 2030 of a statewide emission inventory equal to 40 percent below 1990 levels. The 2050 GHG emissions reduction target was originally codified in Assembly Bill (AB) 32 in 2005, which is set at a goal of 80 percent below 1990 levels. The comment also fails to acknowledge the regionally cumulative nature of GHG emissions. To imply that an individual office building project could “further the state’s GHG reduction targets” represents a misinterpretation of the intention of AB 32 and SB 32. These legislative measures apply to the statewide GHG emission inventory and are not directly applicable to individual CEQA projects. Instead, the legislative measures are to be considered by lead agencies and municipalities on a larger scale.

As discussed in the IS/MND, California has an aggressive approach to reducing statewide GHG emissions, which is implemented through programs such as the CALGreen Code and the Title 24 energy efficiency standards. Locally, the City of Los Angeles has adopted the GREEN LA Climate Action Plan of 2007, the Sustainable City pLAN of 2015, and its own LA Green Building Code that is more stringent than the statewide code. The proposed Project would be compliant with the provisions of all of these policies, as well as meeting the 2016 Title 24 energy efficiency standards. As identified in the IS/MND, the proposed Project would also incorporate additional energy-saving and resource-conserving features, such as solid waste recycling, reduced-flow plumbing fixtures, drought-tolerant landscaping, and use of gray water or rainwater systems for landscaped areas. (Initial Study Checklist & Evaluation, page 29.) The City Conditions of Approval further add measures such as above-code electric vehicle parking and charging requirements (Conditions 4a and 4b) and solar-ready requirements (Conditions 7a and 7b). All of these features are intended to improve the energy efficiency of the proposed Project, which will consequently reduce GHG emissions. By achieving compliance with the applicable statewide and local policies implemented to reduce GHG emissions, the proposed Project is consistent with the provisions of AB 32 and SB 32.

The IS/MND invokes the draft SCAQMD working group GHG threshold as a means of demonstrating the difficulty in assigning a bright line numeric threshold value to GHG emissions. The SCAQMD convened a working group that met 15 times and was still unable to effectively determine a universally applicable GHG emissions threshold for non-industrial CEQA projects. There is so much variability in the scale of CEQA projects within the SCAQMD jurisdiction and even within the City of Los Angeles that no numeric threshold has yet been officially adopted. The discussion of the draft SCAQMD threshold is intended to shed light on the complicated process of assessing the significance of GHG emissions. Ultimately, the SCAQMD’s reluctance to set a numeric bright line threshold is a testament to the complexity of the science surrounding GHG emissions and their effects on climate change. However, the

California Governor's Office of Planning and Research (OPR) and the California Air Pollution Control Officers Association (CAPCOA) have both acknowledged that GHG emissions are cumulative in nature, and that an individual project can emit GHG emissions without those emissions being cumulatively considerable. The GHG emissions associated with the proposed Project would have a less than significant impact on the environment for the aforementioned reasons presented above and in the IS/MND (Initial Study Checklist & Evaluation, pages 3-25 to 3-29).

COMMENT 9-7

Moreover, the MND, while referencing the thresholds for noise impacts (a 5 dBA increase above existing ambient noise levels), fails to apply this threshold for construction noise. To analyze construction noise, the MND instead looks at the LAMC noise standards for construction equipment. When the correct standard is used (see table 3-8 in the MND), it is clear that construction noise far exceeds the allowable 5 dBA threshold, resulting in a 27 dBA increase over existing ambient noise conditions, causing a significant impact that must be mitigated. [See Exhibits 3, 4.]

RESPONSE 9-7

This comment repeats issues raised in Comment Letter 8. Please see Attachment B, Response 8-1, for response.

COMMENT 9-8

A comprehensive analysis of errors in the proposed Project's MND with regard to its noise analysis, including its failure to (1) analyze noise impacts to two studio receptors; (2) analyze noise impacts from concrete mixing and pumping activities and off-site improvements in adjacent rights-of-way; (3) show that analyzed impacts are less than significant; (4) disclose potential significant health impacts; (5) use correct modeling and baselines; (6) analyze vibration impacts; and (7) provide adequate mitigation measures is attached hereto as Exhibit 4.

RESPONSE 9-8

This comment repeats issues raised in Comment Letter 8. Please see Attachment B, Responses 8-1 through 8-12 for detailed responses to the comments above, particularly pertaining to Exhibit 4. All of these comments have been previously addressed and found to raise no substantial issue with respect to the IS/MND's noise analysis.

COMMENT 9-9

Indeed, although it has numerous options along Beatrice Street and Grosvenor Boulevard, the proposed Project is designed to provide 50% of its traffic on Jandy Place, an approximately 400-foot in length cul-de-sac street which provides ingress/egress to many properties, including many owned by Karney Management Company. The intersection of Jandy and Beatrice is already hazardous due to existing traffic, lack of visibility, speed limit, and the fact that it connects two cul-de-sac streets.

RESPONSE 9-9

The comment is incorrect in stating that the proposed Project could provide access to Grosvenor Boulevard, as the proposed Project Site does not abut that street. Prior versions of this comment (see Comments 1-9, 2-5, 4-1, and 4-3), incorrectly stated that 75 percent of proposed Project traffic would traverse Jandy Place. The comment now correctly acknowledges that 50 percent of Project traffic would

access Jandy Place; however, the rest of the comment has not been changed to reflect this. There is no evidence that the intersection of Jandy Place and Beatrice Street would be made more hazardous by the proposed Project. Both the Project Traffic Study and the supplemental traffic analysis prepared for the IS/MND (IS/MND, Appendix H – LLG Traffic Impact Study and LLG Construction Traffic Analysis) sufficiently evaluate the effects of the proposed Project at the Jandy Place/Beatrice Street intersection. Further, the November 21, 2016 assessment letter issued by LADOT (IS/MND, Appendix I – LADOT TIA Letter) provides LADOT’s recommended Project-related traffic mitigation at the Jandy Place/Beatrice Street intersection and concludes that any impact is mitigated. The comment states that the proposed Project will create “hazardous” conditions on local streets but does not provide any data, analysis or evidence to support this assertion. (See Attachment D, LLG Responses 11-1 to 11-8.)

COMMENT 9-10

The MND also fails to analyze almost at all, but certainly in sufficient detail as required by CEQA, construction traffic impacts as well as parking impacts.

RESPONSE 9-10

A detailed construction traffic analysis was conducted for the proposed Project. (IS/MND, Appendix H – LLG Construction Traffic Analysis.) Construction traffic is also analyzed with regards to Air Quality and Noise and Vibration impacts. (Initial Study Checklist & Evaluation, pages 3-10—3-11, 3-41—3:45, 3-45—3:46.) The analysis concludes that construction traffic associated with the proposed Project would not result in any significant traffic impacts at the study intersections. (Appendix H – LLG Construction Traffic Analysis, page 4.) In the LADOT Traffic Impact Assessment (TIA) memorandum dated November 16, 2016 (LADOT TIA Letter), LADOT confirmed the Traffic Impact Study analysis and conclusions. (see Appendix I – LADOT TIA Letter.)

COMMENT 9- 11

Finally, the MND fails to adequately analyze impacts on transportation/ traffic for all of the reasons set forth in the review completed by Kimley-Horn and Associates, Inc. and Coco Traffic Planners, Inc. [*Exhibits* 5, 6], including lack of adequate supporting evidence and conclusions based upon unsubstantiated and exaggerated assumptions, such as assuming that 10-15% of the proposed Project's traffic will be generated from the west, *i.e.* the Pacific Ocean, a condition that cannot possibly exist, and estimating no northbound movements at the intersection of Westlawn and Jefferson based upon traffic counts being conducted on January 28, 2016 when that leg of the intersection was blocked to northbound traffic, possibly for construction south of Jefferson Boulevard.

RESPONSE 9-11

See Attachment D, LLG Responses 11-1 to 11-8.

The comment incorrectly implies that only the Pacific Ocean lies to the west of the proposed Project Site, when in fact several major thoroughfares including Lincoln Boulevard, Culver Boulevard, Jefferson Boulevard and Vista del Mar are located west of the proposed Project Site and provide access to large population areas to the west, north and south of the Project Site. The comment also incorrectly states that no northbound movements were estimated in the Traffic Study at the intersection of Westlawn and Jefferson Boulevard, when in fact northbound movements are shown and calculated at that intersection. Please see the attached Responses to Coco Traffic Comments (Attachment D) for detailed responses to comments raised by Coco Traffic Planners, Inc. (Letter 11). None of these comments raise a substantial issue with respect to the IS/MND’s transportation analysis.

LETTER 10: CAJA ENVIRONMENTAL SERVICES, LLC**COMMENT 10-1**

What's more, there exist several residential structures immediately south/southwest of the proposed Project Site along Beatrice Street, roughly 50-feet in distance from the boundary of the proposed Project Site. Specifically, an HRA addresses potential impacts to people exposed to toxic air contaminants (TACs) anticipated to be released as a result of a proposed Project. Potential impacts to human health associated with releases of TACs may include increased cancer risks and increased chronic (long-term) and acute (short-term) non-cancer health hazards from inhalation of TACs by people working, living, recreating, or attending school on or near the proposed Project site. The objective of an HRA is to estimate increased incremental health risk associated with construction activities of a proposed Project. When performing a construction Health Risk Assessment, all sensitive receptors within 100-feet should be considered.

RESPONSE 10-1

See Response 9-5, above.

COMMENT 10-2

Although the MND mentions Assembly Bill 32 (AB 32), which focuses on achieving GHG emissions equivalent to statewide levels in 1990 by 2020, the MND fails to mention and/or discuss Senate Bill 32 (SB 32). On September 7, 2016, Governor Brown signed into law a measure that extends AB 32 another ten years to 2030 and increases the State's objectives. This is known as SB 32. SB 32 calls on Statewide reductions in GHG 40 percent below 1990 levels by 2030. This analysis must be completed and/or discussed in detail within the MND.

RESPONSE 10-2

See Response 9-6, above.

SB 32 was enacted after the date of preparation of the air quality analysis for the IS/MND, which is dated April 2017. Therefore, a discussion of SB 32 in the IS/MND was not feasible or required. SB 32 specifically sets a GHG emissions reduction target for 2030 of a statewide emission inventory equal to 40 percent below 1990 levels. As acknowledged by the California Governor's OPR and the CAPCOA, GHG emissions are regionally cumulative in nature and an individual project may generate GHG emissions without conflicting with the provisions of statewide efforts to reduce GHG emissions. As discussed in the IS/MND, the proposed Project would be compliant with the provisions of CALGreen Code, Title 24, GREEN LA Climate Action Plan, the LA Green Building Code, among other measures. (Initial Study Checklist & Evaluation, pages 3-25 to 3-29.) By achieving compliance with the applicable statewide and local policies implemented to reduce GHG emissions, the proposed Project is consistent with the provisions of AB 32 and SB 32.

COMMENT 10-3

The MND compares the proposed Project's GHG emissions against a draft 2010 threshold of significance raised by SCAQMD Staff during a working group process. The MND fails to properly conclude that the proposed Project would exceed that draft threshold. Specifically, in September 2010, the Working Group released additional revisions that recommended a screening threshold of 3,500 MTCO_{2e} for residential projects, 1,400 MTCO_{2e} for commercial projects, and 3,000 MTCO_{2e} for mixed use projects.

Additionally, the Working Group identified project-level efficiency target of 4.8 MTCO_{2e} per service population as a 2020 target and 3.0 MTCO_{2e} per service population as a 2035 target. As the proposed Project exceeds a 2020-derived screening level, it is only logical to assume that the proposed Project also would exceed a 2030-derived screening level, should one be calculated extrapolated. If application of the draft SCAQMD CEQA Threshold Working Group's GHG threshold considers the proposed Project potentially significant using the state's 2020 climate target, then it misleads the public and the City decision-makers to not more closely assess the proposed Project's consistency (or lack thereof) with the state's 2030 climate target. This analysis must be completed and/or discussed in detail within the MND.

RESPONSE 10-3

See Response 9-6, above.

The IS/MND invokes the draft SCAQMD working group GHG threshold as a means of demonstrating the difficulty in assigning a bright line numeric threshold value to GHG emissions. The SCAQMD convened a working group that met 15 times and was still unable to effectively determine a universally applicable GHG emissions threshold for non-industrial CEQA projects.³ There is great variability in the scale of CEQA projects within the SCAQMD jurisdiction and even within the City of Los Angeles that no numeric threshold has yet been officially adopted. The discussion of the draft SCAQMD threshold is intended to shed light on the complicated process of assessing the significance of GHG emissions. Ultimately, the SCAQMD's reluctance to set a numeric bright line threshold is a testament to the complexity of the science surrounding GHG emissions and their effects on climate change. However, the OPR and the CAPCOA have both acknowledged that GHG emissions are cumulative in nature, and that an individual project can emit GHG emissions without those emissions being cumulatively considerable.^{4,5} As discussed in the IS/MND and Response 9-6 above, the GHG emissions associated with the proposed Project would have a less than significant impact on the environment and would be consistent with all state, regional and local goals and policies. (Initial Study Checklist & Evaluation, pages 3-25 to 3-29.)

COMMENT 10-4

The Proposed Project's cumulative contribution to GHG emissions needs to be calculated and presented. As it is written, there is no reasoned analysis or substantial evidence to support the MND's claims that impacts would be less than significant.

³ South Coast Air Quality Management District, *Board Letter – Interim CEQA GHG Significance Threshold for Stationary Sources, Rules and Plans*, December 5, 2008.

⁴ Governor's Office of Planning and Research, *Technical Advisory – CEQA and Climate Change: Addressing Climate Change through California Environmental Quality Act (CEQA) Review*, June 19, 2008.

⁵ California Air Pollution Control Officers Association, *CEQA & Climate Change: Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act*, January 2008.

RESPONSE 10-4

The proposed Project's cumulative contribution to GHG emissions has been quantified and disclosed in the IS/MND (Initial Study and Checklist Questions, page 3-28). The GHG emissions analysis is consistent with Section 15064.4 of the CEQA Guidelines. Therefore, the proposed Project's cumulative contribution to GHG emissions has been calculated and presented, and this comment lacks validity.

The results of GHG emissions modeling are presented in **Table 3-3** of the IS/MND (Initial Study Checklist and Evaluation, page 3-27). As stated in the IS/MND, if the proposed Project was to be built adhering only to the Regulatory Compliance Measures **RC-GHG-1** and **RC-GHG-2** and not the Project Design Features (PDFs), emissions generated by the proposed Project would be 6,145 MTCO_{2e} annually in 2019. This represents a net increase of 5,447 MTCO_{2e} per year when compared to the existing land uses on the project site. By incorporating the Project Design Features (PDFs), emissions of GHGs generated by the proposed Project would be reduced to 5,505 MTCO_{2e} per year. Thus, the PDFs achieve a 10 percent reduction in annual GHG emissions through energy efficient lighting, low flow plumbing fixtures, and additional sustainable design features. The net annual emissions with incorporation of project design features would be 4,807 MTCO_{2e}. (Initial Study Checklist & Evaluation, page 3-27.) By achieving compliance with the applicable statewide and local policies implemented to reduce GHG emissions, the proposed Project is consistent with the provisions of AB 32 and SB 32.

LETTER 11: COCO TRAFFIC PLANNERS, INC.

See Attachment A (Comment Letter 11)

RESPONSES 11-1 THROUGH 11-8

See Attachment D (Response 11)

Attachment A: Comment Letters 9,
10 and 11

COMMENT LETTER NO. 9

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November 20, 2017

VIA EMAIL and PERSONAL DELIVERY

Los Angeles City Council
Planning and Land Use Management Committee
200 North Spring Street
Los Angeles, CA 90012

Re: CPC-2016-1208-CU-SPR/ENV-2016-1209-MND
12575 Beatrice Street (12553-12575 West Beatrice Street; 5410-5454 S.
Jandy Place)

Honorable Councilmembers:

Our law firm represents Karney Management Company, the manager and owners' representative of the parcels located immediately to the west and south of the proposed construction of a new **155-foot¹** high office building and associated parking, landscaping, and hardscape at 12553-2575 West Beatrice Street; 5410-5454 S. Jandy Place ("the Project"). Our clients and their tenants will be the most impacted, both directly and negatively, if the Project, as proposed, is approved.

For all of the reasons forth hereinbelow, including that the legally mandated findings for the Project, as proposed, cannot be made with substantial supporting evidence and the Mitigated Negative Declaration ("MND") for the Project is inadequate as a matter of law under the California Environmental Quality Act ("CEQA"), the Council should grant the within appeal.

¹ The Applicant has attempted to disguise the true height of this Project by asserting that it is 135 feet. This height calculation, however, does not include the 20 foot high and large mechanical room (the equivalent of *two* additional stories!) *on top* of the 135 foot building.

Attachment C
Comment Letter
No.1
May 17, 2017
See Attachment B
Response 1-1

I. The Project is Limited to a 45-foot Height Limit

First and foremost, the Council Office should be aware that while the Applicant has applied for a lot line adjustment to create an approximately 20 x 20, 317 square foot “lot” adjacent to Beatrice Street on which no structure will be built, as of today, **no such lot line adjustment has been approved**. Accordingly, the Project is proceeding on a M2-1 Zoned site, situated directly across Beatrice Street from the Avalon Playa Vista residential apartments and is therefore a “Commercial Corner” under LAMC § 12.03. Under the Commercial Corner regulations, **development thereon is therefore limited to a height of 45 feet**. See *Los Angeles Municipal Code* (“LAMC”) § 12.22.A.23.

9-1

Attachment C
Comment Letter
No. 2
June 1, 2017
See Attachment B
Response 2-2

What’s more, the lot line adjustment requested by the Applicant cannot be approved because it would be **illegal under the Subdivision Map Act**. The Subdivision Map Act limits lot line adjustments to those existing between *four or fewer* existing adjoining parcels. See *Government Code* §66412(d). Here, the Applicant’s request is to adjust a line within *five* contiguous lots. Accordingly, it cannot be legally granted.

9-2

And, in any case, even if it could legally be granted, the lot line adjustment is of no use to the Applicant. Again, as proposed, the lot line adjustment is to create an approximately 317 square foot “lot” adjacent to Beatrice Street on which no structure will be built.² The Applicant believes that if such a “lot” is created, the “Commercial Corner” restrictions will not apply to this Project.

Attachment C
Comment Letter
No. 2
June 1, 2017
See Attachment B
Response 2-2

The Applicant is wrong. The Project is not limited to just those lots on which physical buildings will be located. The Project’s siting encompasses the *whole* of the M2-1 Zoned site which is the subject of the within action.³ The Applicant admits as much in its application and proposed findings, providing the location of the Project as *the total area* of all of the lots and expressly

² There is no process in the Subdivision Map Act, the LAMC, or any other law to create a parcel upon which no legal structure could ever be constructed and which could never be used for any legal purpose. The creation of this sliver of land subverts not just the intent of the “Commercial Corner” Ordinance, but also the Subdivision Map Act pursuant to which the LAMC sections relating to the division of land are prescribed.

³ Indeed, such unscrupulous actions by developers are precisely what the “four or fewer” lot limitation in the Subdivision Map Act is intended to protect against.

acknowledging that the 317 square foot "lot" created by the lot line adjustment will be created in connection with the Project's landscaping and open space purposes.⁴

Simply put, the whole of the Project site is a "Commercial Corner" under the LAMC. Therefore, *all* proposed structures that exceed 45 feet, including the massive 155 foot structure, are illegal under LAMC §12.22.A.23. This City Council should not allow an applicant to subvert and circumvent the protections of the City's Ordinances, such as the Commercial Corner Ordinance, by creating these types of land "slivers" and calling them "lots" simply to avoid zoning restrictions.

II. The Withdrawal of Floor Area Averaging under LAMC §12.24.W.19 was in Error and the Project Exceeds the Maximum Permitted FAR

The Applicant claims that revision of the Project (it was originally proposed at 323,923 square feet) eliminated the need for Floor Area Averaging under LAMC §12.24.W.19. Again the Applicant is wrong. The proposed Project continues to propose a 199,500 square foot building on the 12575 Beatrice Street lot which will be expanded to 103,353 square feet with the lot line adjustment. Accordingly, as to that lot, the FAR will be 1.93, which exceeds the allowable 1.5:1 FAR limit. Without Floor Area Averaging, there is no legal way to build the Project, as proposed.⁵

III. The Project Violates LAMC §12.36

LAMC §12.36.B requires applicants to file all applications for all approvals reasonably related to complete the project at the same time. LAMC §12.36.A provides that it is applicable to any legislative approval that requires any legislative, quasi-judicial or subdivision approval.

⁴ Since we have raised this argument, the Applicant and the City have changed their position that the 317 lot will no longer be a part of the Project site. This is in complete contradiction to all of the application documents, and is simply untrue. The lot line adjustment is *necessary* to accomplish the Project, as proposed by the Applicant, and all of the lots are considered (including by the Applicant and the City) a "unified development."

⁵ No lot ties are being proposed by the application.

Attachment C
Comment Letter
No. 2
June 1, 2017
See Attachment B
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Here, it is clear that in addition to the entitlements proposed, the Project will also need at least a Condition Use Permit for beer and wine (probably a Master Conditional Use) to operate the anticipated bar and restaurant use; a haul route⁶; a lot tie; the approval of the aforementioned lot line adjustment; and, per the Project's own MND, "additional actions as determined necessary."

Without clear information about all approvals reasonably related to complete this Project, the City cannot continue to process the Project under LAMC §12.36.

IV. The Required Findings for a Major Development Project under LAMC §12.24.U.14 Cannot be Made with Substantial Supporting Evidence

- a. The Project does not provide for an arrangement of uses, buildings, structures, open spaces and other improvements that are compatible with the scale and character of the adjacent properties and surrounding neighborhood;

The prevailing scale and character of the adjacent properties and surrounding neighborhood surrounding the Project is that of low-height, creative office uses. The majority of the surrounding uses are buildings which are one (1) to (3) three stories in height, and all adjacent properties are single story industrial buildings [Exhibit 1].

The Project will overwhelm and overshadow these low-height, creative office buildings. Indeed, at 155 feet, the Project will introduce a height otherwise unknown in this entire neighborhood. It will be five times higher than all adjacent buildings and nearly two times higher than even the highest building along Jefferson [Exhibits 1, 2].

The Applicant's proposed findings make absolutely no effort to show how the Project will be compatible with the predominantly single-story, creative office scale and character of the adjacent properties and surrounding neighborhood. Instead, the proposed findings generally describe how the building mass is "varied" and the Project will provide setbacks and landscaping. But what does that have to do with whether the Project is *compatible* with the *scale and character* of the adjacent properties and surrounding neighborhood? Nothing. The

⁶ No haul route application for this Project can be found in the City's files.

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Applicant is providing a “smoke and mirrors” approach, hoping that the Council focuses its attention on Project details rather than the plain language of the finding that it needs to make.

There is *no* evidence, let alone substantial evidence, to support the finding that the Project will be *compatible* with the *scale and character* of the *adjacent properties* and surrounding neighborhood. The only evidence is to the contrary. For this reason alone, the Project must be denied.

b. The Project is *not* consistent with the City Planning Commission’s Design Guidelines for either Commercial or Industrial Projects.

In 2013, the City Planning Commission adopted the Citywide Design Guidelines (“Guidelines”) to serve as the City’s vision for the future and to provide guidance and best practices for new development, encouraging projects to complement existing urban form in order to enhance the built environment of the City Los Angeles.⁷

As it relates to Commercial projects, the Guidelines provide the following applicable goals and objectives:

1. *Consider neighborhood context* and linkages in building and site design (objective 1, p. 8);
2. *Ensure that new buildings are compatible in scale, massing, style, and/or architectural materials with existing structures in the surrounding neighborhood.* In older neighborhoods, new developments should likewise respect the character of existing buildings with regards to height, scale, style, and architectural materials (relationship to adjacent buildings, objective 1, p. 15);

⁷ The City of Los Angeles’ General Plan Framework Element and each of the City’s 35 Community Plans promote architectural and design excellence in buildings, landscape, open space, and public space. **They also stipulate that *preservation of the City’s character and scale, including its traditional urban design form, shall be emphasized in consideration of future development.*** To this end, the Citywide Design Guidelines have been created to carry out the common design objectives that maintain neighborhood form and character while promoting design excellence and creative infill development solutions.

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3. *Minimize the appearance of driveways and parking areas.* Where alternatives to surface parking are not feasible, locate parking lots at the interior of the block, rather than at corner locations. Reserve corner locations for buildings (objective 4, p. 34).

As it relates to Industrial projects, the Guidelines similarly provide the following applicable goals and objectives:

1. *Consider neighborhood context and compatible design of uses* (objective 1, p. 8);
2. *Ensure that new buildings are compatible in scale, massing, style, and/or architectural materials with existing structures in the surrounding neighborhood.* In older neighborhoods, new developments should likewise respect the character of existing buildings with regards to height, scale, style, and architectural materials (relationship to adjacent buildings, objective 1, p. 13)
3. *Facilitate safe access for loading areas* while buffering pedestrians and non-industrial uses (objective 4, p. 29).

In sum, the Guidelines promote one main goal: development that is compatible with adjacent and surrounding properties.

The within Project's mass, scale, and height, as well as location immediately abutting low-rise, predominantly single story industrial and creative office structures puts it at odds with all of these land use purposes and objectives. The Project completely ignores the neighborhood context, failing to provide *any* sense of compatibility in scale or massing to the adjacent buildings surrounding it. Instead of minimizing the appearance of parking areas, it puts above-grade parking *immediately* adjacent to the front door of 5404 Jandy Place. Instead of facilitating safe access for loading areas, it proposes half of its ingress/egress along Jandy Place, a 400-foot long cul-de-sac street which is already congested most of the day. This Council should be aware that Jandy Place serves as the only access to several buildings, including at 5404 Jandy Place and 12615 Beatrice Street, both of which are past the choke point created by the Project.

Accordingly, the Project is *not* consistent with the City Planning Commission's design guidelines for Commercial or Industrial projects, and any finding to the contrary would be lacking in substantial evidence.

V. The Required Findings for Site Plan Review under LAMC §16.05 Cannot be Made with Substantial Supporting Evidence

- a. The Project is *not* in substantial conformance with the purposes, intent and provisions of the General Plan and the Palms-Mar Vista-Del Rey Community Plan;

As set forth above, the Project is inconsistent with the City Planning Commission's design guidelines for both Commercial and Industrial projects, a part of the City's General Plan Framework Element. The Project is also inconsistent with the following Palms-Mar Vista-Del Rey Community Plan goals and purposes:

1. *Require that commercial projects⁸ be designed and developed to achieve a high level of quality, distinctive character and compatibility with surrounding uses and development (policy 2-1.4, p. III-5).*
2. *Require that the design of new development be compatible with adjacent development, community character and scale (policy 2-3.1, p. III-6).*
3. *To provide a viable industrial base with job opportunities for residents with minimal environmental and visual impacts to the community (objective 3-1, p. III-6).*
4. *Ensure compatibility between industrial and other adjoining land uses through design treatments, compliance with environmental protection standards and health and safety requirements (policy 3-1.2, p. III-7).*
5. *Provide parking in appropriate locations in accordance with Citywide standards and community needs (objective 13-1, p. III-19).*

⁸ Notably, the Community Plan specifically provides that Commercial land use in the Palms-Mar Vista-Del Rey Community Plan area is **primarily small-scale and neighborhood-oriented** (p. III-4).

6. Ensure that the location, intensity and timing of development is consistent with the provision of adequate transportation infrastructure (objective 16-2, p. III-24).

As with the Design Guidelines, the Community Plan focuses on a primary goal for development that is *compatible* with adjacent and surrounding properties. But, as already discussed, the Project makes absolutely no effort to provide for compatibility with its adjacent, predominantly single story industrial neighbors. Its height, scale and inappropriate location of above ground parking immediately abutting other low rise uses will cause visual blight, toxic emissions, odors, and noise.

In contravention of Palms-Mar Vista-Del Rey Community Plan objective 3-1, p. III-6, the Project even fails to provide for an EIR to analyze the environmental impacts it will inevitably cast.

Instead of analyzing the Project against the Palms-Mar Vista-Del Rey Community Plan, the Applicant's proposed findings purport to nothing more than general descriptions of Project elements, without regard for whether such elements are in fact consistent with and satisfy the Community Plan requirements. But the Courts have been clear that findings of "consistency" with land use plans require more than simple incantation. The City cannot just articulate a policy in a land use plan and then approve a conflicting project. *Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777.

- b. The Project does *not* consist of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, that is or will be *compatible* with existing and future development on adjacent properties and neighboring properties.

In addition to all of the aesthetic, height, scale, and mass incompatibilities discussed above (which alone show that this finding cannot be made), the Project's proposed traffic/parking design is at complete odds with the buildings surrounding it. The Project proposes half of its ingress/egress along Jandy Place, a 400-foot long cul-de-sac street which is already congested most of the day. Jandy Place already serves as the only access to several buildings, including at 5404 Jandy Place and 12615 Beatrice Street. If the Project is constructed, Beatrice Street, which is also a congested cul-de-sac, would experience enormous spill-

over, severely and negatively impacting adjacent uses' ability to access their businesses. Indeed, as set forth hereinbelow, the Project will create a substantially increased hazard at the intersection of Jandy and Beatrice, a condition that is neither addressed nor mitigated in the MND.

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VI. The Mitigated Negative Declaration is Inadequate under CEQA.

The foremost principle under CEQA is that the Legislature intended the act to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language. *Friends of Mammoth v. Bd. of Supervisors* (1972) 8 Cal.3d 247, 259.

The heart of CEQA is the Environmental Impact Report ("EIR"). *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214. Accordingly, a public agency must prepare an EIR whenever substantial evidence supports a fair argument that a proposed project may have a significant effect on the environment. The fair argument standard is a "low threshold" test, and public controversy concerning environmental effect of a project indicates that preparation of an EIR is desirable. *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75.

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CEQA requires **strict compliance** with the procedures and mandates of the statute. *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 118.

For all of the reasons set forth below, and as set forth in more detail in the independent review by CAJA Environmental Services, LLC, Douglas Kim and Associates, Kimley-Horn and Associates, Inc., and Coco Traffic Planners, Inc. [Exhibits 3, 4, 5 and 6], the CEQA procedures and mandates have not been met. Substantial evidence supports a fair argument that the Project may have a significant effect on the environment, and an EIR must be prepared.

a. The MND is Premature and Defers Environmental Review

A fatal flaw in the proposed MND is that it fails to integrate its analysis with all of the planning and environmental review procedures required under the Los Angeles Municipal Code. Instead it provides that the certain aspects of the Project, including a haul route, off-site improvements in the adjacent rights-of-way, a lot line adjustment and "additional actions as may be determined

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necessary” will be evaluated at some later date. This is plainly against the CEQA requirements.

CEQA sets out a fundamental policy requiring local agencies to integrate the requirements of CEQA with planning and environmental review procedures otherwise required by law or by local practice so that all those procedures, to the maximum feasible extent, run concurrently, rather than consecutively. Public Resources Code § 21003(a); *See also CEQA Guidelines* § 15080 (to the extent possible, the CEQA process should be combined with the existing planning, review, and project approval process used by each public agency). It is for that reason that CEQA requires all environmental assessment/analysis, including formulation of mitigation measures to mitigate potential environmental impacts, to occur before a Project is approved. *Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 906. By refusing to integrate the evaluation of other actions necessary to complete the Project, the City is ignoring these CEQA obligations, constituting clear error and abuse on its part. *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 652.

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b. The MND Fails to Provide Consistent and Accurate Information

On numerous occasions, specific Project information in the MND does not match what is proposed on the accompanying figures within the MND and which are supposed to serve as the substantial evidence that supports the conclusions in the MND. [See Exhibit 3].

All of this information needs to be corrected and reassessed to comply with CEQA. *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645 (where an agency fails to abide the informational requirements of CEQA by omitting material necessary to informed decisionmaking and informed public participation, harmless error analysis is inapplicable and the agency is deemed to have erred and abused its discretion).

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c. Project Description

Knowledge of the regional setting is critical to the assessment of environmental impacts. Accordingly, an accurate description of the physical environmental conditions in the vicinity of the project is critical for a proper evaluation of the potential environmental effects of a proposed activity. *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730.

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Here, the MND completely fails to provide an adequate environmental setting discussion, including other related projects (also necessary for a cumulative impact analysis, discussed below), the fact that the Project is located on a Methane Hazard site, and the schools to the north and east of the Project site (necessary to adequately provide an assessment of the Project in relation to its surrounding uses). Without this information, it is impossible to adequately evaluate the potential environmental effects of the Project.

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d. Aesthetics

The proposed Project will degrade the existing visual character or quality of the Project site and its surroundings. **It will introduce a height otherwise unknown in this area, overshadowing adjacent uses.**⁹ Even worse, the MND attempts to mask the full height of the Project by claiming the Project maximum height is 135 feet, when there is actually a 20 foot high and large mechanical room *on top* of the 135 foot structure – that room equivalent to *two additional stories*. Similarly, it will create a monotonous view of nothing more than parking garage spaces for adjacent buildings, all of which are two to three stories in height (either the same height as or lower than the above ground parking garage). [See Exhibits 1, 2]. The MND’s aesthetic “analysis” completely fails to analyze any of these factors. Indeed, it provides that there will be a “less than significant impact” on the visual character of the site and its surroundings without providing any detail about what such “character” is comprised of. The MND fails to discuss *any* height, color or façade compatibility, all of which are necessary to adequately evaluate the aesthetic impacts of this Project on its surroundings.

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e. Air Quality

The Air Quality analysis in the MND is based upon an old, 2012 Air Quality Management Plan (AQMP). This AQMP has been superseded by a 2016 version. The whole of the Air Quality analysis needs to be re-reviewed and analyzed under the relevant 2016 AQMP.

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⁹ See Exhibit 3, the MND fails to mention that there exists an outdoor gathering space directly north of the Project which is considered a “shadow-sensitive” use under the *L.A. CEQA Thresholds Guide*. The impacts on “shadow-sensitive” uses must be evaluated under the City’s own Thresholds Guide.

What's more, the MND admits that the proposed growth in population from the Project could exceed the 2020 projections for the City in the adopted 2012 AQMP. If this is the case under the 2016 standards, the Project would conflict and obstruct implementation of the applicable, federally-approved air quality attainment plan for the region and must be fully evaluated and disclosed in an EIR.

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The MND also fails to provide for the impacts on air quality caused by the Project being in a Methane Hazard Zone and provides inconsistent information about the anticipated motor vehicle emissions which will result (the MND provides that the average daily weekday traffic associated with the proposed project is estimated to be 2,200 vehicle trips; the CalEEMod analysis identifies 2,758 daily vehicle trips; while the LL&G traffic study identifies 1,946 daily trips).

Finally, the MND fails to conduct a Health Risk Assessment (HRA) to assess potential construction impacts to neighboring schools and nearby residential sensitive receptors, including the residential receptors just 50 feet to the south which will be directly next to one of the proposed truck routes (trucks are a known source of carcinogens).

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In order to comply with CEQA, including for all of the reasons set forth in Exhibit 3, the whole of the "Air Quality" analysis needs to be re-reviewed and re-analyzed.

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f. Cultural Resources

As disclosed and admitted by the City in the environmental reports completed for the surrounding Playa Vista residential developments, and other recent developments in the surrounding area, there is high potential that the Project will disturb and/or destroy paleontological resources. Inconsistent with these development projects and the environmental reports completed in connection therewith, the within Project MND fails to adequately evaluate these impacts. [Exhibit 3]. This is a blatant CEQA violation.

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g. Geology and Soils

The MND admits that the Project would expose people and structures to seismic-related ground failure, including liquefaction, and that the Project site is located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and has potential to result in on-or off-site landslide,

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