Ultimately, the analysis determined that excavation phase construction vehicle impacts could increase noise levels along Westlawn Avenue and Grosvenor Boulevard, between Beatrice Street and Jefferson Boulevard, by 3.6 dBA.[6] However, as shown in the noise appendix's "Mobile Noise With Haul Trips Analysis" calculation sheets, roadside noise levels were predicted from a distance of 50 feet from the right-of-way. Predicting roadway noise levels from this distance understates the noise levels that could be experienced by land uses along Westlawn Avenue and Grosvenor Boulevard. For example, multi-family residences along Westlawn Avenue are located no more than 15 feet from that roadway's right-of-way, and approximately 40 feet from its centerline. Single-family residences along Grosvenor Boulevard are also located no more than 15 feet from that roadway's right-of-way, and no more than 35 feet from its centerline.

Further, the analysis modeled the noise impact of construction vehicles by adding their trips to the existing P.M. peak hour traffic volumes of Westlawn Avenue, Grosvenor Boulevard, and Jefferson Boulevard. This is not advisable for the two reasons. First, vehicles such as haul and delivery trucks would access the site regularly during construction work hours, not just during peak hours of traffic. For example, the study estimates that approximately 19 haul trucks could access the project site per hour during the excavation phase. During peak hours of traffic with relatively higher noise levels, additional noise from 19 haul trucks would not have as great an incremental noise impact as during mid-day hours with reduced traffic levels. Noise increases related to haul trucks would clearly be more pronounced during mid-day, non-peak hours. By modeling the impact of construction vehicles during the peak hour only, the analysis ignored the potential for construction vehicles to contribute to significantly considerable noise increases of 5 dBA or greater during off-peak hours. Second, to further understate the potential noise impact from construction vehicles, the analysis modeled noise impacts using P.M. peak hour traffic volumes, specifically. In the noise appendix's "Mobile Noise With Haul Trips Analysis" calculation sheets, the analysis assigns Westlawn Avenue a total hourly traffic volume of 492 vehicles; Grosvenor Boulevard, 502 vehicles; and Jefferson Boulevard, 3609 vehicles. These traffic volumes are also utilized in their "CNEL Noise Estimates for the Proposed Project" appendix calculation sheet, which is "Based on [the] PM Peak Hour." According to page 18 of the project's traffic impact study, the P.M. peak hour for these roadways was determined to begin at 5 P.M. It is inaccurate to use traffic volumes of such a late hour to model the project's construction vehicle impacts, as Regulatory Compliance Measure RC-NO-2 itself specifies that construction activities may not occur after 6 P.M., Monday through Saturday. By utilizing P.M. peak hour traffic volumes to model the impact of the project's construction vehicles, the analysis ignores the greater noise impact that these vehicles would have during other hours. Westlawn Avenue and Grosvenor Boulevard, in particular, have far lower traffic volumes during the A.M. peak hour than during the P.M. peak hour, let alone during non-peak times.

Attachment C Comment Letter No. 8 July 26, 2017 See Response 8-7 cont.

In summary, the analysis should reflect the project's off-site noise impact from construction vehicles with the following corrections:

- The FHWA's TNM 2.5 Noise Model should be used to project the off-site noise impact from construction vehicles, rather than the obsolete RD-77-108 methodology.
- Off-site noise levels should be predicted at roadway distances representative of actual receiver setbacks.
- Baseline existing traffic volumes should be representative of mid-day traffic conditions to conservatively predict the maximum noise increases that could be caused by the project's construction vehicles.

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6 Though the existing and existing plus construction truck results shown in Table 3-9 do not actually show a 3.6 dBA difference, While this is likely a typo. The "Mobile Noise With Haul Trips Analysis" calculation sheets in the noise appendix do show this 3.6 dBA increase in noise levels.

Total Construction Noise Impact: **Analysis fails to account for the cumulative impact of the project's on- and off-site construction-related noise levels at receptors.**

Attachment C Comment Letter No. 8 July 26, 2017 See Response 8-8

The analysis failed to consider the cumulative noise impact of on-site construction activities and off-site construction vehicle travel on nearby receptors. For example, Table 3-9 shows that noise levels along Westlawn Avenue could increase by 3.6 dBA as a result of the project's haul trucks and other construction-related vehicles. A multi-family residence along Westlawn Avenue could experience this noise level increase. However, this receptor would also be simultaneously exposed to additional noises as a result of the project's on-site construction activities. If on-site construction noise would further elevate noise levels at this receptor by just 1.4 dBA or greater, then the receptor would experience a cumulative construction-related noise increase in excess of 5 dBA, the L.A. CEQA Thresholds Guide's noise increase threshold. And, as has been previously discussed, it is all but certain that the project's on-site construction noise alone would exceed this threshold, even without considering the addition of off-site noise from construction vehicles.

Operations Noise Impact: **Outdated traffic model, incorrect receiver setback distances, and reliance on a P.M. peak hour traffic baseline understate the project's off-site operational noise impact.**

Attachment C Comment Letter No. 8 July 26, 2017 See Response 8-9

The analysis modeled the project's off-site operational noise impact from its related vehicle travel by using the FHWA's RD-77-108 methodology. As discussed earlier, this method has been obsolete for nearly 20 years. TNM 2.5 is the FHWA's current traffic noise model, as well as the industry standard method of predicting traffic noise.

The study also predicted traffic noise levels at a distance of 50 feet from the right-of-way. Modeling noise levels at this distance underestimates the actual noise levels that would occur at receptors located much closer to these rights-of-way. For example, the multi-family residence along Westlawn Avenue is located at a setback of no more than 15 feet from that roadway's right-of-way. As a result, it would experience noise levels in excess of those projected to occur at a 50 feet distance.

Page 3-43 of the noise analysis claims that "the proposed project would generate 2,200 trips per day and this number was used as the baseline for off-site traffic noise impacts for the project." However, the analysis did not model the project's impact on daily CNEL noise levels. The off-site operational noise impact analysis relies on the use of a P.M. peak hour traffic baseline. Weighing the project's impacts against only this elevated period of traffic and related noise diminishes the project's incremental impact on noise off-site noise levels. During non-peak hours of travel, the project's impact on off-site noise levels would be more pronounced. For example, adding 50 vehicle trips to an existing 200 vehicle trips would result in a lower noise increase than adding only 40 trips to an existing 180 trips.

Operations Noise Impact: **Lack of an existing with project analysis prevents the project's individual mobile noise impact from being compared to an existing without project baseline.**

Attachment C Comment Letter No. 8 July 26, 2017 See Response 8-10

Though the noise analysis does include an existing without project off-site operational noise baseline (albeit, a baseline limited to only the P.M. peak hour of traffic), it does not include existing with project noise levels. Existing with project analyses highlight a project's individual contribution to off-site noise increases in its vicinity. By comparing a future with project scenario to existing baseline conditions, the analysis does not compare the project's impact with existing conditions. An existing scenario should be directly compared with an existing with project scenario to disclose the project's individual off-site

operational noise impact on existing noise levels (Sunnyvale West Neighborhood Assoc. v. City of Sunnyvale City Council).

Attachment C Comment Letter No. 8 July 26, 2017 See Response 8-10 cont.

Construction Vibration Impact: **Two vibration-sensitive studio receptors not identified/analyzed.**

As discussed previously, ATN Stages and Vista Studios are two studio land uses that have not been identified by the analysis of the project's impacts. ATN Stages is located at 5415 Jandy Place, 80 feet west of the project. Vista Studios is located at 12615 Beatrice Street, 110 feet west of the project.

To analyze the project's potential construction-related vibration impacts on nearby studio land uses, the analysis cites the Federal Transit Administration's Traffic Noise and Vibration Assessment manual, which establishes a 65 VdB significance criteria for TV and recording studios. In Table 3-14, the analysis shows the vibration levels of construction equipment that would operate at the project site. Caisson drills, large bulldozers, and hoe rams in particular are shown to be capable of producing groundborne vibration levels of 87 VdB at a reference distance of 25 feet.[7]

Attachment C Comment Letter No. 8 July 26, 2017 See Response 8-11

Using the same FTA vibration modeling methodology, these pieces of equipment would be projected to generate groundborne vibration levels of 71.8 VdB at ATN Stages and 67.7 VdB at Vista Studios. Both of these impacts would exceed the 65 VdB significance threshold for studios recommended by the FTA and adopted by the analysis.

Construction Vibration Impact: **Vibration annoyance potential at nearby multi-family residence not analyzed.**

As discussed above, the vibration analysis adopts the FTA's Traffic Noise and Vibrational Assessment manual threshold criteria for TV and recording studios experiencing disruptive groundborne vibration. In this same manual, though, the FTA also recommends threshold criteria for residences experiencing disruptive groundborne vibration. However, the study does not analyze the effects of disruptive and/or annoying groundborne vibration levels on residences in the vicinity of the project site, specifically the multi-family residences 50 feet south of the project.

Attachment C Comment Letter No. 8 July 26, 2017 See Response 8-12

According to the FTA, "infrequent" vibration events of 80 VdB or greater can be annoying to residences. "Occasional events" of at least 75 VdB or "frequent events" of at least 72 VdB would also be considered annoying to residences.[8] Construction activities would be considered a "frequent event," and would therefore trigger a vibration threshold of 72 VdB. Again, using the same FTA vibration modeling methodology, the project's caisson drill, large bulldozer, and hoe ram activities would be projected to generate vibration levels of up to 78.0 VdB at the aforementioned multi-family residences, exceeding both the FTA's "frequent events" and "occasional events" groundborne vibration thresholds for residential receptors.

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7 Table 3-14 actually lists "Caisson Drill" twice, but it is fairly evident that one should read "Hoe Ram," as the vibration levels of hoe rams are similar to caisson drills and are discussed on page 3-45.

8 The FTA defines "frequent events" as more than 70 vibration events of the same source per day. "Occasional events" are defined as between 30 and 70 vibration events of the same source per day. "Infrequent events" are defined as fewer than 30 vibration events of the same source per day.

EXHIBIT 5

COMMENT LETTER NO. 4

Kimley»Horn

TECHNICAL MEMORANDUM

To:	Ryan Luckert **CAJA Environmental Services, LLC**
From:	Sri Chakravarthy, P.E., T.E. Kimley-Horn and Associates, Inc.
Date:	May 31, 2017
Subject:	NSB 12575 Beatrice Street Traffic Study Peer Review

Kimley-Horn reviewed the Traffic Impact Study for 12575 Beatrice Street Office Project (NSB Project) dated July 11, 2016, which was prepared by Linscott, Law & Greenspan, Engineers (LLG). This brief review was completed for Karney Management. The NSB project is expected to generate 1,946 daily trips with 275 AM peak hour trips and 334 PM peak hour trips. Primary access is being proposed on Jandy Place, which is a two-lane local street cul-de-sac with very limited ability to handle high vehicular traffic.

Attachment A Comment Letter No. 4 May 31, 2017 See Attachment B Response 4-1

The study indicates that 75% of the project traffic will be utilizing Jandy Place. It is also understood that all the project delivery and truck access will be off Jandy Place in addition to the proposed food trucks area. It is anticipated that Jandy Place will experience severe congestion during the AM and PM peak periods, potentially creating a hazardous situation including possibly blocking access to emergency vehicles.

A thorough analysis of this short street segment, as well as Beatrice and Westlawn, should be completed to understand if there are any adverse effects from the proposed project on traffic, pedestrian, and emergency vehicle access. Below is a summary of the traffic study.

1. Study Intersections – The study included analysis of internal intersections adjacent to the project site as well as the following additional intersections.

Attachment A Comment Letter No. 4 May 31, 2017 See Attachment B Response 4-2

- Lincoln Boulevard / Marina Pointe Drive – Maxella Avenue
- Lincoln Boulevard / SR-90 Ramps
- Mindanao Way / SR-90 WB Ramps
- Mindanao Way / SR-90 EB Ramps
- Westlawn Avenue / Bluff Creek Drive

2. NSB site plan shows 3 proposed driveways.

- Per NSB project site plan, the driveway along Beatrice Street is approx. 100' due west of Westlawn Avenue. There is no driveway at Beatrice/Westlawn.
- The driveways along Jandy Place seem to be directly opposing the proposed driveway for Jandy project. They do show that these driveways are the primary access driveways (75% of their project traffic uses this driveway to enter and exit site)
- There is a service driveway at the end of their site on Jandy within the cul-de-sac area but no additional information such as frequency of service vehicles, size of vehicles, etc has been included.

Attachment A
Comment
Letter No. 4
May 31, 2017
See
Attachment B
Response 4-3

3. Signal Warrant – NSB traffic study includes four hour and peak hour warrants. The study indicates the following:

- At Jandy/Beatrice, peak hour warrant is met for Future plus Project conditions
- At Westlawn/Beatrice, four-hour warrant is met for Future plus Project conditions

Attachment A
Comment
Letter No. 4
May 31, 2017
See
Attachment B
Response 4-4

4. Impacts – NSB study indicates significant project impacts at 3 study intersections. Proposed mitigation measure includes re-striping and signal timing improvements

- Westlawn/Jefferson
- Grosvenor/Jefferson
- Centinela/Campus Center Dr (Jefferson)

Attachment A
Comment
Letter No. 4
May 31, 2017
See
Attachment B
Response 4-5

EXHIBIT 6

COCO TRAFFIC PLANNERS, INC.
TRAFFIC • DESIGN • PARKING • MODELING • URBAN PLANNING
10835 Santa Monica Blvd., Suite 202 • Los Angeles, California 90025 • Ph: (310) 470-4870 • Fax: (310) 470-4870 • E-mail: info@cocotraffic.com

October 13, 2017

COMMENT LETTER NO. 11

Ms. Kristina Kropp, Attorney
LUNA & GLUSHON
16255 Ventura Boulevard, Suite 1016
Encino, California 91436

Subject: 12575 BEATRICE STREET OFFICE PROJECT TRAFFIC IMPACT STUDY REVIEW - LOS ANGELES, CALIFORNIA

Dear Ms. Kropp,

As authorized, we have conducted an thorough review of the above mentioned traffic study, prepared on July 11, 2016 by Linscott, Law, and Greenspan Engineers (LL&G) for the office development project located at 12575 Beatrice Street, in Los Angeles, California. In addition, we reviewed an Addendum to the LLG Traffic Study, dated December 14, 2016, addressing a revised driveway and parking plan. The LL&G traffic study was reviewed with regard to the data used, the calculations performed to obtain the study's conclusions, the traffic generation factors used, the traffic distribution and other traffic related matters. This report contains the findings and conclusions of our study with necessary supporting data.

Project Description

The proposed project's site is located at 12575 Beatrice Street, in the City of Los Angeles, bounded by Jandy Place to the west, Beatrice Street to the south, and existing office buildings to its north and east sides. The site falls within the Coastal Transportation Corridor Specific Plan area of the City of Los Angeles.

The site currently is occupied by an office building with 23,072 square feet (sf) of floor area. Two driveways, one on Beatrice Street, and one on Jandy Place respectively provide vehicular access to the existing building. The proposed project consists of the demolition of the existing building, to replace it with a new office building with a net floor area of 199,500 sf.

Vehicular access to the new project will reflect the current layout, with one driveway on Beatrice Street, and two on Jandy Place. A parking garage will be provided on site, beneath the office building. Access to the street and upper levels of the parking garage will be provided by the driveway on Beatrice Street, and the southerly one on Jandy Place. The northerly Jandy Place driveway will provide access only for the subterranean levels of the garage. In addition, a separate driveway will be provided on

Jandy Place at the northern end of the site to be used by service vehicles. Ingress and egress movements will be allowed at all driveways. The Addendum reports that the proposed project has been revised to provide one additional driveway on Beatrice Street, for a total of two, along with the two previously planned for Jandy Place. It should be noted that no data is provided in the subject Traffic Study, nor in the Addendum about the existing, or the proposed parking supply. The project is planned to be built, and fully occupied by the year 2018.

Traffic Study Review And Analysis

Specific tasks, completed as part of this report, consisted of reviewing the LL&G Traffic Study dated July 11, 2016, as well as the Addendum dated December 14, 2016, with regard to the data used, the calculations performed to obtain the study's conclusions, the traffic generation factors used, the traffic distribution, along with the intersection capacity calculation procedures at the key intersections analyzed in the report, and other traffic related matters.

In general, while most of the methodologies used in the analysis are in line with widely accepted industry standards, we found inconsistencies in the evaluation of the traffic generation for the proposed project, and some of the volume/capacity calculations. In addition, some errors were found in the Volume/Capacity ratio calculations relative to some intersections. These inconsistencies allowed the formulation of conclusions that appear to be unreasonable, in view of the results associated with the traffic study. Based upon our review, we offer the following comments on the assumptions, methodologies and conclusions contained in the LL&G traffic study:

- **Project Description** - The LL&G study describes the existing and proposed site development however, there is no mention of the quantity of parking provided, or the allocation of parking stalls among the different parking levels. Similarly, no plan of the parking garage is provided. The Addendum to the Traffic Study does not expand on the proposed parking supply, or the layout of the revised parking facility. No parking plan is provided, or an analysis of the parking supply. Consequently, it is difficult to verify the LL&G assumptions about the site related traffic split between the various driveways. The Addendum reports the additional driveway on Beatrice Street, which should determine a 50/50 split between the Beatrice Street and the Jandy Place driveways, but no data about the parking facility or its supply. The site traffic assignment to the analyzed intersections, especially those adjacent or close to the project's site also is difficult to verify. In addition, since no plan is provided of the parking garage's layout, it is not possible to verify whether the garage has proper internal circulation, or if its design is reasonable. It is recommended that revisions be made to the traffic study, showing the plan of the parking garage, its capacity, and an analysis of the proposed project's parking needs, as compared to the actual parking supply. 11-1

It should be noted that on page 1 of the Addendum ti is reported that "*In addition, as vehicles currently utilizing the existing surface parking lot to be removed will be relocated to the Project's parking garage, the traffic volumes associated with the existing parking lot were added to the forecast Project-related volumes at the site driveways."* It is not clear why the existing parkers would be added to the future ones, since the proposed office building will replace the existing development. Later in the Addendum, a discussion of the "Relocated Parking" describes that parking for the office building located at 12531 Beatrice Street will utilize the proposed project's parking. This is the first time this condition is described. A revised traffic study should address the subject shortcomings, and expand upon the additional office building's square footage, parking supply, current circulation, and any other information which may help clarify the operations of the new parking structure. It should be noted that the traffic associated with the proposed office building will create a significant number of trips, impacting the intersections of Jandy Place with Beatrice Street (side street Stop controlled), and Westlawn Avenue with Beatrice Street (Stop controlled). These are small two lane streets, and intersections, where the project's traffic will create potentially hazardous conditions, associated with the type of traffic control, visibility, speed limit. The additional traffic associated with the next door building will worsen the hazardous conditions that already will result from the major increase in traffic. 11-2

- **Related Projects Traffic** - The LL&G study indicates that 29 related projects, listed in Table 6.1 of the study, were under construction, or planned at the time the study was prepared. The table also reports the related projects addresses, land uses, sizes, as well as the traffic generated by each individual projects. However, there is no table showing how the traffic generated by these projects is calculated, i.e. the traffic generation factors used. This makes it very difficult to verify the accuracy of the calculations. This is significant, since the overall related projects' traffic generation is reported at about 9,200 and 11,300 vehicle trips during the AM and the PM peak hours respectively. A revised traffic study should address the subject shortcoming. 11-3

- **Related Projects Traffic Distribution and Assignment** - Once a project's regional traffic distribution has been evaluated, the traffic is assigned to the key intersections. Exhibits showing the traffic assignment, possibly by land use, make it possible for the reader to understand the pathways assumed by the traffic engineer. No data is provided by the LL&G report with regard to the related projects traffic distribution. Also, there is no mention of how their traffic has been assigned to the street system, and to the intersections analyzed. The study only provides exhibits showing the related projects' combined traffic volumes at the key intersections, both for AM and PM peak hour traffic conditions, which doesn't help much deciphering the routes used 11-4

by the related projects' patrons. Hence, it is impossible to verify the accuracy of the calculations, and ultimately of the report. A revised project's traffic report should provide a detailed related projects' traffic generation table, and exhibits showing the traffic assignment in terms of percentages of the traffic generated by the related projects.

- **Project Traffic Generation** - Table 7.1 of the LL&G study shows the proposed project's traffic generation. The calculations are based upon data provided by the Traffic Generation Manual of the Institute of Transportation Engineers (ITE) for the daily, and the morning peak hour factors, as well as by the Coastal Transportation Corridor Specific Plan for the evening peak hour. The table indicates that, the proposed project is expected to generate about 311 vehicle trips (274 inbound and 37 outbound) during the morning peak hour. The evening peak hour shows an estimated generation of 399 vehicle trips (68 inbound and 331 outbound). It should be noted that the ITE data is based upon thousands of traffic generation surveys. The analysis of those surveys establishes the relationship between the traffic generated by various land uses, and an "independent variable", normally the square footage of a development. The results of the subject analyses provide formulas, correlating the traffic generated, to the square footage of a given land use. When sufficient data is not available, the Manual only provides an average traffic generation rate. When both equations and rates are provided the formulas should be utilized since they are more accurate, and directly take into account the specific size of the land use. Basically, on a per unit basis (i.e. 1,000 sf), the traffic generated by a development varies with its total size. For instance, based upon the ITE equation (9th Edition), a 50 ksf office building is expected to generate 775 vehicle trips per day, which translates into a factor of about 15.5 trips per 1,000 sf. The same equation yields 1,313 daily vehicle trips for a 100 ksf, or a factor of about 13.13 trips per 1,000 sf. 11-5

  Besides the subject equations, the ITE also provides the average size of the independent variable. The weekday condition for General Office space, shows that the average size of the developments surveyed was 197 ksf. By "plugging" the average size among all of the sample surveys into the equation, a value of about 11.16 vehicle trips per 1,000 sf is obtained. This is very close to the Average Rate reported in the manual (11.03), and is the rate used by the LL&G traffic study. By using the average factor Linscott Law & Greenspan assumes that the proposed, and the existing office space generate traffic at the same rate as the average 197 ksf development, thus nullifying the effort of generating the equations in the first place. While the proposed project size is very close to the average size mentioned above, the existing building is much smaller (23,072 sf) therefore the average traffic generation factor is not appropriate. As stated above, the correct methodology is to use the equations, whenever available. It should be noted

that by using average rates, the proposed project shows a lower traffic generation than it would, if the correct procedure were employed.

The above argument also stands for the AM and the PM peak hours conditions. Table 1 shows a comparison between the two methodologies. Specifically, the proposed project, which the LL&G study calculated to generate about 311 vehicle trips (274 inbound and 37 outbound) during the morning peak hour, would actually generate about 330 vehicle trips (290 inbound and 40 outbound) during the morning peak hour, a higher volume. The evening peak hour shows an estimated generation of 399 vehicle trips (68 inbound and 331 outbound), calculated with the Coastal Transportation Corridor Specific Plan (CTCSP) peak hour factors. This volume instead would change to a lower 302 vehicle trips (51 inbound and 251 outbound), with ITE factors. Given that the ITE data is significantly more accurate than the "one factor fits all" CTCSP factors, it is recommended that a revised project's traffic report also applies the ITE equations to the proposed, as well as the existing project. The following example should be noted with regard to using the CTCSP factors: an 80 ksf office would generate about 224 trips during the PM peak hour (80 x 2.8), while a 110 ksf would generate 220 trips (110 x 2.0). Basically, these two buildings would generate the same quantity of traffic, in spite of the fact that one is about 40% larger than the other. 11-5 cont.

- **Project Traffic Distribution** - Figure 7.1 of the LL&G study is reported as showing the proposed project's traffic distribution. In reality the Figure shows the project's traffic assignment to the key intersections. No Figures showing estimates of the regional/directional, distribution of the site traffic are presented. Once the directional distribution of the site traffic is estimated, then the traffic can be assigned to the roadway system, and the key intersections, as Figure 7.1 of the LL&G study. Without the regional distribution Figure, it is very difficult to ascertain the correctness of the traffic distribution, and consequently, the accuracy of the traffic assignment. It appears that site traffic going to, and coming from the west was estimated at between 10 and 15 percent of the total traffic generated. This appears to be exaggerated, given the short distance between the site and the ocean, and the limited quantity of residential developments to the west of the site. 11-6

  About 13 percent of the inbound and outbound site traffic has been assigned to Westlawn Avenue. Of that, 3 percent is assumed to stop at the residential development right south of Jefferson Boulevard. Both these assignments appear to be significantly high, along with the 10 percent of the site traffic assignment to Bluff Creek Drive.

  Also, 10 percent of the site traffic has been assigned to the westbound on-ramp to the Hwy 90, off of Centinela Avenue, with the assumption that this traffic will go to Culver Boulevard (5%), and Mindanao Way (5%). Basically,

TABLE 1

PROJECT TRAFFIC GENERATION
12575 Beatrice Street Office Project Traffic Impact Study Review - Los Angeles

LAND USE	SIZE	UNIT	LAND USE CODE	AVERAGE DAILY TRAFFIC (1) TE Rate	AVERAGE DAILY TRAFFIC (2) Trip Ends	AM PEAK HOUR TE Rate (1) In	AM PEAK HOUR TE Rate (1) Out	AM PEAK HOUR Trip Ends (2) In	AM PEAK HOUR Trip Ends (2) Out	PM PEAK HOUR TE Rate (1) Out	PM PEAK HOUR Trip Ends (2) In	PM PEAK HOUR Trip Ends (2) Out
Site Project Per LL&G Study												
Proposed General Office	**199.500**	**KGSF**	710	11.03	2,200	1.373	0.187	274	37	0.340	1.660	68	331
Proposed Project Traffic Generation					**2,200**	**AM Peak = 311**		**274**	**37**	**PM Peak = 399**		**68**	**331**
Proposed Development Net Traffic Generation					**2,200**	*AM Total = 311*		**274**	**37**	*PM Total = 399*		**68**	**331**
Site Project Per ITE Data												
Proposed General Office	**199.500**	**KGSF**	710	11.12	2,219	1.467	0.200	293	40	0.26	1.26	51	251
Proposed Project Traffic Generation					**2,219**	**AM Peak = 333**		**293**	**40**	**PM Peak = 302**		**51**	**251**
Proposed Development Net Traffic Generation					**2,219**	*AM Total = 333*		**293**	**40**	*PM Total = 302*		**51**	**251**

Note: Traffic Generation factors per Institute of Transportation Engineers (ITE) Traffic Generation Manual 9th Edition.

1) TE Rate is the average number of Trip Ends generated per "SIZE" Unit (i.e. DU).

2) Trip End is a one-way vehicle movement entering or leaving the traffic generator.

this traffic is supposed to turn left on Jefferson Boulevard, travel east and turn left (northbound) on Centinela Avenue, onto the 90 Hwy, to exit on Culver Boulevard, and Mindanao Way. Should this traffic turn right onto Jefferson Boulevard (westbound), it would get to the same point on a 20% shorter route. Had the correct assignment have been used, the project's traffic impacts would have further deteriorated in the intersections located west of the site, and possibly trigger significant impacts. These inconsistencies should be cleared and/or corrected in the recommended proposed project's revised traffic study. 11-6 cont.

- The existing northbound traffic movements at the intersection of Westlawn Avenue and Jefferson Boulevard are not shown, both for the AM and the PM peak hours Figures 5-1, and 5-2, indicating that no northbound movements are allowed, or exist. The data, obtained from the traffic counts conducted on January 28, 2016, and provided by the City of Los Angeles Department of Transportation (LADOT), do not show any northbound volumes at the subject location. However, those movements are allowed, and exist. It appears that on the date of the count, January 28, 2016, that leg of the intersection was blocked to northbound traffic, possibly for construction south of Jefferson Boulevard. Consequently, additional traffic counts should have been conducted when the subject northbound leg was reopened. This is the first intersection that the site traffic impacts right out of the project site. Consequently, it is critical that this inconsistency be cleared and/or corrected in the recommended proposed project's revised traffic study. 11-7

- The intersections of Jefferson Boulevard with both north and southbound ramps to the I-405 has been calculated with a capacity of 1,200 vehicles per hour (vph) due to the fact that the intersections are closely spaced. However, the subject traffic signals are connected, and traffic movements are coordinated. Consequently, the correct capacity of 1,425 vph for three phase signals should be used. 11-8

* * * * * *

Summary And Conclusions

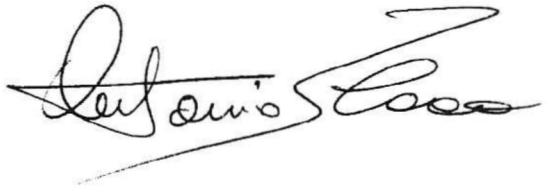
A thorough and independent review of the traffic study prepared by Linscott, Law & Greenspan, Engineers for an office development project located at 12575 Beatrice Street, in Los Angeles, California was conducted by our firm. The review verified the accuracy and consistency of the data used, the calculations performed to obtain the volume/capacity ratios presented, and the adequacy of the study's conclusions. In addition, the traffic generation factors used in the traffic study were verified. A detailed review of the technical appendices to the traffic study also was conducted.

Our review of the subject traffic study showed that while the methodologies used are in line with widely accepted industry standards, the traffic study does not provide some of the data required by the latest LADOT Traffic Study Policies and Procedures. Specifically, the lack of the Regional Traffic Distribution, both in a Figure format, and in a text format makes it difficult, if not impossible to verify the traffic assignment used in the study, which is a critical element of the analysis. We also found inconsistencies in the evaluation of the traffic generation of the proposed project, and the volume/capacity calculations which altered the real proposed project's traffic impacts. We estimate that a greater number of intersections may be significantly impacted by the subject development, as compared to those found by the LLG study. It is recommended that the subject LLG traffic study be revised to correct the inconsistencies found by our review.

Please call me if you have any questions with regard to our review.

Respectfully submitted,

COCO TRAFFIC PLANNERS, INC.



Dr. Antonio S. Coco, P.E.
President

ASC/mp
2K17015RW

Attachment B: Previously Submitted Responses: 1 through 8

RESPONSES TO COMMENTS

COMMENTS RECEIVED

Each comment letter has been assigned a number. 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 in Letter 1 is depicted as Comment 1-1, and so on. These numbered comment letters are included in their entirety, followed by the corresponding responses. Copies of the comment letters are included in Attachement A.

The following presents the list of comment letters received during the public review period on the Draft Initial Study/Mitigated Negative Declaration (IS/MND) prepared for the proposed New Beatrice West Project:

1. Luna & Glushon
2. Luna & Glushon
3. CAJA Environmental Services, LLC
4. Kimley-Horn
5. Digital Domain
6. Jay Farbstein
7. Del Rey Residents Association
8. DKA Planning Noise Peer Review

ATTACHMENTS

A Bracketed Comment Letters

B Linscott Law & Greenspan, Engineers, Response to Kimley-Horn Comment Memo 12575 Beatrice Street Office Project, June 22, 2017.

C Revised Los Angeles Department of Transportation Traffic Impact Assessment for the Proposed Office Project to be Located at 12575 Beatrice Street, June 6, 2017

D Los Angeles Department of Transportation Assessment of Supplemental Traffic Measures for the Proposed Office Project to be Located at 12575 Beatrice Street, June 6, 2017

LETTER 1: LUNA & GLUSHON

COMMENT 1-1

This letter is submitted on behalf of Karney Management Company, the owners and operators of the parcels located immediately to the west and south of the proposed construction of a new ***155-foot***[1] office building and associated parking, landscaping, and hardscape on five lots at 12553-2575 West Beatrice Street; 5410-5454 S. Jandy Place ("the Project").

For all of the reasons stated herein, the Mitigated Negative Declaration ("MND") for the Project is deficient under the California Environmental Quality Act *("CEQA").* It either understates or completely fails to analyze numerous critical environmental impacts, including on traffic/transportation, aesthetics, and land use and planning. Indeed, substantial evidence demonstrates that the Project may have a significant effect on the environment. Therefore, an Environmental Impact Report *("EIR")* is required. *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75 (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).[2]

I. The MND is Premature and Defers Environmental Review

A fatal flaw in the within 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, and "additional actions as may be determined necessary" will be evaluated at a later date. This is flatly 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. O*akland 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 (when an agency fails to proceed as required by CEQA, harmless error analysis is inapplicable. The failure to comply with the law subverts the purposes of CEQA if it omits material necessary to informed decisionmaking and informed public participation).

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1. As noted hereinbelow, the Applicant's misleading "spin" will have the public believe that the Project is 135 feet in height when, in reality, it maintains a 20 foot high and large mechanical room *on top* of the 135 foot structure.

2. The fair argument standard is a "low threshold" test. *No Oil, Inc. v. City of Los Angeles* (1974) 13 Ca1.3d 68, 75. Where based on observation, the opinions and testimony from local residents are relevant to impacts such as aesthetics and traffic and constitute substantial evidence in support of a "fair argument" for an EIR. *Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 355-356.

RESPONSE 1-1

Contrary to the comment, the IS/MND does discuss the anticipated haul route in multiple locations throughout the IS/MND. (Project Description, Page 2-13; Initial Study Checklist & Evaluation, Page 3-

43.) In addition, a detailed construction traffic analysis was conducted for the proposed Project. (Appendix H – Linscott Law & Greenspan (LLG) Construction Traffic Analysis.) Construction traffic is also analyzed in 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 the 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 Los Angeles Department of Transportation (LADOT) Traffic Impact Assessment (TIA) memorandum dated November 16, 2016 (LADOT TIA Letter), LADOT confirmed the Traffic Impact Study analysis and conclusions. (Appendix I – LADOT TIA Letter.)

As discussed in the IS/MND, it is anticipated that truck trips to the Project Site would travel from the I-405 freeway, down Jefferson Boulevard, and turn right onto Westlawn Avenue, left onto Beatrice Street, and then turn right to enter the Project Site. Haul trucks leaving the Project Site would most likely exit the Project Site on Beatrice Street, turn right onto Westlawn Avenue, turn left onto Jefferson Boulevard, and then turn onto the I-405 freeway. Alternatively, truck trips to the Project Site would travel from the I-405 freeway, down Jefferson Boulevard, turn right onto Grosvenor Boulevard, left onto Beatrice Street, and then turn right to enter the Project Site. Trucks would most likely still exit using Westlawn Avenue for both cases. (Project Description, Page 2-13.)

Parking for construction workers would be provided on-site and/or in a nearby lot rented by the Project Applicant. Street parking by construction workers would not be permitted. In addition, the construction of the proposed Project would not require the closure of any vehicle travel lanes. This is due primarily to the availability of parking "lanes" adjacent to the Project Site on Beatrice Street and Jandy Place, which precludes the need to use the adjacent travel lanes. The street parking spaces adjacent to the Project Site on Beatrice Street and Jandy Place would likely be reserved for use by construction vehicles for the duration of construction. (Appendix H – LLG Construction Traffic Analysis, Page 4.)

In regards to the off-site improvements in the right-of-way, improvements would include restriping of Jefferson Boulevard/Westlawn Avenue, Grosvenor Boulevard/Jefferson Boulevard, and Campus Center Drive-Centinela Avenue/Jefferson Boulevard. These improvements are discussed in the Transportation and Traffic section of the IS/MND. (Initial Study Checklist & Evaluation, Page 3-57.) LADOT also requested that the project conduct and submit annual supplemental traffic signal warrant analyses, for Jandy Place/Beatrice Street and Westlawn Avenue/Beatrice Street, to LADOT for review. (LADOT TIA Letter, Page 4.) If deemed warranted, the project would assume full responsibility for implementing the signal(s), as included in the LADOT TIA Letter for the proposed Project.

These off-site improvements as well as any other off-site construction work, including but not limited to, trenching, excavation, and/or relocation of a utility box or streetlight in the public right-of-way (if necessary) would require an Excavation Permit (E-Permit), Utility Permit (U-Permit), and/or B-Permit to allow construction or removal of such facilities. Temporary closures of the sidewalks adjacent to the Project Site on Beatrice Street and Jandy Place may be required during portions of the construction period. However, signs would be posted advising pedestrians of temporary sidewalk closures and providing alternative routes (e.g., if the sidewalk on the north side of Beatrice Street adjacent to the Project Site is closed during the construction period, signs would direct pedestrians to use the sidewalk on the south side of Beatrice Street Avenue as an alternative route). Given the temporary nature of such construction activities impacts would be less than significant.

COMMENT 1-2

II. 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. S*an Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730.

Here, the MND completely fails to provide an environmental setting discussion, including other related projects (also necessary for a cumulative impact analysis, see 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. Without this information, it is impossible to adequately evaluate the potential environmental effects of the Project.

RESPONSE 1-2

Contrary to the comment, the IS/MND includes a detailed description of the Project Site in Section 2.0 Project Description of the IS/MND. For instance, the Project Description states the Project Site is located within the Palms—Mar Vista—Del Rey CPA of the City of Los Angeles. It includes a figure (Figure 2-1) depicting that the Project Site is roughly bound by the State Route 90 (SR 90), Marina Freeway, to the north (approximately 600 feet from the Project Site) and Jefferson Boulevard to the south. It further states the Project Site is within the Del Rey neighborhood and is currently comprised of five (5) contiguous lots located at 12575 Beatrice Street and 12541 Beatrice Street. It continues that following a lot line adjustment, the Project Site will be comprised of four (4) contiguous lots totaling approximately 196,447 square feet (SF). The Project Description further states the Project Site is currently developed with a 23,072-square-foot office building and two accessory buildings of 5,044 and 2,144 SF at 12575 Beatrice Street, and an 87,881-square-foot office building at 12541 Beatrice Street. (Project Description, Page 2-1.)

In addition, the IS/MND includes a detailed description of the surrounding uses. In particular, it notes the Project Site is located within a commercial office and industrial low- and medium-rise, mixed-use neighborhood. A five-story apartment building is located on the southwestern side of the Project Site, across Beatrice Street. Additionally, there are several commercial office and industrial buildings located to the west, north, and southeast of the Project Site. Adjacent to the eastern side of the Project Site are two (2) two- story commercial office/industrial buildings. Further east are single-family homes across Grosvenor Boulevard, filling the area from Hammock Street to Beatrice Street. A six-level parking structure is located adjacent to the Project Site's northeastern side. The Project Description includes a figure (Figure 2-2) depicting the Project Site and the surrounding area. (Project Description, Page 2-1.)

In addition, each of the CEQA Environmental Checklist topics addressed in the IS/MND includes a discussion of the environmental setting as it pertains to that particular issue area. In regards to schools, the IS/MND discloses that there are several schools located in the Project area, and specifically identifies the Playa del Rey Elementary School located at 12221 Juniette Street in Culver City. (Initial Study Checklist & Evaluation, Page 3-30.) This is the closest school to the Project Site and the only school within 0.25 mile of the Project Site. As discussed in the IS/MND, the proposed Project would result in no impacts to this school or to other schools in the Project area.

See responses below regarding Methane (Response 1-6) and related projects (Response 1-10).

COMMENT 1-3

III. 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. 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 (the same height as the above ground parking garage). 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, 11 of which are necessary to adequately evaluate the impacts on the visual character of this Project site and its surroundings.

RESPONSE 1-3

Contrary to the comment, the height of the building is noted as 155 feet in the IS/MND, of which 20 feet may include mechanical penthouse equipment. The IS/MND correctly identifies the height of the proposed building would be 135 feet to the top of the roof or parapet. The IS/MND also correctly notes that a mechanical penthouse component could extend up to 20 feet above the building height. (Project Description, Page 2-8.)

In addition, the IS/MND provides a detailed discussion of the building's height and an analysis of the proposed Project's impact on the visual character or quality of the surrounding area. (Initial Study Checklist & Evaluation, Page 3-2-3-8.) Elevation drawings, shade and shadows diagrams, and architectural renderings of the proposed Project are included in the IS/MND. (Project Description, Pages 2-2-2-7; Initial Study Checklist & Evaluation, Page 3-5-3-7; Appendix A-Additional Architecture Drawings.) The comment mischaracterizes the surrounding area by stating that all of the adjacent buildings are two to three stories in height. While it is correct that many of the buildings in the surrounding area are two to three stories tall, there is five-story apartment building located on the southwestern side of the Project Site across Beatrice Street, and there is a six-level parking structure located adjacent to the Project Site's northeastern side. (Project Description, Page 2-1;Initial Study Checklist & Evaluation, Page 3-2-3-3.)

The IS/MND determined that impacts related to visual character and quality would be less than significant, because the design of the proposed building would enhance the visual quality and pedestrian experience of the surrounding area and streetscape by adding an architectural building with fully screened parking, ample setbacks, and enhanced landscaping throughout. (Initial Study Checklist & Evaluation, Page 3-2.) Specifically, the proposed Project would provide approximately 48,584 square feet of landscape (e.g., trees, green space, etc.) and 47,198 SF of hardscape (e.g., courtyards, pathways, etc.) throughout the Project Site and on the new building's terraces on the upper levels. In addition, potential light and glare impacts would be mitigated through Mitigation Measures **I-120** and **I-130**, and the parking garage would be screened and in compliance with Mitigation Measure **I-200**. (Initial Study Checklist & Evaluation, Page 3-3.)

Lastly, to provide the most conservative analysis for calculating potential shade screening impacts, the up to 20-foot potential mechanical penthouse was factored in to the analysis. (Initial Study Checklist & Evaluation, Page 3-4, Footnote 4.)

COMMENT 1-4

IV. Air Quality

The Air Quality analysis 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.

Similarly, the MND 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).

RESPONSE 1-4

While the air quality analysis refers to the 2012 Air Qualty Management P lan (AQMP), the Final 2016 AQMP was published by the South Coast Air Quality Management District (SCAQMD) in March 2017, and at the time of preparation of the environmental document, the Final 2016 AQMP had not been released. The Final 2016 AQMP utilized the 2012 emissions inventory prepared for the 2012 AQMP as the basis for its emissions forecasting. Therefore, the Final 2016 AQMP represents a refinement and advancement of the analyses described in the 2012 AQMP, that were updated to reflect recent drought conditions and new emissions reductions strategies.

The AQMP analysis is focused on a comparison of the proposed Project to regional growth projections and emissions established in each AQMP. However, examining the proposed Project in the context of the Final 2016 AQMP would not change any impact determinations, since implementation of the proposed Project would introduce an incrementally small amount of population, housing, and employment growth into the region relative to Basin-wide emissions inventory. Furthermore, the emissions modeling was rerun upon the release of CalEEMod Version 2016.3.1 to ensure emissions associated with the proposed Project were as accurate as possible. Therefore, no additional quantitative analysis is necessary.

As described in the air quality impacts assessment, implementation of the proposed Project would not cause an air quality violation and would not disproportionately contribute to growth and exceed assumptions incorporated into the 2012 AQMP or the Final 2016 AQMP. (Initial Study Checklist & Evaluation, Page 3-10.) Therefore, implementation of the proposed Project would not obstruct emissions reduction strategies outlined in the Final 2016 AQMP and would not delay the demonstrated attainment date of the 2012 24-hour $PM_{2.5}$ National Ambient Air Qualty Standards presented in the Final 2016 AQMP.

The Traffic Impact Study estimates that 2,200 daily trips would result from project implementation. The Traffic Impact Study estimates that existing uses on the site generate 254 daily trips, and that the net daily trip generation would be 1,946 daily trips (Project Trips minus Existing Trips). (Initial Study Checklist & Evaluation, Page 3-53.) The CalEEMod analysis relies upon 2,200 daily trips since it quantifies total project emissions without netting out existing uses. It is unclear where the comment letter obtained the 2,758 daily trips.

The discussion of impacts regarding the Methane Hazard Zone is not relevant to the air quality analysis. See responses below regarding Methane (Response 1-6).

COMMENT 1-5

V. 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, lateral spreading, subsidence, liquefaction, or collapse. In response, it finds that the implementation of Mitigation Measure GEO-1 would reduce impacts to a less than significant level.

But Mitigation Measure GEO-l is nothing more than structural recommendation. A "recommendation" is not a "mitigation measure." CEQA requires that mitigation measures be both feasible and "fully enforceable." L*incoln Place Tenants Ass'n v. City of Los Angeles* (2007) 155 Cal.App.4th 425 (the purpose of monitoring and reporting requirements for enforcement of mitigation measures is to ensure that a feasible mitigation measure will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded); *CEQA Guidelines*, § 15126.4 (a)(2) (mitigation measures must be "fully enforceable"). In order to adequately mitigate for the potential seismic-related ground failure, including liquefaction, the MND must provide fully enforceable mitigation measures.

RESPONSE 1-5

Building in California is strictly regulated by the California Building Code (CBC) to reduce risks from seismic events and geologic hazards to the maximum extent possible. The currently accepted design standards for seismically induced ground shaking-resistant construction are addressed in the CBC and in the City's Building and Grading Codes. These guidelines are considered minimum standards for the design and construction of buildings and must be incorporated into any final project designs. The City's plan check and permitting process would ensure that the proposed Project adheres to City Building and Grading Code requirements and incorporates structural features and construction methods that meet seismic and geologic safety standards.

In regards to the Mitigation Measure **GEO-1**, the content of this mitigation measure was recommended in the preliminary geotechnical engineering investigation and as such is included as a mandatory mitigation measure. (Appendix E - Preliminary Geotechnical Engineering Investigation, Page 11.) Adherence to the Regulatory Compliance Measures and Mitigation Measure included in the IS/MND, which are repeated below, would ensures impacts related to geology and soils would be less than significant.

Regulatory Compliance Measures

RC-GEO-1 The design and construction of the project shall conform to the California Building Code seismic standards as approved by the Department of Building and Safety and all other applicable codes and standards.

RC-GEO-2 Construction activities would be performed in accordance with the requirements of the Los Angeles Building Code and the Los Angeles Regional Water Quality Control Board through the City's Stormwater Management Division.

RC-GEO-3 The proposed Project shall comply with all applicable standards of South Coast Air Quality Management District Rule 403, the requirements of a Stormwater Pollution Prevention Plan, in accordance with the National Pollutant Discharge Elimination System, and the City's grading permit regulations, which require the implementation of grading and dust control measures.

Mitigation Measures

GEO 1 The proposed Project shall follow the recommended measures outlined in the preliminary geotechnical engineering investigation to ensure proper structural support in potentially liquefiable soil. These measures may include, but are not limited to:

- The use of Auger Cast Displacement Piles (ACDP).
- Performance of an indicator test pile program prior to installation of production piles.
- Equipping buried utilities and drain lines with flexible or swing joints.

COMMENT 1-6

VI. Hazards and Hazardous Materials

In evaluating the impacts of the Project with regard to hazards and hazardous materials, the MND completely fails to identify, analyze or evaluate the fact that the Project is located in both a Methane Hazard Zone and an Airport Hazard Zone.

Relying narrowly on the thresholds, the MND finds that there are no impacts at all with respect to airport or methane related impacts. However, whether or not a particular environmental effect meets a particular threshold cannot be used as an automatic determinant that the effect is or is not significant, and the use of the Guidelines' thresholds does not necessarily equate to compliance with CEQA. *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1108-09. Once identified, all environmental impacts must be evaluated and mitigated; they cannot be ignored. *Woodward Park Homeowners' Association v. City of Fresno* (2007) 150 Cal.App.4th 683, 728 (an agency cannot acknowledge an impact and approve the project after imposing a mitigation measure not shown to be adequate by substantial evidence). Here, in order to adequately analyze hazards and hazardous material impacts, the MND must address impacts associated with the Project's location in an Airport Hazard and Methane Hazard Zone, as designated by the City itself.

RESPONSE 1-6

Although the proposed Project is located in a Methane Hazard Zone, many heavily developed parts of the City are located in Methane Hazard Zones or Methane Buffer Zones. As such, the City has enacted Ordinance No. 175790 and Ordinance No. 180619, which are designed to provide standard measures to control a common hazard in the City. Measures include site testing, detection systems, and venting, which are required as part of the Los Angeles Municipal Code (LAMC). Site testing standards for methane are set as part of the Los Angeles Building Code (LABC). The proposed Project would comply with the LAMC and LABC, and impact determinations regarding hazards would not change.

In regards to the Airport Hazard Zone, the City has established special land use regulations for properties that are located within the approach zone of Los Angeles International Airport (LAX) in order to prevent the creation or establishment of airport hazards. These zoning regulations are primarily directed towards height limits but also address light emissions to avoid potential hazards to aircraft resulting from illuminated signs and structures within Airport Hazard Zones. (LAMC Section 12.50.) The proposed Project is 135 feet in height; inclusion of a 20-foot tall mechanical penthouse brings the maximum height to 155 feet. The Federal Aviation Administration (FAA) height limit for the Project Site is 200 feet above ground level. (Code of Federal Regulations, Part 77.) The proposed Project is less than 200 feet tall, and would not emit light to a degree that would result in a hazard to approaching aircraft. Therefore the proposed Project be in compliance with City and FAA restrictions and would not pose an airport hazard.

COMMENT 1-7

VII. Land Use and Planning

The MND's land use and planning section is woefully deficient. First and foremost, it only evaluates the Project's consistency with the Palms - Mar Vista Del Rey Community Plan. But that is not all that CEQA requires. CEQA requires an analysis of whether the Project conflicts with *any* applicable land use plan, policy or regulation. This includes the applicable Do Real Planning Guidelines, Citywide Design Guidelines, the Southern California Association of Governments ("SCAG") Regional Plan (including SCAG's Regional Transportation Plan and Compass Growth Visioning effort), the South Coast Air Quality Management District Air Quality Management Plan, the Los Angeles County Metropolitan Transportation Authority Congestion Management Program ("CMP"), and the Los Angeles Municipal Code. Consistently with all of these land use plans must be adequately reviewed and evaluated in order to comply with CEQA.

Furthermore, the Project is **inconsistent** with several Palms - Mar Vista Del Rey Community Plan sections:

Policy 3-1.2 - Ensure *compatibility* between industrial and other adjoining land uses through design treatments, compliance with environmental protection standards and health and safety requirements.

Policy 3-1.3 - Require that any proposed development be designed with adequate buffering and landscaping and that the proposed use be compatible with adjacent residential development.

Objective 13-1 - Provide parking in *appropriate* locations in accordance with Citywide standards and community needs.

Objective 16-2 - Ensure that the location, intensity and timing of development is consistent with the provision of adequate transportation infrastructure.

In order to be legally adequate, an MND cannot selectively pick and choose policies with which it deems a project to be consistent. In order to be legally adequate under CEQA, and MND must identify and discuss these inconsistencies. CEQA Guidelines §15125(d); L.A. CEQA Thresholds Guide[3].

It also cannot, as it purports to do here, simply list land use policies, and then without any substantial evidence to support, summarily find "consistency." Consistency requires more than incantation. The City cannot simply articulate a policy in its land use plan and then approve a conflicting project. H*abitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 181 (setting aside EIR based upon findings that no reasonable person could have made the consistency finding on the record before it). The City must support its findings of consistency with substantial evidence of consistent Floor Area Ratio's, density, parking requirements, open space, etc. Otherwise, the consistency findings are not supported by substantial evidence.

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3. The L.A. CEQA Threshold Guide with respect to "land use consistency" states: The determination of significance shall be made on a case-by-case basis, considering:

- Whether the proposal is inconsistent with the adopted land use/density designation in the Community Plan, redevelopment plan or specific plan for the site; and
- Whether the proposal is inconsistent with the General Plan or adopted environmental goals or policies contained in other applicable plans.

RESPONSE 1-7

The SCAQMD AQMP is related to air quality and is addressed in the Air Quality section of the IS/MND. After stating the AQMP is designed to meet applicable federal and State requirements, including attainment of ambient air quality standards, the IS/MND evaluates the proposed Project's compliance with the AQMP. In particular, the IS/MND states the proposed Project does not include a housing element and would not contribute to population growth. The proposed Project would result in the creation of approximately 641 new jobs (1 employee per 311 SF). Job creation from the proposed Project would represent 0.005 percent of the 108,600 jobs projected by the 2012-2035 RTP/SCS for the City from 2008 to 2020. Project-related population, housing, and job growth would be consistent with population forecasts for the subregion as adopted by SCAG. Therefore, the proposed Project would not conflict with or obstruct implementation of the AQMP, and impacts related to the applicable air quality plan would be less than significant. (Initial Study Checklist & Evaluation, Page 3-10.)

The Los Angeles County Metropolitan Transportation Authority Congestion Management Plan (CMP) is addressed in the Transportation and Traffic section of the document, and in the LLG Construction Traffic Analysis. (Initial Study Checklist & Evaluation, Page 3-56; Appendix H, Pages 64-66.) After stating the CMP is a State-mandated program designed to address the impact urban congestion has on local communities and the region as a whole, the IS/MND analyzes why a CMP intersection traffic impact analysis is not required, and impacts would be less than significant. The IS/MND also states no significant impact to any CMP freeway monitoring location would occur, and no detailed CMP freeway mainline analysis is warranted. (Initial Study Checklist & Evaluation, Page 3-56.)

As stated in the comment, development of the proposed Project is subject to the LAMC, wherein the Project Site is zoned as M2-1 (Light Manufacturing). The proposed Project has not requested a zone change and will remain zoned as M2-1. Therefore, it is consistent with the LAMC.

In regards to the Citywide Design Guidelines, the proposed Project application submitted to the City included the Citywide Design Guideline Checklist as applied to the proposed Project. City staff reviewed and determined the proposed Project is consistent with the Citywide Design Guidelines checklist.

In regards to SCAG planning documents, the Do Real Planning Guidelines, and Citywide Design Guidelines, the policies, objectives, and goals within the City of Los Angeles General Plan and Community Plans are built upon the regional and City planning initiatives found within the aforementioned documents. As such, by being consistent with the General Plan and the Palms – Mar Vista – Del Rey Community Plan, the proposed Project would be inherently consistent with the wider reaching planning documents. (Initial Study Checklist & Evaluation, Pages 3-36—3-37.) The comment also states that the proposed Project is inconsistent with several Palms – Mar Vista – Del Rey Community Plan policies and objectives, which are addressed below.

Policy 3-1.2: Ensure compatibility between industrial and other adjoining land uses through design treatments, compliance with environmental protection standards and health and safety requirements.

As stated in the IS/MND, the Project Site's land use and zoning designations are consistent with many of the land uses in the Del Rey neighborhood as it contains the majority of the community plan area's manufacturing and industrial uses. More specifically, the Project Site is located within an area characterized by a mix of light industrial uses, engineering research and development uses, and supporting office uses, all of which exist compatibly. The proposed Project would also comply with all mandatory environmental protection standards and health and safety requirements. Therefore the proposed Project would be consistent with the aforementioned policy.

Policy 3-1.3: Require that any proposed development be designed with adequate buffering and landscaping and that the proposed use be compatible with adjacent residential development.

As stated in the IS/MND, the proposed Project would provide approximately 48,584 SF of landscaped area (e.g., trees, green space, etc.) and 47,198 SF of hardscape area (e.g., courtyards, pathways, etc.) throughout the Project Site. The proposed Project's design intends to enhance the visual quality and pedestrian experience of the surrounding area and streetscape by adding an architectural building with fully screened parking, ample setbacks, and enhanced landscaping throughout. Therefore the proposed Project would be consistent with the aforementioned policy.

Objective 13-1: Provide parking in appropriate locations in accordance with Citywide standards and community needs.

As stated in the IS/MND, the proposed Project would provide two levels of subterranean parking and three above ground parking levels with a total of 845 parking spaces. The 845 provided parking spaces would exceed the number of parking spaces required by the LAMC by 269 spaces. Per comments received on the public hearing for the proposed Project on June 6, 2017, square footages of the proposed Project was revised and parking requirements per LAMC were recalculated. As such, the proposed Project would now exceed the parking spaces required by the LAMC by 259 spaces. Nonetheless, the proposed Project would be consistent with the aforementioned objective.

Objective 16-2: Ensure that the location, intensity and timing of development is consistent with the provision of adequate transportation infrastructure.

As discussed in the IS/MND, Los Angeles Department of Transportation (LADOT) has reviewed and approved the Traffic Impact Study conducted for the proposed Project. With the implementation of the mitigation measures identified in the IS/MND, LADOT determined the transportation infrastructure is adequate. Therefore, the proposed Project would be consistent with the aforementioned objective.

COMMENT 1-8

VIII. Noise

The MND utterly fails to address the fact that there are sensitive receptors that will be significantly impacted from construction noise including the underestimated volume of excavation and the operation of a large parking facility, the loading area and mobile noise from all of the likely vehicles that will have to turn around at the end of the cul-de-sac. To make matters worse, the MND proposes an utterly deficient mitigation measure to address construction noise - Noise XII-27; clearly a complaint line mitigates nothing.

RESPONSE 1-8

Contrary to the comment, the IS/MND identifies the following sensitive receptors within the vicinity of the Project Site:

- Multi-family residences located 50 feet to the south across Beatrice Street;
- Single-family residences located approximately 300 feet to the east of the Project Site but approximately 600 feet east of the construction zone;
- 740 Sound Design located adjacent to the Project Site but 350 feet east of the construction zone; and
- Digital Domain located approximately 300 feet west to the west. (Initial Study Checklist & Evaluation, Page 3-40.)

The IS/MND notes that additional sensitive receptors are located within 500 feet of the Project Site; however, these receptors were determined to be somewhat shielded from construction activity by the buildings immediately surrounding the Project Site and that the sensitive receptors identified above represent the nearest sensitive with the potential to be impacted by the proposed Project. (Initial Study Checklist & Evaluation, Pages 3-40-3-41.) The noise analysis included a detailed discussion of construction noise levels that would occur at these sensitive receptors. (Initial Study Checklist & Evaluation, Pages 3-39-3-48.)

The parking facility noise and its potential to increase ambient noise levels is assessed at sensitive receptors in the IS/MND. (Initial Study Checklist & Evaluation, Page 3-44, Table 3-11.) The subterranean level parking would be partially enclosed, and vehicle noise generated within the structure would not be audible beyond the property line. In addition, parking would be fully screened which would further reduce noise levels. The loading area is located in the proposed Project's northeast corner next to commercial and industrial land uses. These types of land uses are not considered sensitive to noise and the design of the proposed Project took careful consideration to locate noise generating aspects away from sensitive receptors. Residences, schools, hospitals, guest lodging, libraries, and some passive recreation areas are considered sensitive receptors. In regards to mobile noise along the cul-de-sac, the nearest sensitive receptor is located approximately 400 feet to the south and the uses immediately surrounding it are commercial and industrial uses. The majority of mobile noise is generated by vehicles pushing air out of the way as they pass at high speeds. Vehicles travelling along Jandy Place would be at low speeds entering and exiting driveways and would generate minimal noise levels. Furthermore the uses adjacent to the cul-de-sac are located approximately 220 feet south of State Route 90, with vehicles travelling at speeds in excess of 65 miles per hour. Mobile noise generated by the highway would overshadow mobile noise generated by vehicles travelling along Jandy Place. Furthermore, the roadways analyzed in the mobile noise analysis were those identified by the Traffic Impact Study to have the potential to have impacts in the AM or PM peak hour. (Initial Study Checklist & Evaluation, Table 3-10, Page 3-43.) Jandy place was not identified as an impacted roadway and would operate at a good level of service under Future Cumulative with Project Conditions. (Appendix H – Traffic Impact Study, Page 59; Appendix H – Driveway Traffic Analysis Addendum, Page 3.)

In addition, the IS/MND described and analyzed the estimated volume of export required for implementation of the proposed Project. In particular, the IS/MND states the proposed Project would include two subterranean level of parking, which would require excavation to a maximum depth of 20 feet (including excavation for project footings and foundations). The excavation depth of 20 feet refers to the extent of sub-grade disturbance, scraping and re-compaction as required below the column footings, and not all excavated material would be exported off-site. Approximately 6,662 tons of demolition debris and 42,000 cubic yards of excavated materials would be exported from the site. (Project Description, Page 2-13.) The estimated volume of export is reasonably derived from estimates based on proposed Project plan sets. The export volume was factored into the noise analysis set forth in the IS/MND and it was assumed export activities would happen at the worst traffic hour. In particular, noise levels for the excavation phase assumed 19 haul trucks per hour, and accounted for construction worker trips and delivery truck trips occurring at the same time. This analysis reflects the most conservative, worst case scenario. (Initial Study Checklist & Evaluation, Page 3-43.)

Pursuant to LAMC Section 112.05, construction noise levels are exempt from the 75 dBA noise threshold if all technically feasible noise attenuation measures are implemented. The Project Applicant would be required to comply with the City's Standard Conditions of Approval (Regulatory Compliance Measures **RC-NO-1** through **RC-NO-3)** and implement Mitigation Measures **XII-20** through **XII-27**, which are feasible measures to control noise levels, including installation of engine mufflers, noise blanket barriers, and use of quieter electric equipment. Mitigation Measures **XII-27** is intended as a good will measure to inform residents and tenants of construction and to provide an avenue to address

public complaints. Mitigation Measures **XII-20** through **XII-26** would provide a quantitative reduction in noise levels and are more than adequate to minimize impacts on the surrounding sensitive receptors. Therefore, the IS/MND concludes that noise impacts would be less than significant with implementation of mitigation measures. (Initial Study Checklist & Evaluation, Page 3-42.)

COMMENT 1-9

IX. Transportation/Traffic

The MND finds that there is less than significant impact based on possible conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit. This conclusion is completely devoid of supporting substantial evidence. Indeed, the MND fails, at all, to review and analyze consistency with all applicable traffic/transportation plans, including SCAG's Regional Transportation Plan. Accordingly, it is in error.

Furthermore, the MND finds that the Project does not substantially increase hazards due to a design feature or incompatible uses. This is blatant error. Indeed, although it has numerous options along Beatrice Street and Grovesner Boulevard, the Project is designed to provide ***75 percent of its traffic on Jandy Place, an approximately 400-foot in length cul-de-sac street***, which already provides ingress/egress to the many properties owned by Karney Management Company. When considered in connection with the cumulative of effects of all such other traffic along Jandy, it is clear that such Project feature substantially increases hazards thereon. The MND completely ignores this condition.

Finally, the MND fails to analyze, *at all*, construction traffic impacts as well as parking impacts. It is incomprehensible that an adequate transportation/ traffic analysis can be deemed "adequate" without a review of construction traffic and parking. Again, where an agency fails to abide the informational requirements of CEQA by omitting material necessary to informed decisionmaking and informed public participation, as it has here, harmless error analysis is inapplicable and the agency is deemed to have erred and abused its discretion. *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645.

RESPONSE 1-9

The Traffic Impact Study conducted for the proposed Project evaluates potential project-related impacts at 26 key intersections in the vicinity of the Project Site. (Initial Study Checklist & Evaluation, Table 3-52, Page 3-44.) The study intersections were determined in consultation with LADOT staff. The analysis also takes into account the Coastal Transportation Corridor Specific Plan, and impacts were assessed using the impact criteria set forth in LADOT's Traffic Study Policies and Procedures, as well as in coordination with the City of Culver City's Planning Division. LADOT reviewed and approved the Traffic Impact Study and issued the LADOT TIA Letter concurring with the Traffic Impact Study analysis and conclusions. (Appendix I)

In regards to 75 percent of traffic being located along Jandy Place, the proposed Project incorporates four driveways to access on-site parking, two on Jandy Place and two on Beatrice Street. (Project Description, Figure 2-9.) The split between traffic would be 50/50 between Jandy Place and Beatrice Street (25 percent of traffic going through each driveway). The driveway traffic was further analyzed by LLG in the Project Driveway Traffic Analysis Addendum (Traffic Addendum), dated December 14, 2016 (Appendix H). The Traffic Addendum concluded that no additional operational analysis of proposed Project driveways is required or recommended.

A detailed construction traffic analysis was conducted for the proposed Project. (Appendix H –LLG) Construction Traffic Analysis) Construction traffic is also analyzed in regards to Air Quality and Noise and Vibration impacts. (Initial Study Checklist & Evaluation, Pages 3-10 and 3-11, 3-43, 3-45 and 3-46.) The analysis concludes that the 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.) LADOT's TIA Letter confirmed the analysis.

Parking impacts would be less than significant as the proposed Project would provide two levels of subterranean parking, and three above ground parking levels with 845 parking spaces Per comments received on the public hearing for the proposed Project on June 6, 2017, square footages of the proposed Project was revised and parking requirements per LAMC were recalculated. As such, the proposed Project would now exceed the parking spaces required by the LAMC by 259 spaces. As discussed above, parking for construction workers would be provided on-site and/or in a nearby lot rented by the Project Applicant. Street parking by construction workers would not be permitted. In addition, the construction of the proposed Project would not require the closure of any vehicle travel lanes. (Appendix H – LLG Construction Traffic Analysis, Page 4.)

COMMENT 1-10

X. Cumulative Impacts

The MND's "analysis" of cumulative impacts is indefensible. Simply put, the MND admits that significant impacts may occur if the proposed Project, in conjunction with the related projects, would result in impacts that are less than significant when viewed separately but significant when viewed together, but concludes that it does not need to do any analysis of such impacts because each additional project will be evaluated and mitigated on a case by case basis (i.e. *separately* without regard for cumulative impacts); therefore, the cumulative impacts to which the proposed Project would contribute would be less than significant.

Such "analysis" misses the whole point of the cumulative impact analysis required under CEQA. One of the basic and vital informational functions required by CEQA is a thorough analysis of whether the impacts of the Project, in connection with other related projects, are cumulatively considerable. B*anning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal App.4th 1209. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.[4] *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184; *CEQA Guidelines* §15355. Proper cumulative impact analysis is vital under CEQA because the full environmental impact of a proposed Project cannot be gauged in a vacuum. Indeed, one of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact. T**herefore, cumulative effects analysis requires consideration of "reasonably foreseeable probable future projects, if any."** *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184; *Gentry v City of Murrieta* (1995) 36 Cal.App.4th 1359, 1414.

In fact, the CEQA Guidelines mandate the preparation of an EIR where cumulative impacts are cumulatively considerable:

> **An EIR *must* be prepared if the cumulative impact may be significant and the project's incremental effect, though individually limited, is cumulatively considerable.** "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects. 14 CCR §15064(h)(l).

Here, there is no scintilla of evidence, much less substantial evidence, to support the conclusion that the" cumulative impact" of the Project will not result in any potentially significant impacts. There are no other "reasonably foreseeable probably future projects" listed and none analyzed. Indeed, there is not even evidence that the MND *considered* whether there are cumulative impacts, since all it summarily states is that it did not need to do any such analysis because any additional project will be evaluated and mitigated, separately on a case by case basis.

Ironically, the Project's traffic analysis actually identifies 29 *other* projects in the vicinity of the within Project, and evaluates the cumulative traffic impacts of those projects. The MND cannot ignore that existence of these identified other projects, which their traffic expert apparently had no problem finding or analyzing. It must evaluate the cumulative impacts of all of these projects with regard to all of the protected categories environmental impacts under CEQA.

Finally, the MND conclusively states that cumulative impacts of the Project will not result in any potentially significant impacts because any cumulative impacts (which, again, the MND fails to identify) will be mitigated to a less than significant level through compliance with the mitigation measures provided in the "previous sections" of the MND. But there is no evidence whatsoever that the cumulative impacts of the other reasonably foreseeable probable future projects, if any, were considered in formulating the mitigation measures of the MND and none of them refer, at all, to the other reasonably foreseeable probable future projects, if any. The lack of evidence in the record to support a conclusion that the Project would have *no* cumulative impacts thus tends to support a fair argument that the Project *will* have such impacts.

The failure of this MND to provide for a cumulative impact analysis as required under CEQA is fatal. *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 118 (CEQA requires **strict compliance** with the procedures and mandates of the statute).

Each public agency is required to comply with CEQA and meet its responsibilities, including evaluating mitigation measures and project alternatives. *CEQA Guidelines* §15020. For all of the reasons set forth herein, the City has failed to do so here.

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4. "Cumulative impacts" refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects.

RESPONSE 1-10

The IS/MND includes an evaluation of the proposed Project's cumulative impacts with regard to 29 related projects identified in the Traffic Impact Study. The 29 related projects were quantitatively evaluated in all Traffic analyses, all Air Quality analyses, and all Noise analyses.

The list of 29 related projects was based on information on file at LADOT, Department of City Planning, County of Los Angeles Department of Regional Planning, and Culver City Planning Division. In addition, to provide a conservative, worst case, estimate of future traffic in the Project study area, a new 250,000 square foot office building was assumed on a property located near the Project Site at 5405 Jandy Place, even though there is no formal development application made to the City. (Appendix H – Traffic Impact Study, Page 22.)

As for the other CEQA Environmental Checklist topics, the cumulative impacts to which the proposed Project would contribute would be less than significant as all potential impacts of the proposed Project were determined to be reduced to less than significant levels with the implementation of regulatory

compliance measures or mitigation measures. In addition, none of the related project impacts are close enough to the Project site to have cumulative impacts in areas such as Aesthetics, Light and Glare, and Public Services. None of the potential impacts are considered cumulatively considerable, as the proposed Project's incremental contribution to cumulative impacts related to Aesthetics, Agriculture/Forestry Resources, Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Mineral Resources, Population and Housing, Public Services, Recreation, Tribal Cultural Resources and Utilities were determined to be less than significant.

LETTER 2: LUNA & GLUSHON

COMMENT 2-1

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-foot[1] 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 set forth below, we ask that this Commission deny the Project application and require the Applicant to (i) revise in a manner that is compatible with the prevailing scale and character of the adjacent properties and surrounding neighborhood, which is overwhelmingly low-height creative office, as required by the Los Angeles Municipal Code ("LAMC"), and (ii) prepare an Environmental Impact Report ("EIR"), as required by the California Environmental Quality Act ("CEQA").

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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.

RESPONSE 2-1

The comment is introductory and specific issues are responded to below. The Commenter's opposition to the Project is noted for the record.

COMMENT 2-2

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

The Project is proposed on a M2-1 Zoned site, situated directly across Beatrice Street from the Avalon Playa Vista residential apartment. Accordingly, it is considered a "Commercial Corner" under LAMC § 12.03, limiting development thereon to a **height of 45 feet** under LAMC § 12.22.A.23.

In an attempt to skirt this 45-foot requirement, the Applicant proposes a lot line adjustment to create an approximately 20 x 20 foot "lot" adjacent to Beatrice Street on which no structure will be built. The Applicant claims that, therefore, the "Commercial Corner" restrictions do not apply to this Project.

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. The Applicant admits as much in its application and proposed findings, providing the location of the Project as tile total area of all of the lots and expressly 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. **Simply put, the whole of the Project site is a "Commercial Comer" under the LAMC. Therefore, till proposed structures that exceed 45 feet, including the massive 155 foot structure, are illegal under LAMC §12.22.A.23**.

Over and above this blatant violation of the height restriction, this Commission will note that the creation of this 317 square foot "lot" is also illegal. There is no process in the Subdivision Map Act, the LAMC, or any oilier 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 Comer" Ordinance, but also the Subdivision Map Act pursuant to which the LAMC sections relating to the division of land are prescribed**.

RESPONSE 2-2

The Property is zoned M2-1 and as such there is no height limit for the Property imposed under the City of LAMC. LAMC Section 12.03 defines a commercial corner development as:

"(1) Any commercially used corner lot located in a C or M zone in Height District Nos. 1, 1-L, 1-VL or 1-XL, the lot line of which adjoins, is separated only by an alley adjacent to, or is located across the street from, any portion of a lot zoned A or R, or improved with any residential use (except in an M zone), or

(2) Any multi-family residentially used corner lot located in a C zone in Height District Nos. 1, 1-L, 1-VL or 1-XL, the lot line of which adjoins, is separated only by an alley adjacent to, or is located across the street from, any portion of a lot zoned RW1 or more restrictive zone.

For purposes of this definition, a Commercial Corner Development can be located on more than one lot only if the lots are adjacent, not divided by a public street, have a common parking area, and one or more buildings are erected or are proposed to be erected upon the lots." (LAMC 12.03; emphasis added.)

LAMC Section 12.03 defines a corner lot as "A lot situated at the intersection of two (2) or more streets having an angle of intersection of not more than one hundred thirty five (135) degrees."

The 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. As part of the lot line adjustment, a separate legal lot will be created at the corner of Jandy Place and Beatrice Street, which will serve as an undeveloped landscaped area. Creation of this lot through the Parcel Map Exemption process will be subject to approval by the Los Angeles Department of Building and Safety and Planning Department. This legal lot will be used for neither commercial nor multi-family residential purposes and as such it not be subject to the City's Commercial Corner restrictions. This corner lot is not part of the Project or the Project Site. (Initial Study Checklist & Evaluation, Page 2-1.)

The Project as a whole, including an existing building on the site, will be developed below the applicable 1.5:1 Floor Area Ratio (FAR). The height of the new Project will be 135 for the new building, with an additional up to 20 feet for rooftop equipment. Inadvertently in the Introduction and Aesthetics sections of the IS/MND, the Project is described as 10 stories. (Initial Study Checklist & Evaluation, Pages 1-1; Page 3-3.) To be more exact, the number of stories will be 8 above-ground levels and 2 subterranean levels, as described in the IS/MND Project Description and as depicted in the appended Project plans. (Project Description, Page 2-8; Appendix A.)

COMMENT 2-3

II. 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.

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 route[2]; 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.

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

RESPONSE 2-3

LAMC Section 12.36 states that "Applicants shall file applications at the same time for all approvals reasonably related and necessary to complete the project." The filed Project applications include all City approvals necessary to complete the Project, including Site Plan Review, Conditional Use Permit (CUP) for major development, PMEX. (Initial Study Checklist & Evaluation, Page 1-1.) The Project will include one ground floor café designed to activate the streetscape and serve tenants as well as local businesses and employees. It is not anticipated at this time that this café will serve alcohol, and as such, no CUP for alcohol or beer and wine is required.

In addition, the Project does not require a haul route as the Project is not located in a Hillside Area. The Project is also not located within a Special Grading Area, and as such, no haul route is required. A description and analysis of the haul route is included in the IS/MND to evaluate potential impacts.

In sum, the Project does not violate LAMC 12.36 as all approvals reasonably related to complete the Project have been requested.

COMMENT 2-4

III. 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 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* of 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 talk generally about 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 Applicant is providing a "smoke and mirrors" approach, hoping that the Commission focuses its attention on Project details rather than the plain language of the finding that it needs to make.

Simply put, 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.

RESPONSE 2-4

The existing neighborhood is in transition and is developing as commercial and creative hub. The IS/MND provides a detailed discussion of the building's height and an analysis of the proposed Project's impact on the visual character or quality of the surrounding area. (Initial Study Checklist & Evaluation, Page 3-2–3-8.) As stated above, the proposed structure would be up to a maximum of eight ten stories in height and would increase massing and scale of the site compared to existing conditions. (Initial Study Checklist & Evaluation, Page 2-8.) However, the IS/MND determined that impacts related to visual character would be less than significant, because the design of the proposed building would enhance the visual quality and pedestrian experience of the surrounding area and streetscape by adding an architectural building with fully screened parking, ample setbacks, and enhanced landscaping throughout. (Initial Study Checklist & Evaluation, Page 3-2.)

The Project has been designed with the neighborhood context in mind. The Project design incorporates two creative office elements built over a fully screened and landscaped parking garage. The Project steps down in size and scale modulating in height between the two elements, with varying size floor plates accented by outdoor areas and extensive landscaping. In recognition of the nearby single family neighborhood to the east across Grovesnor Avenue, the Project's tallest elements are oriented away from the residential area and away from the apartment complex to the south across Beatrice Street. As such, the Project's height and scale are in keeping with the neighborhood context, and consistent with the varied creative office, commercial and residential buildings in the Playa Vista area.

In addition, the existing building including the Frank Gehry Studio offices on the Property will remain. While the Applicant had the ability to redevelop the existing building, the Applicant voluntarily chose to maintain the low scale element on the Property to provide a mix of building scales with a single campus in keeping with the neighboring properties.

The comment mischaracterizes the surrounding area by stating that all of the adjacent buildings are one to three stories in height. While it is correct that many of the buildings in the surrounding area are two to three stories tall, there is five-story apartment building located on the southwestern side of the Project Site across Beatrice Street, and there is a six-level parking structure located adjacent to the Project Site's northeastern side. (Project Description, Page 2-1; Aesthetics, Page 3-2 through 3-3.) In addition, the surrounding area includes larger commercial development on Jefferson Boulveard (one block away) and Playa Vista (across Jefferson Boulevard). The Project consistency with scale and character must be viewed in light of this context.

Also as stated in the IS/MND, the Project would provide approximately 48,584 SF of landscaped area (e.g., trees, green space, etc.) and 47,198 SF of hardscape area (e.g., courtyards, pathways, etc.) throughout the Project Site. The Project's design intends to enhance the visual quality and pedestrian experience of the surrounding area and streetscape by adding an architectural building with fully screened parking, ample setbacks, and enhanced landscaping throughout. Unlike existing adjacent properties, the Project enhances the pedestrian experience and the streetscape with open space, amenities and landscaping.

COMMENT 2-5

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.[3]

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);
3. Minimize the appearance of driveways and parking areas. Where alternatives to surface parking are not feasible, located parking lots at the interior of the block, rather than at comer locations. Reserve comer 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. 15);
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 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 75 percent of its ingress/egress along Jandy Place, a 400-foot long cul-de-sac street which is already congested most of the day. This Commission 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 either Commercial or Industrial projects, and any .finding to the contrary would be lacking in substantial evidence.

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3. 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 scal*e, 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.

RESPONSE 2-5

In connection with submitting its City entitlement application, the Applicant submitted a completed Design Guidelines Checklist (Checklist) analyzing how the Project is consistent with the City's Commercial Design Guidelines. The City Planning Department completed its review and analysis of the

Checklist and has raised no consistency concerns. As such, the Project is consistent with Design Guidelines.

In addition, the Project directly responds to specific design features outlined in the Checklist. For instance, the Project would provide approximately 48,584 SF of landscaped area (e.g., trees, green space, etc.) and 47,198 SF of hardscape area (e.g., courtyards, pathways, etc.) throughout the Project Site. The Project's design also includes features to activate the streetscape by providing public seating areas, and a ground floor café and retail uses for Project occupants and nearby employees. The Project's design intends to enhance the visual quality and pedestrian experience of the surrounding area and streetscape by adding an architectural building with fully screened parking, ample setbacks, and enhanced landscaping throughout.

As discussed above, the Project has been designed with the neighborhood context in mind. The Project's design is in keeping with the neighborhood context, and consistent with the varied creative office, commercial and residential buildings in the surrounding Playa Vista area. In addition, the existing low scale creative office building on the site will remain, to provide a mix of building scales with a single campus in keeping with the neighboring properties.

Regarding the comment about traffic impacts to Jandy Place, please see the LLG Memo Response to Kimley-Horn Comments submitted herewith (Attachment B).

COMMENT 2-6

IV. 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 project[4] be designed and developed to achieve a high level of quality, distinctive character and *compatibility with surrounding uses and developmen*t (policy 2-1.4, p. III-5).
2. *Require* that the design of new development be *compatible with adjacent developmen*t, *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).
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).

Again, 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 or not. But the Courts have been clear that findings of "consistency" with land use plans require more than simple incantation, as the Applicant proposes. The City cannot simply articulate a policy in its land use plan and then approve a conflicting project. *Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777.

The City cannot and should not approve the Project, as proposed, because it conflicts with all of the above adopted land use policies.

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 the majority of its ingress/egress along Jandy Place, a 400-foot long cul-de-sac sheet 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.

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4. 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).

RESPONSE 2-6

Contrary to the comment, the Site Plan Review Findings are supported. First, the Project is consistent with the Community Plan. The Project is located within the Palms-Mar Vista-Del Rey Community Plan (Community Plan). The MND provides a detailed analysis of the Project's consistency with Community Plan policies. (Initial Study Checklist & Evaluation, Table 3-4.) The comment states that the Project is inconsistent with several Community Plan policies and objectives, some of which are addressed below.

> **Policy 2-1.4**: Require that commercial projects be designed and developed to achieve a high level of quality, distinctive character and compatibility with surrounding uses and development.

Consistent with this policy, the Project exhibits a high level of architecture, quality components and a distinctive architectural design from a world-class architect and studio. Compatibility with surrounding uses is addressed in Response 2-4 above.

> **Policy 2-3.1**: Require that the design of new development be compatible with adjacent development, community character and scale.

Design compatibility with surrounding uses and development is addressed in Response 2-4 above.

> **Objective 13-1**: To provide a viable industrial base with job opportunities for residents with minimal environmental and visual impacts to the community.

Consistent with this policy, the Project will provide significant job opportunities for the area. This area is in transition as with most of the west side of Los Angeles with jobs moving away from an industrial base to design, media, internet, software and other businesses which seek the kind of creative office campus that will be created in the Project with high level architecture, flexible office floor plates, ample outdoor areas and landscaping.

> **Policy 3-1.2**: Ensure compatibility between industrial and other adjoining land uses through design treatments, compliance with environmental protection standards and health and safety requirements.

As stated in the IS/MND, the Project Site's land use and zoning designations are consistent with many of the land uses in the Del Rey neighborhood as it contains the majority of the Community Plan area's manufacturing and industrial uses. More specifically, the Project Site is located within an area characterized by a mix of light industrial uses, engineering research and development uses, and supporting office uses, all of which exist compatibly. The Project has been designed with the neighborhood context and mix of uses in mind. The Project steps down in size and scale, with varying size floor plates accented by outdoor areas. Similarly the Project's densest elements are oriented away from the residential neighborhoods. The Project would also comply with all mandatory environmental protection standards and health and safety requirements. Therefore the proposed Project would be consistent with the aforementioned policy.

> **Objective 13-1**: Provide parking in appropriate locations in accordance with Citywide standards and community needs.

As stated in the IS/MND, the Project will provide two levels of subterranean parking and three above ground parking levels with a total of 845 parking spaces. Project parking will be screened by lush drought tolerant landscaping and barriers to stop headlamp bleed into neighboring properties. Therefore, the proposed Project would be consistent with the aforementioned objective.

> **Objective 16-2**: Ensure that the location, intensity and timing of development is consistent with the provision of adequate transportation infrastructure.

The IS/MND, including the LLG traffic study and LLG supplemental traffic analysis, fully assessed the location, intensity and timing of development and its consistency with the provision of adequate transportation infrastructure. In addition, LADOT reviewed and analyzed the LLG traffic study and LLG supplemental traffic analysis and issued assessment letters validating the analysis.

Second, contrary to the comment, the Site Plan Review findings regarding the arrangement of buildings, off-street parking and loading etc. are supported by the Project design. The comment incorrectly states that the majority of ingress/egress will be along Jandy Place. The assignment of project traffic as provided in the LLG traffic study was augmented by the LLG supplemental traffic analysis, which evaluated the currently proposed Project design feature which will provide two driveways on Beatrice Street and two driveways on Jandy Place. It is expected that project traffic will equally utilize the driveways on Beatrice Street and Jandy Place (i.e., a 50/50 split of Project traffic between Beatrice Street and Jandy Place). Regarding traffic impacts to Jandy Place, please see the LLG Memo Response to Kimley-Horn Comments submitted herewith (Attachment B).

For all of the aforementioned reasons, there is substantial evidence in the City's record to make the required Site Plan Review findings.

COMMENT 2-7

V. The Required Findings for Floor Area Averaging under LAMC §12.24.W.19 Cannot be Made with Substantial Supporting Evidence.

a. The Project will *not* enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city, or region;
b. The Project's location, size, height, operations and other significant features will be *incompatible* with and *will adversely affect or further degrade adjacent properties, the surrounding neighborhood*, or the public health, welfare, and safety;

As stated above, the Project is entirely incompatible with the adjacent properties and surrounding neighborhood. Its height and scale next to single story industrial/office uses will cause visual blight. Its above-ground parking structure immediately next to 5404 Jandy Place will expose employees and customers to constant noise, light and exhaust fumes. Its proposed parking configuration will severely worsen the already exiting congestion along Jandy and Beatrice, both narrow and short cul-de-sac sheets. It will destroy the prevailing creative office character of this established community.

For all of these reasons, the Project will *adversely* affect and degrade adjacent properties, the surrounding neighborhood, and the public health, welfare, and safety.

c. The Project *does not* substantially conform with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan.

For the reasons discussed above, the Project does not conform to the General Plan or the Palms-Mar Vista-Del Rey Community Plan.

RESPONSE 2-7

Contrary to the comment's assertion, the City does not need to make the findings for floor area averaging as the Project does not require approval per LAMC 12.24.W.19 for floor area averaging in a unified development project.

The Project Site will be a single building site and no floor area above the overall allowable 1.5:1 floor area ratio (FAR) will be permitted in accordance with the LAMC. No floor area averaging is requested or contemplated as the Project will be developed within the allowable FAR.

COMMENT 2-8

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. 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 the independent review by CAJA Environmental Services, LLC and Kimley-Horn and Associates, Inc. [*Exhibits 3, 4*] 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.

RESPONSE 2-8

Comment 2-8 contains introductory information and general comments on the IS/MND. Responses to the more detailed comments are provided herein.

COMMENT 2-9

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, and "additional actions as may be determined 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.

RESPONSE 2-9

See Response 1-1.

COMMENT 2-10

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).

RESPONSE 2-10

Comment 2-10 contains general comments on the IS/MND about inconsistency with the project description and accompanying figures. The comment then refers to Exhibit 3, which is a memorandum dated May 31, 2017 prepared by CAJA Environmental Services, LLC (CAJA) whom conducted a technical assessment of the New Beatrice West Project (proposed Project) and the IS/MND (ENV-2016-1209-MND) prepared for the Project. Detailed responses to the comments within the CAJA memorandum have been prepared and are fully incorporated as if set forth herein.

COMMENT 2-11

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 Stanislau*s (1994) 27 Cal.App.4th 713, 730.

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.

RESPONSE 2-11

See Response 1-2.

COMMENT 2-12

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.**[5] 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 facade compatibility, all of which are necessary to adequately evaluate the aesthetic impacts of this Project on its surroundings.

RESPONSE 2-12

See Response 1-3.

COMMENT 2-13

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.

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.

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).

In order to comply with CEQA, the whole of the "Air Quality" analysis needs to be re-reviewed and re-analyzed.

RESPONSE 2-13

See Response 1-4. Population growth associated with the proposed Project would not exceed 2020 projections for the City in the adopted 2012 AQMP. As stated in the IS/MND, the proposed Project does not include a housing element and would not contribute to population growth. Project-related population, housing, and job growth would be consistent with population forecasts for the subregion as adopted by SCAG. Therefore, the proposed Project would not conflict with or obstruct implementation of the AQMP, and impacts related to the applicable air quality plan would be less than significant. (Initial Study Checklist & Evaluation, Page 3-10.) Operation of the proposed Project would not induce substantial population growth in the Project area, either directly or indirectly. (Initial Study Checklist & Evaluation, Page 3-48.) This statement is repeated similarly throughout the document. (Initial Study Checklist & Evaluation, Pages 3-48-3-52.)

COMMENT 2-14

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.

RESPONSE 2-14

See Response 3-21.

COMMENT 2-15

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, lateral spreading, subsidence, liquefaction, or collapse. In response, it finds that the implementation of Mitigation Measure GE0-1 would reduce impacts to a less than significant level.

But Mitigation Measure GE0-1 is nothing more than structural *recommendation*. A "recommendation" is not a "mitigation measure." CEQA requires that mitigation measures be both feasible and "fully enforceable." *Lincoln Place Tenants Ass'n v.City of Los Angeles* (2007) 155 Cal.App.4th 425 (the purpose of monitoring and reporting requirements for enforcement of mitigation measures is to ensure that a feasible mitigation measure will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded); *CEQA Guidelines*, § 15126.4 (a)(2) (mitigation measures must be "fully enforceable").

In order to adequately mitigate for the potential seismic-related ground failure, including liquefaction, the MND must provide fully enforceable mitigation measure.

RESPONSE 2-15

See Response 1-5.

COMMENT 2-16

Similarly, the MND analyzes excavation up to twenty feet, the exact same number as what would be required for the proposed two-levels of underground parking. This amount of grading is impossible because it does not consider the structural elements that will need to support the two levels of underground parking. The true grading amounts must be set forth so that their environmental impacts could be evaluated as required by CEQA.

RESPONSE 2-16

The proposed Project would include two subterranean levels of parking, which would require excavation to a maximum depth of 20 feet (including excavation for project footings and foundations). The excavation depth of 20 feet refers to the extent of sub-grade disturbance, scraping and re-compaction as required below the column footings, and not all excavated material would be exported off-site. As shown in Figures 2-5-2-7 of the IS/MND, both parking levels would be approximately 10 feet in depth. However, parking level 0 would be 5 feet above grade and 5 feet below grade, while parking level 00 would be 10 feet below grade, amounting to 15 feet in total below grade for parking. (Project Description, Figures 2-5-2-7). The extra 5 feet in excavation from 15 feet takes into account excavation for Project footings and foundations. As such, the IS/MND accurately analyzes the amount of grading and potential environmental impacts associated with grading are less than significant.

COMMENT 2-17

h. Hazards and Hazardous Materials

In evaluating the impacts of the Project with regard to hazards and hazardous materials, the MND completely fails to identify, analyze or evaluate the fact that the Project is located in both a Methane Hazard Zone and an Airport Hazard Zone.

According to the City Ordinance regulating methane, methane mitigation is required for all sites located in a Methane Zone or a Methane Buffer Zone, regardless of results obtained in a methane investigation.

Relying narrowly on the thresholds, the MND also finds that there are no impacts at all with respect to airport or methane related impacts. However, whether or not a particular environmental effect meets a particular threshold cannot be used as an automatic determinant that the effect is or is not significant, and

the use of the Guidelines' thresholds does not necessarily equate to compliance with CEQA. *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1108-09. Once identified, all environmental impacts must be evaluated and mitigated; they cannot be ignored. *Woodward Park Homeowners' Association v. City of Fresno* (2007) 150 Cal.App.4th 683, 728 (an agency cannot acknowledge an impact and approve the project after imposing a mitigation measure not shown to be adequate by substantial evidence). Here, in order to adequately analyze hazards and hazardous material impacts, the MND must address impacts associated with the Project's location man Airport Hazard and Methane Hazard Zone, as designated by the City itself.

RESPONSE 2-17

See Response 1-6.

COMMENT 2-18

i. Land Use and Planning

The MND's land use and planning section is woefully deficient. First and foremost, it only evaluates the Project's consistency with the Palms-Mar Vista-Del Rey Community Plan. But that is not all that CEQA requires. CEQA requires an analysis of whether the Project conflicts with *any* applicable land use plan, policy or regulation. This includes the applicable Do Real Planning Guidelines, Citywide Design Guidelines, the Southern California Association of Governments ("SCAG") Regional Plan (including SCAG's Regional Transportation Plan and Compass Growth Visioning effort), the South Coast Air Quality Management District Air Quality Management Plan, the Los Angeles County Metropolitan Transportation Authority Congestion Management Program ("CMP"), and the Los Angeles Municipal Code. Consistently with all of these land use plans must be adequately reviewed and evaluated in order to comply with CEQA. [*See also, Exhibit 3*].

Furthermore, the Project is **inconsistent** with the City's Design Guidelines and the Palms-Mar Vista-Del Rey Community Plan for all of the reasons discussed hereinabove. In order to be legally adequate under CEQA, an MND cannot selectively pick and choose policies with which it deems a project to be consistent, but must identify and discuss all noted **inconsistencies**. *CEQA Guidelines* §15125(d); *L.A. CEQA Thresholds Guide*.[6]

An MND also cannot, as it purports to do here, simply list land use policies, and then without any substantial evidence to support, summarily find "consistency." Consistency requires more than incantation. The City cannot simply articulate a policy in its land use plan and then approve a conflicting project. *Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 181 (setting aside EIR based upon findings that no reasonable person could have made the consistency finding on the record before it). The City must support its findings of consistency with substantial evidence of consistent Floor Area Ratio's, density, parking requirements, open space, etc. Otherwise, the consistency findings are not supported by substantial evidence.

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6. The L.A. CEQA Threshold Guide with respect to "land use consistency" states: The determination of significance shall be made on a case-by-case basis, considering:

- Whether the proposal is inconsistent with the adopted land use/density designation in the Community Plan, redevelopment plan or specific plan for the site; and
- Whether the proposal is inconsistent with the General Plan or adopted environmental goals or policies contained in other applicable plans.

RESPONSE 2-18

See Response 1-7.

COMMENT 2-19

j. Noise

The MND utterly fails to address the fact that there are sensitive receptors that will be significantly impacted from construction noise including the underestimated volume of excavation and the operation of a large parking facility, the loading area and mobile noise from all of the likely vehicles that will have to turn around at the end of the cul-de-sac.

To make matters worse, the MND proposes an utterly deficient mitigation measure to address construction noise - Noise XII-27. But a "complaint line" mitigates absolutely no impact, it simply provides for a way to complain about an impact after it occurs. As such it is inadequate under CEQA, which requires that mitigation measures be feasible, enforceable and capable of mitigating the impact for which they are imposed. *Lincoln Place Tenants Ass'n v.City of Los Angeles* (2007) 155 Cal.App.4th 425; *CEQA Guidelines*, §15126.4 (a)(2); *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70; *CEQA Guidelines*, §15126.4 (n)(4)(A); *Nollan v. California Coastal Commission,* 483 U.S. 825 (1987).

RESPONSE 2-19

See Response 1-8

COMMENT 2-20

k. Transportation/Traffic

The MND finds that there is less than significant impact based on possible conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit. This conclusion is completely devoid of supporting substantial evidence. Indeed, the MND fails, at all, to review and analyze consistency with all applicable traffic/transportation plans, including SCAG's Regional Transportation Plan. Accordingly, it is in error.

RESPONSE 2-20

See Response 1-9 and LLG Response to Kimley-Horn Comment Memo, dated June 22, 2017 (Attachment B).

COMMENT 2-21

Furthermore, the MND finds that the Project does not substantially increase hazards due to a design feature or incompatible uses. This is blatant error. Indeed, although it has numerous options along Beatrice Street and Grosvenor Boulevard, the Project is designed to provide ***75 percent of its traffic on Jandy Place, an approximately 400-foot in length cul-de-sac street***, which already provides ingress/egress to the many properties owned by Karney Management Company. When considered in connection with the cumulative of effects of all such other traffic along Jandy, it is clear that such Project features substantially increase hazards thereon. The MND completely ignores these conditions. [*See also, Exhibit 4*]

The MND also fails to analyze, *at all*, construction traffic impacts as well as parking impacts. It is incomprehensible that an adequate transportation/traffic analysis can be deemed "adequate" without a

review of construction traffic and parking. Again, where an agency fails to abide the informational requirements of CEQA by omitting material necessary to informed decisionmaking and informed public participation, as it has here, harmless error analysis is inapplicable and the agency is deemed to have erred and abused its discretion. *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645.

Finally, the MND fails to adequately analyze impacts on transportation/traffic for the reasons set forth in the review completed by Kimley-Horn and Associates, Inc. [*Exhibit 4*].

RESPONSE 2-21

See Response 1-9 and LLG Response to Kimley-Horn Comment Memo, dated June 22, 2017 (Attachment B).

COMMENT 2-22

l. Cumulative Impacts

The MND's "analysis" of cumulative impacts is indefensible. The MND admits that significant impacts may occur if the proposed Project, in conjunction with the related projects, would result in impacts that are less than significant when viewed separately but significant when viewed together, but concludes that it does not need to do any analysis of such impacts because each additional project will be evaluated and mitigated on a case by case basis (i.e., separately without regard for cumulative impacts) ; therefore, the cumulative impacts to which the proposed Project would contribute would be less than significant.

Such "analysis" completely misses the mark for what is required as a cumulative impact analysis required under CEQA. One of the basic and vital informational functions required by CEQA is a thorough analysis of whether the impacts of the Project, in connection with other related projects, are cumulatively considerable. Banning Ranch Conservancy v. City of Newport Beach (2012) 211 Cal App.4th, 1209. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.[7] *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184; CEQA Guidelines §15355. Proper cumulative impact analysis is vital under CEQA because the full environmental impact of a proposed Project cannot be gauged in a vacuum. Indeed, one of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact. Therefore, cumulative effects analysis requires consideration of "reasonably foreseeable probable future projects, if any." *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184; *Gentry v City of Murrieta* (1995) 36 Cal.App.4th 1359, 1414.

In fact, the CEQA Guidelines mandate the preparation of an EIR where cumulative impacts are cumulatively considerable:

> **An EIR *must* be prepared if the cumulative impact may be significant and the project's incremental effect, though individually limited, is cumulatively considerable**. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects. 14 CCR §15064(h)(l).

Here, there is no scintilla of evidence, much less substantial evidence, to support the conclusion that the "cumulative impact" of the Project will not result in any potentially significant impacts. There are no other "reasonably foreseeable probably future projects" listed and none analyzed. Indeed, there is not even evidence that the MND *considered* whether there are cumulative impacts, since all it summarily states is

that it did not need to do any such analysis because any additional project will be evaluated and mitigated separately on a case by case basis.

Ironically, the Project's traffic analysis actually identifies 29 *other* projects in the vicinity of the within Project, and evaluates the cumulative traffic impacts of those projects. The MND cannot ignore that existence of these identified *other* projects, which their traffic expert apparently had no problem finding or analyzing. It must evaluate the cumulative impacts of all of these projects with regard to all of the protected categories of environmental impacts under CEQA.

Finally, the MND conclusively states that cumulative impacts of the Project will not result in any potentially significant impacts because any cumulative impacts (which, again, the MND fails to identify) will be mitigated to a less than significant level through compliance with the mitigation measures provided in the "previous sections" of the MND. But there is no evidence whatsoever that the cumulative impacts of the other reasonably foreseeable probable future projects, if any, including the 29 other projects identified by the Project's traffic analysis, were considered in formulating the mitigation measures of the MND and none of them refer, at all, to the other reasonably foreseeable probable future projects. The lack of evidence in the record to support a conclusion that the Project would have *no* cumulative impacts thus tends to support a fair argument that the Project *will* have such impacts.

The failure of this MND to provide for a cumulative impact analysis as required under CEQA is fatal. *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 118 (CEQA requires strict compliance with the procedures and mandates of the statute). Each public agency is required to comply with CEQA and meet its responsibilities, including evaluating mitigation measures and project alternatives. *CEQA Guidelines* §15020. For all of the reasons set forth herein, the City has failed to do so here.

For all of these reasons, we ask that the Commission deny this Project, as proposed, and require the Applicant to revise the Project in compliance with the compatibility requirements of the LAMC and applicable land use plans governing the Project site. Only with such revisions, as well as full environmental review in an EIR, should the Commission re-consider the Applicant's requests.

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7. "Cumulative impacts" refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects.

RESPONSE 2-22

See Response 1-10.

LETTER 3: CAJA ENVIRONMENTAL SERVICES, LLC

COMMENT 3-1

This memorandum contains CAJA Environmental Services, LLC's findings and comments on the Mitigated Negative Declaration, dated on May 17, 2017 ("MND") for the 12575 Beatrice Street ("Project"), at 12553-12575 West Beatrice Street, which was prepared by the City of Los Angeles ("City"). Our comments are organized as follows: (i) the first section addresses general issues, as it relates to the environmental documentation under the California Environmental Quality Act ("CEQA") for the Project; and (ii) the second section contains our firm's peer review analysis of the MND. Section II tracks the organization of the MND and contains our specific comments with respect to each Section.

I. General Comments on the MND

As discussed in detail below, several impact areas were not addressed in the MND. 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. 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. The MND fails to disclose necessary information to the public and to the decision-making body by omitting several pertinent CEQA environmental categories and/or by refusing to discuss and fully examine those issue areas to the fullest extent possible.

What's more, specific project information in the MND does not match what is proposed on the accompanying figures within the MND. As detailed below, it is difficult for the reader to understand and comprehend the overall height of the building, grading depths, parking locations, and proposed open space. The MND fails to give accurate and precise information within the MND to assist the public in their review.

The failure to comply with the law subverts the purposes of CEQA if it omits material necessary to inform decisionmaking and public participation.

RESPONSE 3-1

Comment 3-1 contains introductory information and general comments on the IS/MND. Responses to the more detailed comments are provided below.

COMMENT 3-2

II. Specific Comments Regarding the MND

1. Impact Areas Were Not Addressed in the MND

Several environmental impact areas were not discussed and/or disclosed in the MND. This decision does not appear to be supported by substantial evidence or any evidence at all. If these impact areas had been analyzed, it appears that they would disclose potentially significant and unmitigable impacts on the environment. The following impact areas should not have been scoped, or left out, of the MND.

- Hazardous Materials (Methane): The MND does not address methane zone impacts. The Project Site is located within the City of Los Angeles Methane Zone based on the City of Los Angeles Department of City Planning, Zone Information and Map Access System. These areas have a risk of methane intrusion emanating from geologic formations. The areas have developmental regulations