



April 18, 2018

[via email: sergio.ibarra@lacity.org]

Mr. Sergio Ibarra
City of Los Angeles Department of City Planning
Major Projects and Environmental Analysis Section
200 North Spring Street, Room 750
Los Angeles, CA 90012

Re: RESPONSE TO APPEAL ON THE SAPPHIRE PROJECT (APCC-2015-3032-SPE-SPPA-SPP-MS-C, SCH#2016031029 and ENV-2015-3033-EIR)

Dear Sergio,

On behalf of the Project Applicant (Sapphire Equity, LLC) (the "Applicant"), Parker Environmental Consultants has reviewed the appeal filed against the Sapphire Project ("Project") by the Carpenters/Contractors Cooperation Committee ("CCCC" or the "Appellant"), dated March 29, 2018 ("Appeal") challenging the City's certification of the Final EIR, the adoption of the Environmental Findings and the approval of the Specific Plan exceptions allowing for zero setbacks for the Project. The following provides detailed responses to the Appeal. For your reference, each appeal comment is restated below and followed by a response. A copy of the Appeal letter with brackets corresponding to the responses provided herein is enclosed as Attachment A.

As detailed in the responses provided below, the appeal does not present any new information or substantial evidence to support the claims that the EIR is inadequate. The EIR satisfies the environmental clearance requirements pursuant to CEQA, the State CEQA Guidelines (C.C.R. Title 14, Chapter 3, 15000-15387), and the City of Los Angeles' policies for implementing CEQA, and no additional environmental analysis is required.

Should you have any questions regarding any of the responses or issues addressed above, please contact me at (661) 257-2282 or by email at shane@parkerenvironmental.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Shane E. Parker", written in a cursive style.

Shane E. Parker

Attachments: Appeal Letter (bracketed)

Mr. Sergio Ibarra
City of Los Angeles Department of City Planning
Major Projects and Environmental Analysis Section
Sapphire Project [ENV-2015-3033-EIR]
April 18, 2018
Page 2 of 19

APPEAL LETTER

COMMENT No. 1

March 28, 2018

VIA EMAIL

Honorable Council Members
City of Los Angeles
200 North Spring Street
Los Angeles, CA 90012-2601

Re: Appeal of the Planning Commission's March 14, 2018 Decisions Concerning the Sapphire Project (Proposed Project ENV-2015-3033-EIR)

Honorable Council Members:

The Carpenters/Contractors Cooperation Committee (“C/CCC”) appeals the following determinations by the Central Los Angeles Area Planning Commission (“Commission”) concerning the Sapphire Project (“Project”): (1) the certification of the Final EIR; (2) the adoption of the Environmental Findings; and (3) the approval of the Specific Plan exceptions allowing for zero setbacks for the entire project.

RESPONSE TO COMMENT No. 1

This comment identifies the Appellant and the points of the appeal. No specific response is required. The points of the appeal are addressed in responses to the specific comments provided below.

COMMENT No. 2

SUMMARY AND CONCLUSION

As proposed, the Project will needlessly externalize construction costs-impacting local residents, the community, and construction workers in three ways. First, the EIR’s failure to appropriately mitigate air quality and hazardous materials during construction will negatively impact the health and well-being of local residents, the community, and the workers at the jobsite.



23822 Valencia Boulevard, Suite 301
Valencia, CA 91355
(661) 257-2282 (tel)
www.parkerenvironmental.com

RESPONSE TO COMMENT No. 2

The Appellant's assertion that the EIR failed to mitigate air quality and hazardous materials during construction is not substantiated. On the contrary, as discussed in Section IV.B Air Quality of the Draft EIR, construction related activities would result in a less than significant localized air quality emissions as the Project's construction emissions would not exceed the SCAQMD's localized thresholds for NO_x, CO, PM₁₀, or PM_{2.5} for any sensitive land uses in the vicinity of the Project Site. Therefore, the localized air quality impacts resulting from construction emissions associated with the Project would be less than significant prior to mitigation. Additionally, with respect to the handling of hazardous materials during construction, as discussed in Section IV.F of the Draft EIR, and further discussed below in Response to Comment No. 10, all potentially hazardous materials used during demolition and construction activities would be handled, contained, stored, and used in accordance with all applicable local, State, and federal regulations. Adherence to all applicable rules and regulations pertaining to the use, storage, and transport of potentially hazardous materials would reduce potentially significant impacts to less-than-significant levels. Due to the proximity of several LAUSD schools in the area, Mitigation Measures F-1 and F-2 were imposed to ensure the contractor communicates with the LAUSD for purposes of reducing potential conflicts between school sites and pedestrian routes and the proposed hauling activities. With mitigation, the EIR concluded that potential impacts upon nearby sensitive receptors would be reduced to less than significant levels. No further analysis is required.

COMMENT No. 3

Second, decreasing the mandated setbacks without requiring and enforcing Project compliance with all construction, safety, and labor laws will expose local residents, the community, and construction workers to safety risks.

RESPONSE TO COMMENT No. 3

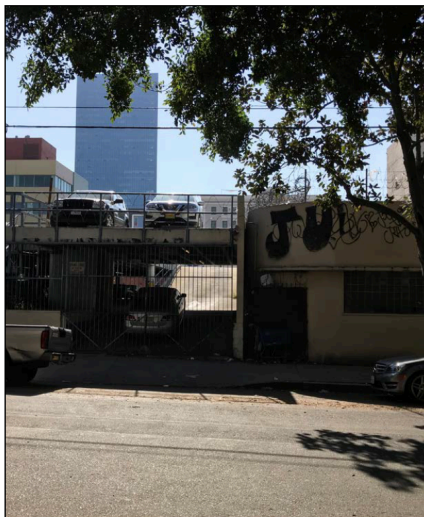
The Appellant asserts that by decreasing setbacks, there would somehow be a safety risk if the Project is not required to comply with construction, safety and labor laws. With regard to the existing baseline conditions, the existing 1135 W. 6th Street building immediately abuts, with no setbacks, the adjacent building to the west. Similarly, the existing parking garage at 1324-1342 W. 5th Street has no setbacks to the building to the west or to the street. See Existing Setback Exhibits, below.

EXISTING SETBACKS



Existing Setbacks on 6th Street (as shown in the Applicant's Presentation to the Central Area Planning Commission (CAPC) public hearing on 2/26/2018).

EXISTING SETBACKS



Existing Setbacks on 5th Street (as shown in the Applicant's Presentation to the Central Area Planning Commission (CAPC) public hearing on 2/26/2018).

CCCC has provided no evidence that providing the same exact setbacks as currently exists would create a safety risk. To the extent that proximity to adjacent structures would create a risk during construction, Draft EIR Section IV.B examines air quality and specifically addresses applicable regulations and policies (See Draft EIR pp. B-7 to B-12); Draft EIR Section IV.F examines hazards and specifically addresses applicable regulations and policies (see Draft EIR pp. IV.F-3 to -4); Draft EIR Section IV.G specifically addresses land use policies and regulations (see Draft EIR pp. IV.G-3 to -12); and Draft EIR Section IV.H specifically addresses noise and vibration policies and regulations (see Draft EIR pp. IV.H-5 to -9). There is no merit to the claim that the Project, including the setbacks proposed for the buildings within the Project site, would create a safety risk. Moreover, as discussed in Section IV. Mitigation and Monitoring Program, of the Final EIR, the Applicant shall maintain records demonstrating compliance with each project feature and mitigation measure. Such records shall be made available to the City upon request. Further, specifically during the construction phase and prior to the issuance of building permits, the Applicant shall retain an independent Construction Monitor (either via the City or through a third-party consultant), approved by the Department of City Planning, who shall be responsible for monitoring implementation of project design features and mitigation measures during construction activities consistent with the monitoring phase and frequency set forth in the Mitigation and Monitoring Program (“MMP”). Therefore, no further analysis is required.

COMMENT No. 4

Lastly, and given the developer’s history of hiring subcontractors with a record of unlawful labor, payroll, and workers’ compensation practices - approving the Project without a mechanism to monitor and enforce compliance with construction, safety, and labor laws will enable Developer to cut corners on safety, labor standards, and mitigation measures. In regard to this last point, Developer was made aware of these subcontractor practices and chose to ignore them on previous projects.

RESPONSE TO COMMENT No. 4

The Applicant’s assertion that the “Developer” has a history of hiring subcontractors with a record of unlawful labor, payroll, and workers’ compensation practices is not supported by any facts or substantial evidence. The Appellant’s claims that the lead agency approved the project without any mechanisms to monitor and enforce compliance with construction, safety, and labor laws do not relate to environmental impacts upon the environment and are not a CEQA issue. California labor laws are regulated by the State of California Labor Commission. Workplace health and safety is regulated by the State of California Division of Occupational Safety and Health (Cal/OSHA). Issues pertaining to construction of structures are regulated and enforced by the City of Los Angeles Department of Building and Safety. With respect to compliance with all applicable laws during construction, “[a]ll construction activities would be

performed in accordance with all applicable state and federal laws and City Codes and policies with respect to building construction and activities.” See DEIR at page II-47. Furthermore, Condition 20 on page C-3 of the Letter of Determination for the Project (Case No. APPCC-2015-3032-SPE-SPPA-SPP-MS) specifically provides an enforcement provision that requires the developer to comply with the stated conditions of approval to the satisfaction of the Planning Department and any designated agency, or the agency’s successor and in accordance with any stated laws or regulations, or any amendments thereto. Furthermore, Condition 11 on page C-2 of the Letter of Determination provides enforcement provisions to ensure for the ongoing monitoring of implementation of project design features and mitigation measures during construction activities consistent with the monitoring phase and frequency set forth in this Mitigation Monitoring Program (MMP). Specifically, Condition 11 states the following:

11. Mitigation Monitor. During the construction phase and prior to the issuance of building permits, the applicant shall retain an independent Construction Monitor (either via the City or through a third-party consultant), approved by the Department of City Planning, who shall be responsible for monitoring implementation of project design features and mitigation measures during construction activities consistent with the monitoring phase and frequency set forth in this MMP.

The Construction Monitor shall also prepare documentation of the applicant’s compliance with the project design features and mitigation measures during construction every 90 days in a form satisfactory to the Department of City Planning. The documentation must be signed by the applicant and Construction Monitor and be included as part of the applicant’s Compliance Report. The Construction Monitor shall be obligated to immediately report to the Enforcement Agency any non-compliance with the mitigation measures and project design features within two businesses days if the applicant does not correct the non-compliance within a reasonable time of notification to the applicant by the monitor or if the noncompliance is repeated. Such non-compliance shall be appropriately addressed by the Enforcement Agency.

Thus, the Appellant’s assertion that the Project was approved without a mechanism to monitor and enforce compliance with construction, safety, and labor laws is unfounded. No further analysis is warranted.

COMMENT No. 5

To ensure that *all* construction laws are observed, for compliance with the General Plan, and to mitigate construction impacts on residents, the community, and construction workers - the City must: (1) impose an air quality and hazardous material mitigation plan as a condition of approval; (2) require that Developer comply with all applicable construction, safety, and labor laws as a condition of approval, and

(3) fine-tune the Project's existing Mitigation Monitoring condition into an effective Jobsite Monitor Program to ensure Developer complies with all laws and mitigation measures.

RESPONSE TO COMMENT No. 5

As discussed in response to comment 2, above, the EIR concluded that the Project's air quality emissions would be below the thresholds of significance prior to mitigation. As discussed on page IV.B-26 of the Draft EIR, the Project would be required to comply with applicable SCAQMD rules and regulations for new or modified sources. For example, the Project must comply with SCAQMD Rule 403 for the control of fugitive dust during construction. According to the SCAQMD, the application of water to disturbed areas three times a day has a control efficiency of 61 percent. By meeting SCAQMD rules and regulations, Project construction activities would be consistent with the goals and objectives of the AQMP to improve air quality in the Basin. As quantified in Table IV.B-8 of the Draft EIR (at page IV-B-31), the project's estimated peak daily construction emissions would be below the SCAQMD's thresholds of significance with adherence to these standard regulatory measures. Therefore, no air quality mitigation measures are warranted or required.

As discussed in response to comment 4, above, the Applicant would be required to implement all mitigation measures imposed on the Project and comply with all regulatory code compliance measures. With respect to hazards and hazardous conditions, impacts associated with asbestos containing materials lead based paint, and soil and groundwater conditions were found to be reduced to less than significant levels with adherence to standard regulatory compliance and applicable laws governing the handling and transport of such materials. For example, asbestos removal operations would be conducted in accordance with CAL-OSHA Asbestos for the Construction Industry Standard, SCAQMD and EPA rules and regulations and industry standards. Prior to the demolition activities, a complete asbestos survey would be conducted to identify all sources of asbestos, as required by the U.S. EPA National Emission Standard for Hazardous Air Pollutants (NESHAP) regulation and the South Coast Air Quality Management District's (SCAQMD's) Rule 1403. Impacts associated with lead based paint would be addressed through compliance with Construction Safety Orders 1532.1 (pertaining to lead) from Title 8 of the California Code of Regulations, and lead exposure guidelines provided by the U.S. Department of Housing and Urban Development (HUD). Impacts associated with soil and groundwater were found to be less than significant based on a Regional Water Quality Control Board (RWQCB)-issued closure letter concluding that no further action was required on the Project Site. The RWQCB concluded that residual soil contamination would not cause any human and environmental risks via major pathways, such as direct contact, drinking water ingestion and vapor intrusion. (see Draft EIR at page IV.F-15). With respect to sensitive receptors in the vicinity of the Project Site, Mitigation Measures F-1 and F-2 were imposed to ensure the contractor communicates with the LAUSD for purposes of reducing potential conflicts

between school sites and pedestrian routes and the proposed hauling activities. No further analysis is required.

COMMENT No. 6

It is worth noting the correlation between compliance with construction laws, including those concerning jobsite safety and working conditions, and hiring non-responsible subcontractors. It is a common practice in the underground construction economy to have large numbers of ghost workers, making it impossible to accurately account for all employees at a jobsite. This use of ghost workers is linked to using labor brokers to pay employees off-the books, at times splitting one check to pay many workers or using false names to gain employment, which results in the violation of labor laws, payroll requirements, tax laws, workers' compensation laws, and OSHA safety standards. In these instances, there is no accurate record of all the workers on the jobsite, creating a safety risk for the worker, community, and first responders.

RESPONSE TO COMMENT No. 6

The Appellant's opinions have been noted for the record and will be forwarded to the decision makers for their consideration. The Appellant's comments do not address the adequacy of the environmental analysis contained in the EIR and do not raise any CEQA issues. Therefore, no further response is required with respect to CEQA.

COMMENT No. 7

PROJECT DESCRIPTION

The Project is a mixed-use development consisting of 369 residential units and 22,000 sf of retail - a combined total floor area of nearly 350,000 sf. The nearly two acre site is composed of two parcels, a North Parcel and a South Parcel. With an estimated construction schedule of 24 months, the Project will require Developer to demolish a three-level parking structure, a five-story commercial building, and a four-story office building. (Draft EIR ("DEIR") section II p. 1.) The demolition, site clearing, and excavation portion of the Project is expected to be completed in seven months -with nearly 100,000 cubic yards of soil to be hauled off-site. (*Ibid.*)

RESPONSE TO COMMENT No. 7

The Appellant has accurately restated the Project Description as presented in Section II of the Draft EIR. No further response is required.

COMMENT No. 8

CERTIFICATION OF THE EIR AND THE ADOPTION OF THE ENVIRONMENTAL FINDINGS

I. An EIR Must Inform, Analyze, and Mitigate Project Impacts

An EIR is “the heart of CEQA.” (*Laurel Heights Improvement Ass’n v. Regents of University of California*, (1988) 47 Cal.3d 376, 392 (“*Laurel Heights*”).) CEQA requires that an EIR be detailed, complete, and reflect a good faith effort at full disclosure. (CEQA Guidelines § 15151; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692.) “The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.” (Pub. Res. Code § 21061.) An EIR should provide sufficient analysis to inform the public about a proposed project’s adverse impacts and to allow decision-makers to make intelligent judgments. (*Laurel Heights, supra*, 41 Cal.3d 376.) The public and decision-makers need to fully understand the implications of the choices related to the proposed project, mitigation measures, and alternatives. (*Laurel Heights, supra*, 41 Cal.3d 376.)

RESPONSE TO COMMENT No. 8

The Appellant’s comment has been noted for the record. In this comment, the Appellant restates the purpose of an EIR and cites several cases pertaining to the CEQA process. However, no specific concerns with respect to the Project or environmental analysis contained in the Draft EIR are identified. Therefore, no further response is required.

COMMENT No. 9

II. The EIR Fails to Discuss, Analyze, and Mitigate the Project’s Air Quality Impacts on Local Residents, the Community, and Construction Workers

Basing its air quality findings on an assumption, the Sapphire EIR fails to provide the necessary facts and analysis to allow the City and the public to make informed decisions on the Project. In finding that the Project’s construction impact on air quality will be less than significant, the EIR assumes without any discussion or analysis that “[a]11 construction activity would be performed in accordance with all applicable state and federal laws and City Codes and policies with respect to building activities.” (DEIR section IV.B p. 30.)

The EIR's assumption that Developer will comply with construction laws fails to meet the requirements and intent of CEQA for three reasons. First, the EIR does not provide the necessary facts and analysis allowing for an informed decision. For example, and with the exception of SCAQMD particulate mitigation rule 403, the document does not discuss which air quality related construction laws and rules the Project will be required to comply with and does not provide an analysis of how the Developer may be able to comply with the laws and rules. The EIR simply assumes that applicable laws can and will be observed. (DEIR section IV.B p. 30.) Second, the EIR fails to provide targeted mitigation measures focused at protecting specific groups, including community members and construction workers. Third, the EIR assumes the Project will comply with all applicable construction laws - even though Developer has a history of hiring subcontractors with a record for non-compliance with construction labor laws. (*Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App.3d 1337, 1355 [“[a] condition requiring compliance with [] regulations ... [is] only proper where the public agency [has] meaningful information reasonably justifying an expectation of mitigation”].)

RESPONSE TO COMMENT No. 9

The Appellant's claim with respect to the adequacy of the analysis as presented in Section IV.B Air Quality of the Draft EIR is unsubstantiated. The Draft EIR provides a thorough analysis with respect to project impacts and implementation of regulatory code compliance. As discussed on Page IV.B-32 of the Draft EIR, the daily on-site construction emissions generated by the Project are analyzed against the SCAQMD's localized significance thresholds to determine whether the emissions would cause or contribute to adverse localized air quality resulting in impacts to sensitive receptors. These calculations assume that appropriate dust control measures would be implemented as part of the Project during each phase of development, as specified by SCAQMD Rule 403 (Fugitive Dust). Rule 403 control requirements include, but are not limited to, applying water in sufficient quantities to prevent the generation of visible dust plumes, applying soil binders to uncovered areas, reestablishing ground cover as quickly as possible, utilizing a wheel washing system to remove bulk material from tires and vehicle undercarriages before vehicles exit the Project Site, and maintaining effective cover over exposed areas. The EIR also cited compliance with SCAQMD Rule 1113. As stated on page IV.B-7 of the DEIR, SCAQMD Rule 1113 sets forth specific VOC content standards (in grams per liter) for all products used in the application of architectural coatings that are sold or applied within the District. With respect to the Appellant's concerns regarding implementation of regulatory compliance and mitigation, please refer to Response to Comment No. 3, 4 and 5.

COMMENT No. 10

III. The EIR Fails to Inform, Analyze, and Mitigate the Impacts of the Project's Hazardous Materials on Local Residents, the Community, and Construction Workers

The Project's demolition and construction phase is expected to expose local residents, the community, and construction workers to asbestos, solvents, volatile chemicals, and other hazardous materials. (DEIR section IV.F p. 8 ["due to the age of the existing buildings proposed for demolition, asbestos-containing materials and lead based paint may be present"].) Failing to inform, analyze, and appropriately mitigate the impacts of hazardous materials the Sapphire EIR assumes that "[a]ll potentially hazardous materials used during demolition and construction activities would be handled, contained, stored, and used in accordance with all applicable local, State, and federal regulations, which include requirements for disposal of hazardous materials at a facility licensed to accept such waste based on its waste classification and the waste acceptance criteria of the permitted disposal facilities." (*Id.* at p. 14.)

Similarly to air quality, the EIR's assumption that the Project will comply with applicable laws when handling and disposing hazardous materials fails to meet the requirements and intent of CEQA for three reasons. First, the EIR does not provide the necessary facts and analysis allowing for an informed decision. For example, and with the exception of minimal discussion on SCAQMD rule 1403 concerning asbestos and HUD's Construction Safety Order 1532.1, the document does not discuss which laws and rules the Project will be required to comply with and does not provide an analysis of how the Developer may be able to comply with the laws and rules. The EIR simply assumes that applicable laws and rules can and will be observed. (DEIR section IV.F pp. 14-15.) Second, the EIR fails to provide targeted mitigation measures focused at protecting specific groups, including community members and construction workers. Third, the EIR assumes the Project will comply with construction laws even though Developer has a history of hiring subcontractors with a record of non-compliance with construction labor laws. (*Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App.3d 1337, 1355 ["[a] condition requiring compliance with [] regulations ... [is] only proper where the public agency [has] meaningful information reasonably justifying an expectation of mitigation"].)

RESPONSE TO COMMENT No. 10

The Draft EIR provides a thorough analysis with respect to project impacts and implementation of regulatory code compliance. See generally Draft EIR Section IV.F. As disclosed in the Draft EIR, during the construction phase, the Project is anticipated to require the routine transport, use and disposal of cleaning solvents, fuels, paints and paint-related products, waste oil, spent solvents, oily rags and other potentially hazardous materials commonly associated with construction activities. Construction activities would likely involve the use and storage in small quantities of potentially hazardous materials, including

vehicle fuels, oils, and transmission fluids. Due to the age of the existing buildings proposed for demolition, asbestos-containing materials and lead based paint may be present. Asbestos and lead have negative health impacts, and employees that currently work at the Project Site and construction personnel may be exposed to asbestos fibers and lead during demolition activities. The abatement and removal of asbestos is regulated by the South Coast Air Quality Management District's Rule 1403. Lead-based paint materials exposure is regulated by the California Occupational Safety and Health Administration (CalOSHA) regulations. California Code of Regulations Section 1532.1, requires testing and monitoring of potential containments and disposal of lead based paint materials such that exposure levels do not exceed CalOSHA standards for worker exposure. All potentially hazardous materials used during demolition and construction activities would be handled, contained, stored, and used in accordance with all applicable local, State, and federal regulations, which include requirements for disposal of hazardous materials at a facility licensed to accept such waste based on its waste classification and the waste acceptance criteria of the permitted disposal facilities. Adherence to all applicable rules and regulations pertaining to the use, storage, and transport of potentially hazardous materials would reduce potentially significant impacts to less-than-significant levels. See Draft EIR pp. IV.F-13 to -18, and F-20. With respect to Appellant's concerns regarding implementation of regulatory compliance and mitigation, please refer to Response to Comment No. 3, 4 and 5.

COMMENT No. 11

IV. The EIR for the Wilshire Crescent Heights Project is an Example of How an EIR Can and Must Inform, Analyze, and Help Mitigate the Impacts of Construction on Local Residents, Communities, and Construction Workers

The final EIR for the Wilshire Crescent Heights project, a project half the size of the Sapphire Project with a shorter construction schedule, provides an example of how an EIR can and must inform, analyze, and help mitigate construction impacts on air quality and hazardous materials. (DEIR section II p. 1 [Crescent Heights' 175,000 sf total floor area is about half the size of Sapphire's 350,000 sf total floor area].) In the Crescent Heights EIR, and even though the document found that construction related emissions and hazardous materials exposure would be less than significant, the EIR provides a discussion and analysis of mitigation measures to be adopted by the project. For air quality, the Crescent Heights EIR provides roughly 20 mitigation efforts addressing particulates. (Exh. A.) For hazardous materials, the Crescent Heights EIR provides about 15 mitigation measures addressing several substances, including asbestos, lead paint, and methane. (Exh. B.)

Even though the Crescent Heights project was a smaller project with a shorter construction schedule - its EIR appropriately discusses, analyzes, and imposes mitigation efforts to limit the impact of construction on air quality and hazardous material. The Sapphire EIR must similarly discuss, analyze, and adopt

mitigation measures to limit the impact of construction on air quality and hazardous material. The Sapphire EIR can and must mitigate the impacts of construction on local residents, the community, and construction workers.

RESPONSE TO COMMENT No. 11

The Appellant's opinions have been noted for the record. As discussed above in Response to Comment No. 9 and No. 10, the Appellant provides no substantial evidence, pursuant to Public Resources Code Section 21080(e) (2), to support its claims regarding the alleged inadequacy of the environmental analysis of the Draft EIR with respect to significant impacts. Furthermore, there is no nexus between the Wilshire Crescent Heights Project and the Project that would warrant the adoption of additional mitigation measures that are not already included in the MMP of the Final EIR, or mandated through compliance with regulatory codes. With implementation of regulatory code and mitigation, impacts with respect to air quality and handling of hazardous materials during construction were found to be less than significant for the Project.

COMMENT No. 12

SPECIFIC PLAN EXCEPTION AND ZERO SETBACKS

I. The Commission's Specific Plan Exception Eliminated all Setbacks - Exposing Local Residents, the Community, and Construction Workers to Safety Risks

For the South Parcel, the Commission reduced the rear yard setback for the portion of the west property line not abutting the alley from 19 feet to zero. (Exh. C.) For the North Parcel, the Commission reduced a 16 feet rear yard setback, a 5 feet side yard setback, and a 15 feet front yard setback to zero. (Exh. C.) As described below, decreasing the required setbacks where the Project's property line abuts another property without requiring Project compliance with construction, safety, and labor laws exposes local residents, the community, and construction workers to a safety risk. (Exh. D.)

RESPONSE TO COMMENT No. 12

The Appellant does not provide substantial evidence to support its claims that granting a specific plan exception with respect to setbacks for the Project would expose local residents, the community, and construction workers to a safety risk. See also response to comment 3, above.

COMMENT No. 13

II. Required Findings for Approving a Specific Plan Exception

Pursuant to LAMC, the City cannot grant a specific plan exception unless it finds “[t]hat the granting of an exception will not be detrimental to the public welfare or injurious to the property or improvements adjacent to or in the vicinity of the subject property.” (Los Angeles Mun. Code, § 11.5.7.F.2(d).) Additionally, “the granting of an exception [must be] consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan.” (Los Angeles Mun. Code, § 11.5.7.F.2(e).)

RESPONSE TO COMMENT No. 13

The Appellant does not provide substantial evidence to support its claims that granting a specific plan exception with respect to setbacks for the Project would result in detrimental effects to the public welfare, or would be inconsistent with the goals of the specific plan or general plan. As provided in the Letter of Determination, dated March 14, 2018¹, the specific plan findings were made to address the setback standards and granted exceptions. No further response is required with respect to the environmental analysis.

COMMENT No. 14

III. The Reduced Setbacks Will Be Detrimental to the Public Welfare and Injurious to Adjacent Properties

The municipal code requires that a Specific Plan Exception not “be detrimental to the public welfare or injurious to[] property or improvements adjacent to” the Project. (Los Angeles Mun. Code, § 11.5.7.F.2(d).) Here, eliminating the required setbacks for property lines abutting other properties will be detrimental to the public welfare and injurious to neighboring properties - it creates a safety risk. Benefiting local residents, the community, and construction workers - setbacks serve as a safety feature for construction projects providing three main benefits. First, setbacks ensure that firefighters and first responders have access to the site during fires and emergencies. Second, setbacks provide construction workers with space to flea [sic] in the case of an emergency. Lastly, setbacks provide a safety buffer between the construction site and buildings abutting the property. The safety benefits provided by

¹ *Central Los Angeles Area Planning Commission, Letter of Determination, Case No: APCC-2015-3032-SPE-SPPA-MS, ENV-2015-3033-EIR, SCH No. 2016031029, dated March 14, 2018.*

setbacks are especially important here because the Sapphire project will be a 7-story wood frame project. (Planning Com. Findings p. 9 [Project using wood framing to reduce costs].)

RESPONSE TO COMMENT No. 14

The Appellant's argument with respect to the Project's setbacks are unsubstantiated. The Appellant provides no evidence that reduced setbacks on the Project Site would result in a safety risk. The existing westerly building along 6th Street and the parking garage maintain zero setbacks with the adjacent properties. There would not be a decrease in the setbacks compared to the existing baseline condition. As discussed in the Central Los Angeles Planning Commission Letter of Determination, dated March 14, 2018, granting of the exceptions would not be detrimental to the public welfare, injurious to property or improvement to property in the surrounding neighborhood. See also Responses to Comment No. 3 and 13, above. With respect to fire risk and accessibility for first responders, it should be noted that the Project would be required to maintain appropriate emergency access pursuant to the Los Angeles Fire Code, LAMC Sections 57.09.01 through 57.09.11. Furthermore, the Project will comply with all applicable construction-related and operational fire safety and emergency access requirements of the LAFD and the City of Los Angeles in order to adequately mitigate fire protection impacts. No further analysis with respect to the Draft EIR is required.

COMMENT No. 15

IV. As proposed, the Project and the Exception are Not Consistent with the Goals and Intent of the General Plan

The municipal code requires “[t]hat the granting of an exception [be] consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan.” (Los Angeles Mun. Code, § 11.5.7.F.2(e).) As proposed, the Project does not conform to the purpose, intent, and provisions of the General Plan for several reasons. A guiding principle of the General Plan is to “reduc[e] income inequities through the creation of safe, quality jobs.” (General Plan, Health and Wellness Element p. 141.) Pursuant to General Plan Policy 1.3, the City is to “promote healthy communities by focusing on prevention, interventions, and by addressing the root causes of health disparities and inequities in Los Angeles”. (*Id.* at p. 28.) Under Policy 1.3, “[t]he City’s intent is to take steps to prevent health issues by using policies and programs to improve access to ... quality family-supporting jobs....” (*Ibid.*) **General Plan Policy 6.6 directs the City to “[s]upport policies ... that create family-supporting, career-ladder jobs.. oo” (Id. at p. 77.) As the General plan explains, “[t]he most effective anti-hunger strategy is a job that pays a family-supporting and livable wage.” (*Ibid.*)** Lastly, one of the goals of the General Plan is minimize the “potential injury, loss of life, property damage and disruption of the social and

economic life of the City due to fire, water related hazard [and] release of hazardous materials...”
(General Plan, Safety Element p. 111-1.)

The Project and Developer do not conform to and do not share the goal and intent of the General Plan for two reasons. First, the Developer has a history of hiring subcontractors with a record of non-compliance with construction labor laws. Second, one of the goals of the General Plan is minimize “potential injury, loss of life, property damage and disruption of the social and economic life of the City due to fire...”
(General Plan, Safety Element p. III-I.) As proposed, the decreased setbacks create a fire risk that must be mitigated.

RESPONSE TO COMMENT No. 15

The Appellant’s claims that the Project is not in conformance with the General Plan is not substantiated with any relevant facts. The Appellant’s first claim regarding the Applicant’s alleged history of non-compliance with construction labor laws is not relevant to the General Plan and/or EIR. It is unfounded speculation, not supported by evidence, that this Project would not comply with construction labor laws. Moreover, labor laws are enforced by the State of California. Thus, any issues pertaining to the alleged non-compliance of labor laws would be referred to the State’s Labor Commission. To the extent that CCCC maintains that labor law compliance is an environmental issue, CEQA Guidelines Section 15131(a) states that economic or social effects of a project shall not be treated as significant effects on the environment.... The focus of the analysis shall be on the physical changes.” The Appellant’s second claim asserts that the decreased setbacks would create a fire risk that must be mitigated. There is no evidence in the record to support the claim that emergency access would be compromised by the approved setbacks. The Approval of a zero foot front yard setback for the North building would not compromise emergency access and the entire front of the North building is directly accessible via 5th Street. The approval of zero foot side yards for the North building would also not compromise emergency access as the building would be accessible along its entire length via the alley on the building’s south side and 5th Street along the north side. The approval of zero rear yard setbacks for the North and South buildings would also not compromise emergency access as the alley that bifurcates the North and South buildings would remain as a point of access between Lucas Avenue and Bixel Street. See also Draft EIR p. IV.K-44 for an analysis of emergency access that demonstrates that the Project would have a less than significant impact. Thus emergency access would not be compromised by a reduction in rear yard setbacks. No further analysis with respect to the Draft EIR is required.

COMMENT No. 16

MITIGATION MEASURES

To ensure that all construction, safety, and labor laws are observed, for compliance with the General Plan, and to mitigate the impacts of construction on residents, the community, and construction workers - the City must impose the following three conditions on the Project.

I. Air Quality and Hazardous Materials Mitigation Measures

As an alternative to amending the EIR, the City can, as a condition of approval, impose air quality and hazardous materials mitigation measures similar to the mitigation measures imposed on the Wilshire Crescent Heights Project. In summary, the measures must address air quality and hazardous materials impacts on local residents, the community, and the Project's construction workers. Exhibit F provides the suggested language for air quality and hazardous materials mitigation measures to be imposed by Council. (Exh. E.)

RESPONSE TO COMMENT No. 16

The Appellant's opinions have been noted for the record. As discussed above in Response to Comments No. 9 and No. 10 the Appellant does not provide any substantial evidence, pursuant to Public Resources Code Section 21080(e) (2), to support its claims regarding the adequacy of the environmental analysis of the Draft EIR with respect to the Project's impacts to air quality and hazardous materials. There is no nexus between the Wilshire Crescent Heights Project and the Project that would warrant the adoption of additional mitigation measures that are not already included in the MMP of the Final EIR, or mandated through compliance with regulatory codes. With implementation of regulatory code and mitigation, impacts with respect to air quality and handling of hazardous materials during construction were found to be less than significant for the Project.

COMMENT No. 17

II. Setback Mitigation Measure to Ensure the Safety of Local Residents, the Community, and Construction Workers

Developer must be required to abide by all construction, safety, and labor laws as a condition of development. Requiring that Developer observe all construction, safety, and labor laws will mitigate the safety risks created by the decreased setbacks.

RESPONSE TO COMMENT No. 17

The Applicant is required by law to abide by all construction, safety, and labor laws. The Appellant's concerns regarding safety risks created by the decreased setbacks are speculative and unsubstantiated and do not warrant mitigation measures.

COMMENT No. 18

III. Jobsite Monitor Program to Ensure Developer Complies with All Laws and Mitigation Measures

As a condition of development, the Commission's Mitigation Monitor condition must be fined-tuned into a Jobsite Monitor Program. The honed monitor program must provide the City a mechanism to effectively monitor and enforce mitigation measures and construction, safety, and labor laws. The Jobsite Monitor Program must empower City staff with a simple tool to ensure that Developer does not externalize construction costs. (Exh. F.)

RESPONSE TO COMMENT No. 18

The purpose of the Mitigation Monitoring Program (MMP) is to monitor and enforce implementation and recordation of project design features and mitigation measures as identified in the EIR during operation and construction activities consistent with the monitoring phase and frequency set forth in this MMP. Workplace safety and labor laws are regulated by the Department of Building and Safety and Cal OSHA and are not CEQA issues.

COMMENT No. 19

CONCLUSION

I look forward to working with Council, City staff, and Developer to strengthen the Sapphire Project. Any questions, please contact me at 213-738-9071.

Sincerely,

Eduardo Jansen, Esq.



Mr. Sergio Ibarra
City of Los Angeles Department of City Planning
Major Projects and Environmental Analysis Section
Sapphire Project [ENV-2015-3033-EIR]
April 18, 2018
Page 19 of 19

RESPONSE TO COMMENT No. 19

As demonstrated in the responses above, the Appellant has provided no substantial evidence, pursuant to Public Resources Code Section 21080(e)(2), with respect to the environmental analysis as presented in Draft EIR which would warrant the need for additional analysis or changes to the MMP. The Appellant's opinions and concerns will be forwarded to the decision makers for their consideration.



23822 Valencia Boulevard, Suite 301
Valencia, CA 91355
(661) 257-2282 (tel)
www.parkerenvironmental.com



APPLICATIONS:

APPEAL APPLICATION

This application is to be used for any appeals authorized by the Los Angeles Municipal Code (LAMC) for discretionary actions administered by the Department of City Planning.

1. APPELLANT BODY/CASE INFORMATION

Appellant Body:

- Area Planning Commission, City Planning Commission, City Council, Director of Planning

Regarding Case Number: APCC-2015-3032-SPE-SPPA-SPP-MSC

Project Address: 1101-1135 West 6th Street; 1324-1342 West 5th Street; 517-521 South Bixel Street

Final Date to Appeal: 03/29/2018

- Type of Appeal: Appeal by Applicant/Owner, Appeal by a person, other than the Applicant/Owner, claiming to be aggrieved, Appeal from a determination made by the Department of Building and Safety

2. APPELLANT INFORMATION

Appellant's name (print): Carpenters/Contractors Cooperation Committee

Company: Carpenters/Contractors Cooperation Committee

Mailing Address: 533 South Fremont Avenue, Suite 510

City: Los Angeles State: CA Zip: 90071

Telephone: (213) 738-9071 E-mail: ejansen@quadc.org

- Is the appeal being filed on your behalf or on behalf of another party, organization or company? Self, Other
Is the appeal being filed to support the original applicant's position? Yes, No

3. REPRESENTATIVE/AGENT INFORMATION

Representative/Agent name (if applicable): Eduardo Jansen

Company: Carpenters/Contractors Cooperation Committee

Mailing Address: 533 South Fremont Avenue, Suite 510

City: Los Angeles State: CA Zip: 90071

Telephone: (213) 738-9071 E-mail: ejansen@quadc.org

4. JUSTIFICATION/REASON FOR APPEAL

Is the entire decision, or only parts of it being appealed? Entire Part

Are specific conditions of approval being appealed? Yes No

If Yes, list the condition number(s) here: 10, 11, 17, 20, & all other appl. cond.

Attach a separate sheet providing your reasons for the appeal. Your reason must state:

- The reason for the appeal
- Specifically the points at issue
- How you are aggrieved by the decision
- Why you believe the decision-maker erred or abused their discretion

5. APPLICANT'S AFFIDAVIT

I certify that the statements contained in this application are complete and true:

Appellant Signature: EDUARDO LANSO Date: 03/29/2018

6. FILING REQUIREMENTS/ADDITIONAL INFORMATION

- Eight (8) sets of the following documents are required for each appeal filed (1 original and 7 duplicates):
 - Appeal Application (form CP-7769)
 - Justification/Reason for Appeal
 - Copies of Original Determination Letter
- A Filing Fee must be paid at the time of filing the appeal per LAMC Section 19.01 B.
 - Original applicants must provide a copy of the original application receipt(s) (required to calculate their 85% appeal filing fee).
- All appeals require noticing per the applicable LAMC section(s). Original Applicants must provide noticing per the LAMC, pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of the receipt.
- Appellants filing an appeal from a determination made by the Department of Building and Safety per LAMC 12.26 K are considered Original Applicants and must provide noticing per LAMC 12.26 K.7, pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of receipt.
- A Certified Neighborhood Council (CNC) or a person identified as a member of a CNC or as representing the CNC may not file an appeal on behalf of the Neighborhood Council; persons affiliated with a CNC may only file as an individual on behalf of self.
- Appeals of Density Bonus cases can only be filed by adjacent owners or tenants (must have documentation).
- Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the Area or City Planning Commission must be filed within 10 days of the date of the written determination of said Commission.
- A CEQA document can only be appealed if a non-elected decision-making body (ZA, APC, CPC, etc.) makes a determination for a project that is not further appealable. [CA Public Resources Code ' 21151 (c)].

| This Section for City Planning Staff Use Only | | |
|---|---------------------------------------|---|
| Base Fee: | Reviewed & Accepted by (DSC Planner): | Date: |
| Receipt No: | Deemed Complete by (Project Planner): | Date: |
| <input type="checkbox"/> Determination authority notified | | <input type="checkbox"/> Original receipt and BTC receipt (if original applicant) |

LA DBS

DEPARTMENT OF BUILDING AND SAFETY

LA Department of Building and Safety
 LA NELI 101120749 3/29/2018 8:15:45 AM

Service Fee Charges \$2.96
 Receipt #: 0101869459
 Total: \$2.96

Card No: *****1919
 CHIP
 Visa Credit USD\$2.96
 Authorization: 05560D
 Signature



JANSEN/EDUARDO
 I acknowledge & accept a 2.70 percent
 non-refundable service fee in the
 amount of \$2.96.

Reference No: 1110

LA DBS

DEPARTMENT OF BUILDING AND SAFETY

LA Department of Building and Safety
 LA NELI 101120749 3/29/2018 8:15:45 AM

Receipt #: 0101869459 \$109.47
 Total: \$109.47


Card No: *****1919
 CHIP
 Visa Credit USD\$109.47
 Authorization: 09711D
 Signature



JANSEN/EDUARDO

Reference No: 119

EMV Receipt Section
 Application Label: Visa Credit
 TC: 258ED073181AEF5F
 TVR: 8080008000
 AID: A0000000031010

LA DBS

DEPARTMENT OF BUILDING AND SAFETY

LA Department of Building and Safety
 LA NELI 101120749 3/29/2018 8:15:45 AM

PLAN & LAND USE \$106.80
 DEV SERV CENTER SURCH-PLANNING \$2.67

Sub Total: \$109.47

Receipt #: 0101869459

Office: Downtown
Applicant Copy
 Application Invoice No: 44969

City of Los Angeles
 Department of City Planning



Scan this QR Code® with a barcode reading app on your Smartphone. Bookmark page for future reference.

City Planning Request

NOTICE: The staff of the Planning Department will analyze your request and accord the same full and impartial consideration to your application, regardless of whether or not you obtain the services of anyone to represent you.

This filing fee is required by Chapter 1, Article 9, L.A.M.C.

| |
|--|
| Applicant: CARPENTER CONTRACTORS COOPERATION COMMISSION (B:213-7389071) |
| Representative: CARPENTER CONTRACTORS COOPERATION COMMISSION - JANSEN, EDUARDO (B:213-7389071) |
| Project Address: 1101 W 6TH ST, 90017 |

NOTES:

| APCC-2015-3032-SPE-SPP-SPPA-MS-1A | | | |
|---|---------|------|----------------|
| Item | Fee | % | Charged Fee |
| Appeal by Aggrieved Parties Other than the Original Applicant * | \$89.00 | 100% | \$89.00 |
| Case Total | | | \$89.00 |

| Item | Charged Fee |
|--|-----------------|
| *Fees Subject to Surcharges | \$89.00 |
| Fees Not Subject to Surcharges | \$0.00 |
| Plan & Land Use Fees Total | \$89.00 |
| Expediting Fee | \$0.00 |
| Development Services Center Surcharge (3%) | \$2.67 |
| City Planning Systems Development Surcharge (6%) | \$5.34 |
| Operating Surcharge (7%) | \$6.23 |
| General Plan Maintenance Surcharge (7%) | \$6.23 |
| Grand Total | \$109.47 |
| Total Invoice | \$109.47 |
| Total Overpayment Amount | \$0.00 |
| Total Paid (this amount must equal the sum of all checks) | \$109.47 |

LA Department of Building and Safety
 LA NELL 101120749 3/29/2018 8:15:45 AM
 PLAN & LAND USE \$106.80
 DEV SERV CENTER SURCH-PLANNING \$2.67
 Sub Total: \$109.47

Receipt #: 0101869459

Council District: 1
 Plan Area: Westlake
 Processed by VEAL, SEAN on 03/29/2018

Signature:



**Carpenters / Contractors
Cooperation Committee, Inc.**

March 28, 2018

VIA EMAIL

Honorable Council Members
City of Los Angeles
200 North Spring Street
Los Angeles, CA 90012-2601

Re: Appeal of the Planning Commission's March 14, 2018 Decisions Concerning the Sapphire Project (Proposed Project ENV-2015-3033-EIR)

Honorable Council Members:

The Carpenters/Contractors Cooperation Committee ("C/CCC") appeals the following determinations by the Central Los Angeles Area Planning Commission ("Commission") concerning the Sapphire Project ("Project"): (1) the certification of the Final EIR; (2) the adoption of the Environmental Findings; and (3) the approval of the Specific Plan exceptions allowing for zero setbacks for the entire project.

SUMMARY AND CONCLUSION

As proposed, the Project will needlessly externalize construction costs — impacting local residents, the community, and construction workers in three ways. First, the EIR's failure to appropriately mitigate air quality and hazardous materials during construction will negatively impact the health and well-being of local residents, the community, and the workers at the jobsite. Second, decreasing the mandated setbacks without requiring and enforcing Project compliance with all construction, safety, and labor laws will expose local residents, the community, and construction workers to safety risks. Lastly, and given the developer's history of hiring subcontractors with a record of unlawful labor, payroll, and workers' compensation practices — approving the Project without a mechanism to monitor and enforce compliance with construction, safety, and labor laws will enable Developer to cut corners on safety, labor standards, and mitigation measures. In regard to this last point, Developer was made aware of these subcontractor practices and chose to ignore them on previous projects.

To ensure that *all* construction laws are observed, for compliance with the General Plan, and to mitigate construction impacts on residents, the community, and construction workers —



**Carpenters / Contractors
Cooperation Committee, Inc.**

the City must: (1) impose an air quality and hazardous material mitigation plan as a condition of approval; (2) require that Developer comply with all applicable construction, safety, and labor laws as a condition of approval, and (3) fine-tune the Project's existing Mitigation Monitoring condition into an effective Jobsite Monitor Program to ensure Developer complies with all laws and mitigation measures.

5

It is worth noting the correlation between compliance with construction laws, including those concerning jobsite safety and working conditions, and hiring non-responsible subcontractors. It is a common practice in the underground construction economy to have large numbers of ghost workers, making it impossible to accurately account for all employees at a jobsite. This use of ghost workers is linked to using labor brokers to pay employees off-the books, at times splitting one check to pay many workers or using false names to gain employment, which results in the violation of labor laws, payroll requirements, tax laws, workers' compensation laws, and OSHA safety standards. In these instances, there is no accurate record of all the workers on the jobsite, creating a safety risk for the worker, community, and first responders.

6

PROJECT DESCRIPTION

The Project is a mixed-use development consisting of 369 residential units and 22,000 sf of retail — a combined total floor area of nearly 350,000 sf. The nearly two acre site is composed of two parcels, a North Parcel and a South Parcel. With an estimated construction schedule of 24 months, the Project will require Developer to demolish a three-level parking structure, a five-story commercial building, and a four-story office building. (Draft EIR ("DEIR") section II p. 1.) The demolition, site clearing, and excavation portion of the Project is expected to be completed in seven months — with nearly 100,000 cubic yards of soil to be hauled off-site. (*Ibid.*)

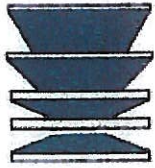
7

CERTIFICATION OF THE EIR AND THE ADOPTION OF THE ENVIRONMENTAL FINDINGS

I. An EIR Must Inform, Analyze, and Mitigate Project Impacts

An EIR is "the heart of CEQA." (*Laurel Heights Improvement Ass'n v. Regents of University of California*, (1988) 47 Cal.3d 376, 392 ("Laurel Heights").) CEQA requires that an EIR be detailed, complete, and reflect a good faith effort at full disclosure. (CEQA Guidelines § 15151; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692.) "The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the

8



**Carpenters / Contractors
Cooperation Committee, Inc.**

environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.” (Pub. Res. Code § 21061.) An EIR should provide sufficient analysis to inform the public about a proposed project’s adverse impacts and to allow decision-makers to make intelligent judgments. (*Laurel Heights, supra*, 47 Cal.3d 376.) The public and decision-makers need to fully understand the implications of the choices related to the proposed project, mitigation measures, and alternatives. (*Laurel Heights, supra*, 47 Cal.3d 376.)

8

II. The EIR Fails to Discuss, Analyze, and Mitigate the Project's Air Quality Impacts on Local Residents, the Community, and Construction Workers

Basing its air quality findings on an assumption, the Sapphire EIR fails to provide the necessary facts and analysis to allow the City and the public to make informed decisions on the Project. In finding that the Project’s construction impact on air quality will be less than significant, the EIR assumes without any discussion or analysis that “[a]ll construction activity would be performed in accordance with all applicable state and federal laws and City Codes and policies with respect to building activities.” (DEIR section IV.B p. 30.)

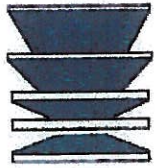
The EIR’s assumption that Developer will comply with construction laws fails to meet the requirements and intent of CEQA for three reasons. First, the EIR does not provide the necessary facts and analysis allowing for an informed decision. For example, and with the exception of SCAQMD particulate mitigation rule 403, the document does not discuss which air quality related construction laws and rules the Project will be required to comply with and does not provide an analysis of how the Developer may be able to comply with the laws and rules. The EIR simply assumes that applicable laws can and will be observed. (DEIR section IV.B p. 30.) Second, the EIR fails to provide targeted mitigation measures focused at protecting specific groups, including community members and construction workers. Third, the EIR assumes the Project will comply with all applicable construction laws — even though Developer has a history of hiring subcontractors with a record for non-compliance with construction labor laws. (*Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App.3d 1337, 1355 [“[a] condition requiring compliance with [] regulations ... [is] only proper where the public agency [has] meaningful information reasonably justifying an expectation of mitigation”].)

9

III. The EIR Fails to Inform, Analyze, and Mitigate the Impacts of the Project’s Hazardous Materials on Local Residents, the Community, and Construction Workers

The Project’s demolition and construction phase is expected to expose local residents, the community, and construction workers to asbestos, solvents, volatile chemicals, and other

10



**Carpenters / Contractors
Cooperation Committee, Inc.**

hazardous materials. (DEIR section IV.F p. 8 [“due to the age of the existing buildings proposed for demolition, asbestos-containing materials and lead based paint may be present”].) Failing to inform, analyze, and appropriately mitigate the impacts of hazardous materials the Sapphire EIR assumes that “[a]ll potentially hazardous materials used during demolition and construction activities would be handled, contained, stored, and used in accordance with all applicable local, State, and federal regulations, which include requirements for disposal of hazardous materials at a facility licensed to accept such waste based on its waste classification and the waste acceptance criteria of the permitted disposal facilities.” (*Id.* at p. 14.)

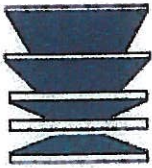
Similarly to air quality, the EIR’s assumption that the Project will comply with applicable laws when handling and disposing hazardous materials fails to meet the requirements and intent of CEQA for three reasons. First, the EIR does not provide the necessary facts and analysis allowing for an informed decision. For example, and with the exception of minimal discussion on SCAQMD rule 1403 concerning asbestos and HUD’s Construction Safety Order 1532.1, the document does not discuss which laws and rules the Project will be required to comply with and does not provide an analysis of how the Developer may be able to comply with the laws and rules. The EIR simply assumes that applicable laws and rules can and will be observed. (DEIR section IV.F pp. 14–15.) Second, the EIR fails to provide targeted mitigation measures focused at protecting specific groups, including community members and construction workers. Third, the EIR assumes the Project will comply with construction laws even though Developer has a history of hiring subcontractors with a record of non-compliance with construction labor laws. (*Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App.3d 1337, 1355 [“[a] condition requiring compliance with [] regulations ... [is] only proper where the public agency [has] meaningful information reasonably justifying an expectation of mitigation”].)

10

IV. The EIR for the Wilshire Crescent Heights Project is an Example of How an EIR Can and Must Inform, Analyze, and Help Mitigate the Impacts of Construction on Local Residents, Communities, and Construction Workers

The final EIR for the Wilshire Crescent Heights project, a project half the size of the Sapphire Project with a shorter construction schedule, provides an example of how an EIR can and must inform, analyze, and help mitigate construction impacts on air quality and hazardous materials. (DEIR section II p. 1 [Crescent Heights’ 175,000 sf total floor area is about half the size of Sapphire’s 350,000 sf total floor area].) In the Crescent Heights EIR, and even though the document found that construction related emissions and hazardous materials exposure would be less than significant, the EIR provides a discussion and analysis of mitigation measures to be adopted by the project. For air quality, the Crescent Heights EIR provides roughly 20 mitigation

11



**Carpenters / Contractors
Cooperation Committee, Inc.**

efforts addressing particulates. (Exh. A.) For hazardous materials, the Crescent Heights EIR provides about 15 mitigation measures addressing several substances, including asbestos, lead paint, and methane. (Exh. B.)

Even though the Crescent Heights project was a smaller project with a shorter construction schedule — its EIR appropriately discusses, analyzes, and imposes mitigation efforts to limit the impact of construction on air quality and hazardous material. The Sapphire EIR must similarly discuss, analyze, and adopt mitigation measures to limit the impact of construction on air quality and hazardous material. The Sapphire EIR can and must mitigate the impacts of construction on local residents, the community, and construction workers.

11

**SPECIFIC PLAN EXCEPTION
AND ZERO SETBACKS**

I. The Commission's Specific Plan Exception Eliminated all Setbacks — Exposing Local Residents, the Community, and Construction Workers to Safety Risks

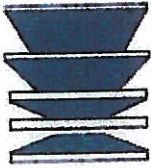
For the South Parcel, the Commission reduced the rear yard setback for the portion of the west property line not abutting the alley from 19 feet to zero. (Exh. C.) For the North Parcel, the Commission reduced a 16 feet rear yard setback, a 5 feet side yard setback, and a 15 feet front yard setback to zero. (Exh. C.) As described below, decreasing the required setbacks where the Project's property line abuts another property without requiring Project compliance with construction, safety, and labor laws exposes local residents, the community, and construction workers to a safety risk. (Exh. D.)

12

II. Required Findings for Approving a Specific Plan Exception

Pursuant to LAMC, the City cannot grant a specific plan exception unless it finds “[t]hat the granting of an exception will not be detrimental to the public welfare or injurious to the property or improvements adjacent to or in the vicinity of the subject property.” (Los Angeles Mun. Code, § 11.5.7.F.2(d).) Additionally, “the granting of an exception [must be] consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan.” (Los Angeles Mun. Code, § 11.5.7.F.2(e).)

13



**Carpenters / Contractors
Cooperation Committee, Inc.**

III. The Reduced Setbacks Will Be Detrimental to the Public Welfare and Injurious to Adjacent Properties

The municipal code requires that a Specific Plan Exception not “be detrimental to the public welfare or injurious to [] property or improvements adjacent to” the Project. (Los Angeles Mun. Code, § 11.5.7.F.2(d).) Here, eliminating the required setbacks for property lines abutting other properties will be detrimental to the public welfare and injurious to neighboring properties — it creates a safety risk. Benefiting local residents, the community, and construction workers — setbacks serve as a safety feature for construction projects providing three main benefits. First, setbacks ensure that firefighters and first responders have access to the site during fires and emergencies. Second, setbacks provide construction workers with space to flea in the case of an emergency. Lastly, setbacks provide a safety buffer between the construction site and buildings abutting the property. The safety benefits provided by setbacks are especially important here because the Sapphire project will be a 7-story wood frame project. (Planning Com. Findings p. 9 [Project using wood framing to reduce costs].)

14

IV. As proposed, the Project and the Exception are Not Consistent with the Goals and Intent of the General Plan

The municipal code requires “[t]hat the granting of an exception [be] consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan.” (Los Angeles Mun. Code, § 11.5.7.F.2(e).) As proposed, the Project does not conform to the purpose, intent, and provisions of the General Plan for several reasons. A guiding principle of the General Plan is to “reduc[e] income inequities through the creation of safe, quality jobs.” (General Plan, Health and Wellness Element p. 141.) Pursuant to General Plan Policy 1.3, the City is to “promote healthy communities by focusing on prevention, interventions, and by addressing the root causes of health disparities and inequities in Los Angeles”. (*Id.* at p. 28.) Under Policy 1.3, “[t]he City’s intent is to take steps to prevent health issues by using policies and programs to improve access to ... quality family-supporting jobs....” (*Ibid.*) General Plan Policy 6.6 directs the City to “[s]upport policies ... that create family-supporting, career-ladder jobs....” (*Id.* at p. 77.) As the General plan explains, “[t]he most effective anti-hunger strategy is a job that pays a family-supporting and livable wage.” (*Ibid.*) Lastly, one of the goals of the General Plan is minimize the “potential injury, loss of life, property damage and disruption of the social and economic life of the City due to fire, water related hazard [and] release of hazardous materials” (General Plan, Safety Element p. III-I.)

15



**Carpenters / Contractors
Cooperation Committee, Inc.**

The Project and Developer do not conform to and do not share the goal and intent of the General Plan for two reasons. First, the Developer has a history of hiring subcontractors with a record of non-compliance with construction labor laws. Second, one of the goals of the General Plan is minimize “potential injury, loss of life, property damage and disruption of the social and economic life of the City due to fire” (General Plan, Safety Element p. III-I.) As proposed, the decreased setbacks create a fire risk that must be mitigated.

15

MITIGATION MEASURES

To ensure that all construction, safety, and labor laws are observed, for compliance with the General Plan, and to mitigate the impacts of construction on residents, the community, and construction workers — the City must impose the following three conditions on the Project.

I. Air Quality and Hazardous Materials Mitigation Measures

16

As an alternative to amending the EIR, the City can, as a condition of approval, impose air quality and hazardous materials mitigation measures similar to the mitigation measures imposed on the Wilshire Crescent Heights Project. In summary, the measures must address air quality and hazardous materials impacts on local residents, the community, and the Project’s construction workers. Exhibit F provides the suggested language for air quality and hazardous materials mitigation measures to be imposed by Council. (Exh. E.)

II. Setback Mitigation Measure to Ensure the Safety of Local Residents, the Community, and Construction Workers

17

Developer must be required to abide by all construction, safety, and labor laws as a condition of development. Requiring that Developer observe all construction, safety, and labor laws will mitigate the safety risks created by the decreased setbacks.

III. Jobsite Monitor Program to Ensure Developer Complies with All Laws and Mitigation Measures

18

As a condition of development, the Commission’s Mitigation Monitor condition must be fined-tuned into a Jobsite Monitor Program. The honed monitor program must provide the City a mechanism to effectively monitor and enforce mitigation measures and construction, safety, and labor laws. The Jobsite Monitor Program must empower City staff with a simple tool to ensure that Developer does not externalize construction costs. (Exh. F.)



***Carpenters / Contractors
Cooperation Committee, Inc.***

CONCLUSION

I look forward to working with Council, City staff, and Developer to strengthen the Sapphire Project. Any questions, please contact me at 213-738-9071.

19

Sincerely,

Eduardo Jansen, Esq.

EXHIBIT A

IV. MITIGATION MONITORING PROGRAM

The Mitigation Monitoring Plan (MMP) has been prepared in accordance with Public Resources Code Section 21081.6, which requires a Lead or Responsible Agency that approves or carries out a project where an EIR has identified significant environmental effects to adopt a "reporting or monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment." The City of Los Angeles is the Lead Agency for the proposed project.

The MMP is designed to monitor implementation of all feasible mitigation measures as identified in the Draft and Final EIRs for the proposed project. Mitigation measures are indicated below and are numbered consistent with the relevant section numbering provided in the Draft EIR. Each mitigation measure is listed and categorized by topic with an accompanying discussion of the following:

- The phase of the project during which the mitigation measure should be monitored (i.e., prior to issuance of building permit, pre-construction, construction, or occupancy);
- The enforcement agency (i.e., the agency with the authority to enforce the mitigation measure); and
- The monitoring agency (i.e., the agency which monitors compliance and implementation of the required mitigation measure).

The project applicant shall be obligated to provide certification prior to the issuance of site or building plans that compliance with the required mitigation measures has been achieved. All departments listed below are within the City of Los Angeles unless otherwise noted. The entity responsible for the implementation of all mitigation measures shall be the project applicant unless otherwise noted.

AIR QUALITY

C-1 The project developer shall implement the following measures to reduce the emissions of pollutants generated by heavy-duty diesel-powered equipment operating at the project site throughout the project construction phases. The project developer shall include in construction contracts the control measures as required under Rule 403, at the time of development, including the following:

- Keep all construction equipment in proper tune in accordance with manufacturer's specifications.
- Use late model heavy-duty diesel-powered equipment at the project site to the extent that it is readily available in the South Coast Air Basin (meaning that it does not have to be imported from another air basin and that the procurement of the equipment would not cause a delay in construction activities of more

than two weeks).

- Use low-emission diesel fuel for all heavy-duty diesel-powered equipment operating and refueling at the project site to the extent that it is readily available and cost effective in the South Coast Air Basin (meaning that it does not have to be imported from another air basin, that the procurement of the equipment would not cause a delay in construction activities of more than two weeks, that the cost of the equipment use is not more than 20 percent greater than the cost of standard equipment. (This measure does not apply to diesel-powered trucks traveling to and from the site.)
- Utilize alternative fuel construction equipment (i.e., compressed natural gas, liquid petroleum gas, and unleaded gasoline) to the extent that the equipment is readily available and cost effective in the South Coast Air Basin (meaning that it does not have to be imported from another air basin, that the procurement of the equipment would not cause a delay in construction activities of more than two weeks, that the cost of the equipment use is not more than 20 percent greater than the cost of standard equipment.
- Limit truck and equipment idling time to five minutes or less.
- Rely on the electricity infrastructure surrounding the construction sites rather than electrical generators powered by internal combustion engines to the extent feasible.
- General contractors shall maintain and operate construction equipment so as to minimize exhaust emissions.

Monitoring Phase: Construction

Enforcement Agency: South Coast Air Quality Management District/Department of Building and Safety

Monitoring Agency: South Coast Air Quality Management District/Department of Building and Safety

C-2

The project developer shall implement fugitive dust control measures in accordance with SCAQMD Rule 403. The project developer shall include in construction contracts the control measures as may be required under Rule 403 at the time of development, including but not limited to the following

- Use watering to control dust generation during demolition of structures or break-up of pavement. The construction area and vicinity (500-foot radius)

must be swept (preferably with water sweepers) and watered at least twice daily. Site wetting must occur often enough to maintain a 10 percent surface soil moisture content throughout all earth moving activities. All unpaved demolition and construction areas shall be wetted at least twice daily during excavation and construction, and temporary dust covers shall be used to reduce dust emissions and meet SCAQMD District Rule 403. Wetting could reduce fugitive dust by as much as 50 percent.

- Water active grading/excavation sites and unpaved surfaces at least three times daily.
- Site access points must be swept/washed within thirty minutes of visible dirt deposition.
- Sweep daily (preferably with water sweepers) all paved parking areas and staging areas.
- Onsite stockpiles of debris, dirt or rusty material must be covered or watered at least twice daily.
- Cover stockpiles with tarps or apply non-toxic chemical soil binders.
- All haul trucks hauling soil, sand, and other loose materials must either be covered or maintain two feet of freeboard.
- At least 80 percent of all inactive disturbed surface areas must be watered on a daily basis when there is evidence of wind drive fugitive dust.
- Install wind breaks or green screens at the windward sides of construction areas.
- Operations on any unpaved surfaces must be suspended when winds exceed 25 mph at the project site.
- Suspend excavation and grading activity when winds (instantaneous gusts) exceed 15 miles per hour over a 30-minute period or more at the project site, so as to prevent excessive amounts of dust.
- All haul trucks must have a capacity of no less than twelve and three-quarter (12.75) cubic yards.
- All loads shall be secured by trimming, watering or other appropriate means to prevent spillage and dust.

- Traffic speeds on unpaved roads must be limited to 15 miles per hour.
- Provide daily clean-up of mud and dirt carried onto paved streets from the site as required.
- Install wheel washers or rumble plates for all exiting trucks, wash off the tires or tracks of all trucks and equipment leaving the site or install a crushed rock apron at the site entrance.
- All materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amount of dust.
- An information sign shall be posted at the entrance to each construction site that identifies the permitted construction hours and provides a telephone number to call and receive information about the construction project or to report complaints regarding excessive fugitive dust generation. Any reasonable complaints shall be rectified within 24 hours of their receipt.

Monitoring Phase: Construction

Enforcement Agency: South Coast Air Quality Management District/Department of Building and Safety

Monitoring Agency: South Coast Air Quality Management District/Department of Building and Safety

- C-3** For the residential development, in accordance with LEED New Construction Energy and Atmosphere Credit 1, the project shall be constructed with materials that reduce thermal loss and energy demand that exceeds Title 24 regulations by 14% or greater, or LEED Homes by 10% or greater.

Monitoring Phase: Prior to issuance of building permits

Enforcement Agency: Department of Building and Safety

Monitoring Agency: Department of Building and Safety

- C-4** For the residential development, in accordance with LEED New Construction Indoor Environmental Quality Credit 6.1 or LEED Homes (Multi-family for California) Energy and Atmosphere Credit 8.2, the Applicant shall install lighting system controllability as well as energy-efficient lighting fixtures.

Monitoring Phase: Prior to issuance of building permits

Enforcement Agency: Department of Building and Safety

Monitoring Agency: Department of Building and Safety

C-5 The Applicant shall provide informational packets to new residents within the development locating nearby public transportation options.

Monitoring Phase: Operation

Enforcement Agency: Department of Building and Safety

Monitoring Agency: Department of Building and Safety

CULTURAL RESOURCES

D-1 If any archaeological materials are encountered during the course of the project development, construction shall be halted in the area of resource discovery. The services of an archaeologist shall be secured by contacting the Center for Public Archaeology - Cal State University Fullerton, or a member of the Society of Professional Archaeologist (SOPA) or a SOPA-qualified archaeologist to assess the resources and evaluate the impact. Copies of the archaeological survey, study or report shall be submitted to the UCLA Archaeological Information Center.

Monitoring Phase: Grading/excavation

Enforcement Agency: Department of Building and Safety

Monitoring Agency: Department of Building and Safety

D-2 If any paleontological materials are encountered during the course of the project development, construction shall be halted in the area of resource discovery. The services of a paleontologist shall be secured by contacting the Center for Public Paleontology - USC, UCLA, Cal State Los Angeles, Cal State Long Beach, or the County Natural History Museum to assess the resources and evaluate the impact. Copies of the paleontological survey, study or report shall be submitted to the Los Angeles County Natural History Museum.

Monitoring Phase: Grading/excavation

Enforcement Agency: Department of Building and Safety

Monitoring Agency: Department of Building and Safety

EXHIBIT B

D-3

If human remains are discovered at the project site during construction, work at the specific construction site at which the remains have been uncovered shall be suspended, and the City of L.A. Public Works Department and County Coroner shall be immediately notified. If the remains are determined by the County Coroner to be Native American, the Native American Heritage Commission (NAHC) shall be notified within 24 hours, and the guidelines of the NAHC shall be adhered to in the treatment and disposition of the remains.

Monitoring Phase: Grading/excavation

Enforcement Agency: Department of Building and Safety

Monitoring Agency: Department of Building and Safety

GEOLOGY AND SOILS**E-1**

The project shall comply with the recommendations listed on pages 8 through 17 in the Preliminary Geotechnical Exploration Report, Crescent Heights Project, Proposed Multi-level Development, 6245-6233 Wilshire Boulevard & 652 South Crescent Heights Boulevard, Los Angeles, California, prepared by Professional Service Industries, Inc., dated August 29, 2007.

Monitoring Phase: Grading, Construction

Enforcement Agency: Department of Building and Safety

Monitoring Agency: Department of Building and Safety

E-2

Although no groundwater was encountered at a maximum depth, the acknowledgement of historically high groundwater may result in a need for construction dewatering, Los Angeles Regional Water Quality Control Board permitting, and waterproofing in subterranean parking levels.

Monitoring Phase: During grading and construction

Enforcement Agency: Department of Building and Safety

Monitoring Agency: Department of Building and Safety

HAZARDS AND HAZARDOUS MATERIALS**F-1**

Prior to the issuance of the demolition/renovation permits, the applicant shall provide a

letter to the Department of Building and Safety from a qualified asbestos abatement consultant that no ACMs are present in the buildings. If ACMs are found to be present, they shall be abated in compliance with the South Coast Air Quality Management District's Rule 1403, as well as other state and federal regulations. Specific requirements of Rule 1403 include:

- Implementation of a thorough survey of the affected facility prior to issuance of permits for any demolition or renovation activity, including inspection, identification, and quantification of all friable and certain non-friable asbestos-containing materials.
- Surveys which include collection and analyses of representative asbestos building material samples, and quantification of these materials for asbestos abatement purposes prior to or during demolition/renovation.
- Notification of the SCAQMD of the intent to demolish or renovate any facility at least ten days prior to commencing with the activity.
- Removal of all asbestos-containing materials prior to any demolition or renovation activity that would break up, dislodge, or similarly disturb the material.
- Use of legally required procedures when removing asbestos-containing materials.
- Placement of all collected asbestos-containing materials in leak-tight containers or wrapping.
- Disposal of asbestos-containing materials as required by applicable regulations.

Monitoring Phase: Prior to issuance of demolition permits

Enforcement Agency: Department of Building and Safety/South Coast Air Quality Management District

Monitoring Agency: Department of Building and Safety

F-2

Prior to issuance of permits for any demolition/renovation activity involving a particular structure, a lead-based paint assessment of each existing apartment structure shall be conducted. Lead-based paint found in any buildings shall be removed and disposed of as a hazardous waste in accordance with all applicable regulations. Such regulations that would be followed during demolition include Construction Safety Orders 1532.1 (pertaining to lead) from Title 8 of the California Code of Regulations, and lead exposure

guidelines provided by the U.S. Department of Housing and Urban Development (HUD).

Monitoring Phase: Prior to issuance of demolition permits

Enforcement Agency: Department of Building and Safety

Monitoring Agency: Department of Building and Safety

F-3 The project shall implement all appropriate mitigation measures prescribed in the City of Los Angeles Methane Hazard and Methane Buffer Zone level 5 design criteria as found on pages 16 to 25 of the report. These mitigation measures would include, but not be limited to, passive and active mechanical venting systems, methane gas detection alarms, and impermeable membranes beneath the building.

Monitoring Phase: Prior to issuance of building permits

Enforcement Agency: Department of Building and Safety

Monitoring Agency: Department of Building and Safety

HYDROLOGY AND WATER QUALITY

G-1 All waste shall be disposed of properly according to federal, state, and local laws. Toxic wastes shall be discarded at a licensed regulated disposal site.

Monitoring Phase: Construction

Enforcement Agency: Regional Water Quality Control Board, Los Angeles Region / Bureau of Sanitation

Monitoring Agency: Department of Water and Power / Bureau of Sanitation

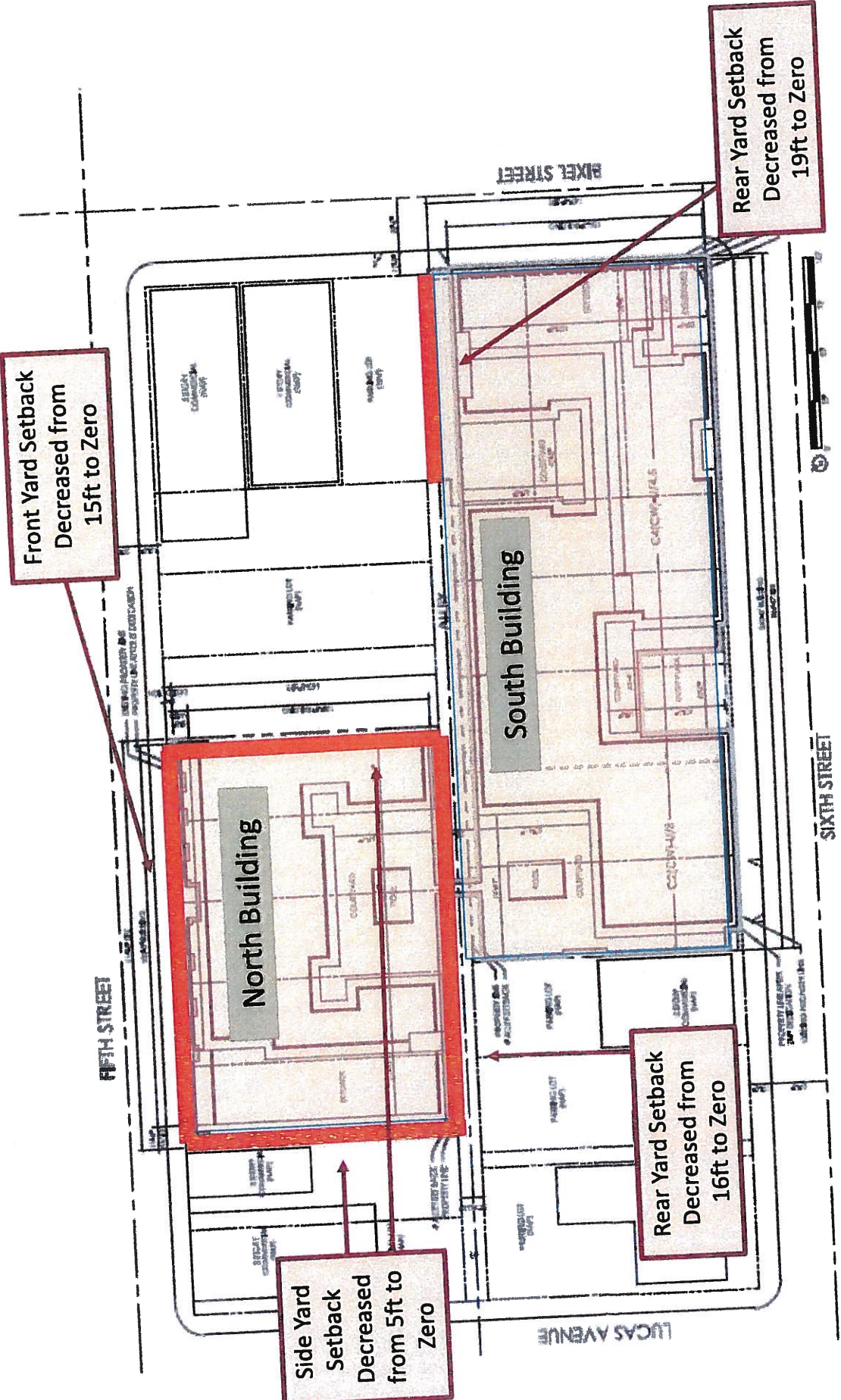
G-2 Leaks, drips and spills shall be cleaned up immediately to prevent contaminated soil on paved surfaces that can be washed away into the storm drains.

Monitoring Phase: Construction

Enforcement Agency: Department of Building and Safety/Bureau of Sanitation, Watershed Division

Monitoring Agency: Department of Building and Safety

EXHIBIT C



Front Yard Setback
Decreased from
15ft to Zero

Side Yard
Setback
Decreased
from 5ft to
Zero

Rear Yard Setback
Decreased from
16ft to Zero

Rear Yard Setback
Decreased from
19ft to Zero

FIFTH STREET

LUCAS AVENUE

SIXTH STREET

BIKEL STREET

North Building

South Building

AREA 1
COMMERCIAL ZONING

AREA 2
COMMERCIAL ZONING

AREA 3
COMMERCIAL ZONING

AREA 4
COMMERCIAL ZONING

AREA 5
COMMERCIAL ZONING

AREA 6
COMMERCIAL ZONING



EXHIBIT D

Decreasing the mandated setbacks to zero creates a safety risk where the Sapphire Project abuts other properties and buildings.

Setback Decreased from 19ft to Zero

Setback Decreased from 5ft to Zero

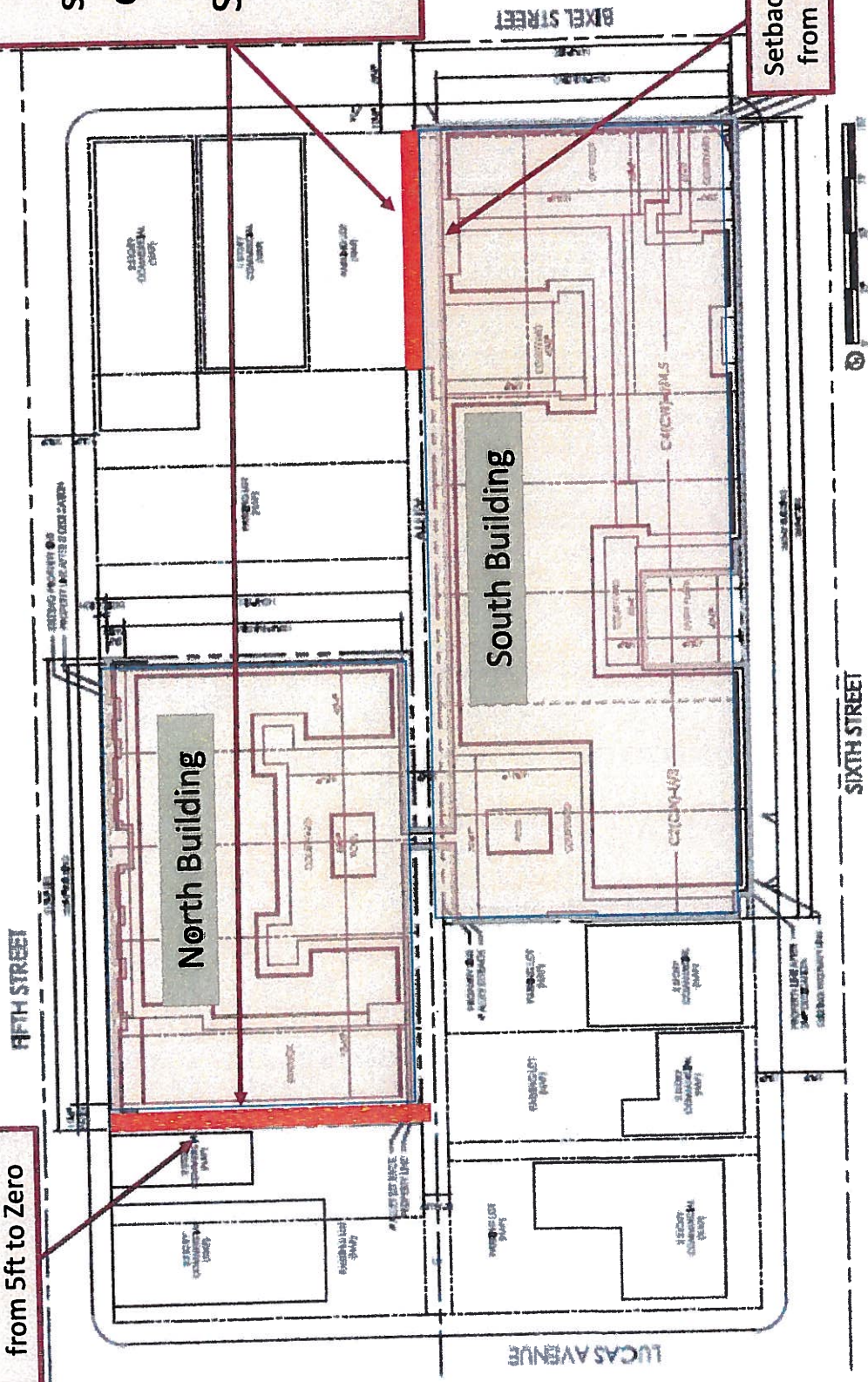


EXHIBIT E

AIR QUALITY MITIGATION MEASURES. The following is a list of feasible measures to mitigate construction impacts on air quality.

Diesel Pollution Measures. The project developer shall implement the following measures to reduce the emissions of pollutants generated by heavy-duty diesel-powered equipment operating at the project site throughout the project construction phases. The project developer shall include in construction contracts the control measures as required under Rule 403, at the time of development, including the following:

- Keep all construction equipment in proper tune in accordance with manufacturer's specifications.
- Use late model heavy-duty diesel powered equipment at the project site to the extent that it is readily available in the South Coast Air Basin (meaning that it does not have to be imported from another air basin and that the procurement of the equipment would not cause a delay in construction activities of more than two weeks).
- Use low-emission diesel fuel for all heavy-duty diesel-powered equipment operating and refueling at the project site to the extent that it is readily available and cost effective in the South Coast Air Basin (meaning that it does not have to be imported from another air basin, that the procurement of the equipment would not cause a delay in construction activities of more than two weeks, that the cost of the equipment use is not more than 20 percent greater than the cost of standard equipment. (This measure does not apply to diesel powered trucks traveling to and from the site).
- Utilize alternative fuel construction equipment (i.e., compressed natural gas, liquid petroleum gas, and unleaded gasoline) to the extent that the equipment is readily available and cost effective in the South Coast Air Basin (meaning that it does not have to be imported from another air basin, that the procurement of the equipment would not cause a delay in construction activities of more than two weeks, that the cost of the equipment use is not more than 20 percent greater than the cost of standard equipment).
- Limit truck and equipment idling time to five minutes or less.
- Rely on the electricity infrastructure surrounding the construction sites rather than electrical generators powered by internal combustion engines to the extent feasible.

Construction-Related Fugitive Dust Emissions. The project developer shall implement fugitive dust control measures in accordance with SCAQMD Rule 403. The project developer shall include in construction contracts the control measures as may be required under Rule 403 at the time of development, including but not limited to the following:

- Use watering to control dust generation during demolition of structures or break-up of pavement. The construction area and vicinity (500-foot radius) must be swept (preferably with water sweepers) and watered at least twice daily. Site wetting must occur often enough to maintain a 10 percent surface soil moisture content throughout all earth moving activities. All unpaved demolition and construction areas shall be wetted at least twice daily during excavation and construction, and temporary dust covers shall be used to reduce dust emissions and meet SCAQMD District Rule 403. Wetting could reduce fugitive dust by as much as 50 percent.
- Water active grading/excavation sites and unpaved surfaces at least three times daily.

- Site access points must be swept/washed within thirty minutes of visible dirt deposition.
- Sweep daily (preferably with water sweepers) all paved parking areas and staging areas.
- Onsite stockpiles of debris, dirt or rusty material must be covered or watered at least twice daily.
- Cover stockpiles with tarps or apply non-toxic chemical soil binders.
- All haul trucks hauling soil, sand, and other loose materials must either be covered or maintain two feet of freeboard.
- At least 80 percent of all inactive disturbed surface areas must be watered on a daily basis when there is evidence of wind driven fugitive dust.
- Install wind breaks or green screens at the windward sides of construction areas.
- Operations on any unpaved surfaces must be suspended when winds exceed 25 mph at the project site.
- Suspend excavation and grading activity when winds (instantaneous gusts) exceed 15 miles per hour over a 30-minute period or more at the project site, so as to prevent excessive amounts of dust.
- All haul trucks must have a capacity of no less than twelve and three-quarter (12.75) cubic yards.
- All loads shall be secured by trimming, watering or other appropriate means to prevent spillage and dust.
- Traffic speeds on unpaved roads must be limited to 15 miles per hour.
- Provide daily clean-up of mud and dirt carried onto paved streets from the site as required.
- Install wheel washers or rumble plates for all exiting trucks, wash off the tires or tracks of all trucks and equipment leaving the site or install a crushed rock apron at the site entrance.
- All materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amount of dust.
- An information sign shall be posted at the entrance to each construction site that identifies the permitted construction hours and provides a telephone number to call and receive information about the construction project or to report complaints regarding excessive fugitive dust generation. Any reasonable complaints shall be rectified within 24 hours of their receipt.

Worker Training. As part of the required onsite OSHA trainings, developer should provide an air quality training. Lists of trained workers shall be made available to the City and other enforcement agencies.

HAZARDOUS MATERIALS MITIGATION MEASURES. The following is a list of feasible measures to mitigate construction impacts on air quality.

Asbestos-Containing Materials (ACMs). Prior to the issuance of the demolition/renovation permits, the applicant shall provide a letter to the Department of Building and Safety from a qualified asbestos abatement consultant that no ACMs are present in the buildings. If ACMs are found to be present, they shall be abated in compliance with the South Coast Air Quality Management District's Rule 1403, as well as other state and federal regulations. Specific requirements of Rule 1403 include:

- Implementation of a thorough survey of the affected facility prior to issuance of permits for any demolition or renovation activity, including inspection, identification, and quantification of all friable and certain non-friable asbestos containing materials.
- Surveys which include collection and analyses of representative asbestos building material samples, and quantification of these materials for asbestos abatement purposes prior to or during demolition/renovation.
- Notification of the SCAQMD of the intent to demolish or renovate any facility at least ten days prior to commencing with the activity.
- Removal of all asbestos-containing materials prior to any demolition or renovation activity that would break up, dislodge, or similarly disturb the material.
- Use of legally required procedures when removing asbestos containing materials.
- Placement of all collected asbestos-containing materials in leak-tight containers or wrapping.
- Disposal of asbestos-containing materials as required by applicable regulations.

Lead-Based Paint (LBP). Prior to issuance of permits for any demolition/renovation activity involving a particular structure, a lead-based paint assessment of each existing apartment structure shall be conducted. Lead-based paint found in any buildings shall be removed and disposed of as a hazardous waste in accordance with all applicable regulations. Such regulations that would be followed during demolition include Construction Safety Orders 1532.1 (pertaining to lead) from Title 8 of the California Code of Regulations, and lead exposure guidelines provided by the U.S. Department of Housing and Urban Development (HUD).

Methane Gas. The project shall implement all appropriate mitigation measures prescribed in the City of Los Angeles Methane Hazard and Methane Buffer Zone. These mitigation measures would include, but not be limited to, passive and active mechanical venting systems, methane gas detection alarms, and impermeable membranes beneath the building.

Worker Training. As part of the required onsite OSHA trainings, developer should provide a hazardous material training. Lists of trained workers shall be made available to the City and other enforcement agencies.

EXHIBIT F

Below is a redline of the minor amendments necessary to fine-tune the Commission's current Mitigation Monitor condition into an effective Jobsite Monitor Program:

~~Mitigation Jobsite Monitor Program.~~ During the construction phase and prior to the issuance of building permits, the applicant shall retain an independent Construction Monitor (either via the City or through a third-party consultant), approved by the Department of City Planning, who shall be responsible for monitoring ~~the~~ implementation of project design features, ~~and~~ ~~mitigation measures,~~ ~~and project compliance with all construction, safety, and labor laws~~ during construction activities. ~~Mitigation measures shall be monitored and enforced~~ consistent with the monitoring phase and frequency set forth in this MMP. ~~Construction, safety, and labor laws shall be monitored every 90 days and enforced to ensure project compliance with all construction, safety, and labor laws.~~

The Construction Monitor shall ~~also~~ prepare documentation of the applicant's compliance with ~~the~~ project design features, ~~and~~ mitigation measures, ~~and construction, safety, and labor laws~~ during construction every 90 days in a form satisfactory to the Department of City Planning. The documentation must be signed by the applicant and Construction Monitor and be included as part of the applicant's Compliance Report. The Construction Monitor shall be obligated to immediately report to ~~City and any applicable the e~~Enforcement ~~a~~Agency any non-compliance ~~with the mitigation measures and project design features~~ within two businesses days if the applicant does not correct the non-compliance within a reasonable time of notification to the applicant by the monitor or if the noncompliance is repeated. ~~Such n~~Non-compliance shall be appropriately addressed by the ~~Enforcement Agency~~City.