

LOS ANGELES  
DEPARTMENT OF CITY  
PLANNING

221 North Figueroa St., Suite 1350  
Los Angeles, CA 90012



# PARTIALLY REVISED FINAL ENVIRONMENTAL IMPACT REPORT

## Landmark Apartments Project

Environmental Case: ENV-2013-3747-EIR  
State Clearinghouse No.: 2014031014

**Project Location:** 11750–11770 Wilshire Boulevard; 1211–1235 Stoner Avenue; 1222 Granville Avenue, Los Angeles, California 90025

**Community Plan Area:** West Los Angeles

**Council District:** 11—Bonin

**Project Description:** Douglas Emmett Management, LLC, proposes to construct a 34-story residential building containing up to 376 multi-family dwelling, including market-rate and affordable housing units, and an approximate 18,000-square-foot, privately maintained, publicly accessible open space area on a 2.8-acre site in the West Los Angeles Community Plan Area of the City of Los Angeles. The Project Site is currently occupied by a 42,900-square-foot, single-story supermarket building, which would be demolished under the Project; a 364,791-square-foot, 17-story office building, which would remain; and a four-level subterranean parking structure spanning the Project Site. The existing parking structure contains 1,321 parking spaces. To support the foundation of the new residential building, the Project proposes the partial demolition and reconstruction of a portion of the four-level subterranean parking structure. Specifically, 365 existing parking spaces would be removed and 166 new spaces would be constructed, resulting in a total of 1,122 parking spaces on-site. In total, the Project would remove approximately 42,900 square feet of existing floor area and construct approximately 360,291 square feet of new floor area, resulting in an increase of 317,391 square feet of net new floor area.

**PREPARED FOR:**

The City of Los Angeles  
Department of City Planning

**PREPARED BY:**

Eyestone Environmental

**APPLICANT:**

Douglas Emmett Management, LLC

January 2019

# Table of Contents

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	<u>Page</u>
I. INTRODUCTION .....	I-1
II. RESPONSES TO COMMENTS.....	II-1
A. Introduction.....	II-1
B. List of Commenters On the Recirculated Energy Analysis of the Draft EIR.....	II-3
C. Comment Letters.....	II-4

## APPENDICES

**Appendix PRFEIR-1    Recirculated Energy Analysis Comment Letters**

# **I. Introduction**

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# I. Introduction

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In accordance with the California Environmental Quality Act (CEQA), the City of Los Angeles Planning Department (City), as Lead Agency, has prepared this Partially Revised Final Environmental Impact Report (EIR) for the Landmark Apartments Project (Project). This Partially Revised Final EIR follows preparation of the Recirculated Energy Analysis of the Draft EIR (Recirculated Energy Analysis). The Recirculated Energy Analysis was prepared in response to the Los Angeles County Superior Court's ruling (Court Ruling), dated June 28, 2018, which granted in part and denied in part the Petition for Writ of Mandate filed in Case No. BS168429, *Golden State Environmental Justice Alliance vs. City of Los Angeles, et. al.*

## A. CEQA Background

The City certified the EIR (SCH No. 2014031014) for the Project on February 14, 2017.<sup>1</sup> The Certified EIR consisted of the Draft EIR dated April 2016, the Final EIR dated September 2016, and the Errata dated October 2016. Subsequently, in its lawsuit challenging the City's certification of the EIR, Petitioner Golden State Environmental Justice contended that the EIR violated CEQA by failing to adequately assess energy impacts, GHG impacts, health risk and shading impacts. In granting the petition in part, the Court ordered the City to only decertify the energy impact analysis within Section VII, Other Environmental Considerations, of the Draft EIR, due to an inaccurate calculation of the Project's operational energy demand contained in that section. This error was corrected in the Recirculated Energy Analysis of the Draft EIR. Although the Court invalidated the energy analysis section of the Draft EIR, it determined that the remaining sections of the Draft EIR—specifically its analyses regarding GHG impacts, health risk assessments, and shading impacts—were severable and in full compliance with CEQA. Moreover, the Court Ruling did not require the City to rescind the Project approvals, each of which remains valid and in full force and effect.

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<sup>1</sup> *The EIR was previously certified by the Deputy Advisory Agency on October 21, 2016. The Deputy Advisory Agency's action was appealed to the City Planning Commission, which denied the appeal and certified the EIR on November 17, 2016. A second appeal was subsequently filed. The City Council denied the appeal, certified the EIR, and approved the Project on February 22, 2017.*

This Recirculated Energy Analysis of the Draft EIR was prepared in compliance with CEQA Guidelines Section 15088.5 and the Court Ruling. As with the determinations in the original Draft EIR, the Recirculated Energy Analysis of the Draft EIR determined that: (1) there is sufficient capacity to meet the Project's energy demand and that such demand would not exceed available supply or distribution infrastructure capabilities that could result in the construction of new energy facilities or expansion of existing facilities, the construction of which could cause significant environmental effects; and (2) the Project would not cause wasteful, inefficient, or unnecessary consumption of energy during construction or operation. As the recirculation was limited to the energy analysis only, pursuant to CEQA Guidelines Section 15088.5, subdivision (c), the rest of the Draft EIR was not recirculated for public review and comment.

## **B. Partially Revised Draft EIR Review Period**

In accordance with CEQA requirements, the Recirculated Energy Analysis of the Draft EIR was made available for public review and comment from October 4, 2018, to November 19, 2018. Pursuant to CEQA Guidelines Section 15088.5, subdivision (f)(2)(ii), the Notice of Availability and the Recirculated Energy Analysis of the Draft EIR stated that written responses would be prepared only to comments received regarding the Recirculated Energy Analysis. Following the public comment period, this Partially Revised Final EIR has been prepared and includes responses to the comments received regarding the Recirculated Energy Analysis. The Recirculated Energy Analysis did not revise the Draft EIR in any respect other than as directed by the Court Ruling, as the Court Ruling upheld all other aspects of the Draft EIR.

## **C. Contents of Partially Revised Final EIR**

CEQA Guidelines Section 15132 states that a Final EIR shall include revisions to the Draft EIR; a list of persons, organizations, and agencies that provided comments on the Draft EIR; and responses to comments received regarding the Draft EIR. In addition, a Final EIR often includes a Mitigation Monitoring Program. All of these components were included as part of the September 2016 Final EIR. The Recirculated Energy Analysis of the Draft EIR provides corrections to the energy analysis provided in the April 2016 Draft EIR. This Partially Revised Final EIR includes comments received regarding the Recirculated Energy Analysis and responses to those comments, as well as a list of the commenters. Based on the comments provided, no revisions to the Recirculated Energy Analysis are required. This Partially Revised Final EIR is intended to be a companion to the October Partially Revised Draft EIR. In addition, the previously adopted Mitigation Monitoring Plan remains the same as set forth in the 2017 approval of the Project. This Partially Revised Final EIR is organized into two main sections as follows:

**Section I. Introduction**—This section provides an introduction to the Partially Revised Final EIR.

**Section II. Responses to Comments**—This section presents a list of the parties that commented on the Recirculated Energy Analysis of the Draft EIR. This list is followed by verbatim numbered copies of the comments followed by numbered responses to each of the written comments made regarding the Recirculated Energy Analysis. Copies of the full original comment letters are provided in Appendix PRFEIR-1 of this Partially Revised Final EIR.

Certain comments claim that significant new information was set forth in the Recirculated Energy Analysis requiring recirculation of other sections of the 2016 Draft EIR. CEQA requires recirculation of a draft EIR only when “significant new information” is added to a draft EIR after public notice of the availability of the Draft EIR has occurred (refer to California Public Resources Code Section 21092.1 and CEQA Guidelines Section 15088.5), but before the EIR is certified. Section 15088.5 of the CEQA Guidelines specifically states: “New information added to an EIR is not ‘significant’ unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponents have declined to implement. ‘Significant new information’ requiring recirculation includes, for example, a disclosure showing that:

- A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted to reduce the impact to a level of insignificance.
- A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project’s proponents decline to adopt it.
- The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.”

As demonstrated in this Partially Revised Final EIR, neither the comments submitted on the Recirculated Energy Analysis of the Draft EIR nor the responses to these comments constitute new significant information warranting recirculation of the Recirculated Energy Analysis of the Draft EIR as set forth in CEQA Guidelines Section 15088.5.

## **II. Responses to Comments**

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## **II. Responses to Comments**

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### **A. Introduction**

Sections 21091(d) and 21092.5 of the Public Resources Code (PRC) and CEQA Guidelines Section 15088 govern the lead agency's responses to comments on a Draft EIR. CEQA Guidelines Section 15088(a) states that "[T]he lead agency shall evaluate comments on environmental issues received from persons who reviewed the draft EIR and shall prepare a written response. The lead agency shall respond to comments that were received during the notice comment period and any extensions and may respond to late comments." In addition, CEQA Guidelines Section 15088.5(f)(2) further specifies that "When the EIR is revised only in part and the lead agency is recirculating only the revised chapters or portions of the EIR, the lead agency may request that reviewers limit their comments to the revised chapters or portions of the recirculated EIR. The lead agency need only respond to (i) comments received during the initial circulation period that relate to chapters or portions of the document that were not revised and recirculated, and (ii) comments received during the recirculation period that relate to the chapters or portions of the earlier EIR that were revised and recirculated. The lead agency's request that reviewers limit the scope of their comments shall be included either within the text of the revised EIR or by and attachment to the revised EIR."

In accordance with these requirements, the Recirculated Energy Analysis of the Draft EIR and the associated Notice of Availability specified that reviewers not make new comments on matters not included in the Recirculated Energy Analysis. Thus, while all comments received are noted in this section, this section of the Partially Revised Final EIR only provides responses to comments related to the Recirculated Energy Analysis of the Draft EIR only as per CEQA Guidelines Section 15088.5(f)(2).

Section II.B, List of Commenters On the Recirculated Energy Analysis of the Draft EIR, includes a list of the comment letters received regarding the Recirculated Energy Analysis of the Draft EIR. Section II.C, Responses to Comments, provides the City's responses to each of the written comments raised regarding the Recirculated Energy Analysis of the Draft EIR. Copies of the original comment letters are provided in Appendix PRFEIR-1 of this Partially Revised Final EIR.

As demonstrated by the responses herein, no new significant information (as defined by CEQA Guidelines Section 15088.5) that would require recirculation of the Draft Recirculated Energy Analysis section has been identified. Specifically, upon review of all of

the comments received and analyzed, there are no new significant environmental impacts from the Project or from a mitigation measure that were identified or any other of the recirculation triggers under CEQA Guidelines Section 15088.5, as set forth above. In addition, upon review of all comments received and analyzed, there are no substantial increases in the severity of any of the significant environmental impacts identified in the April 2016 Draft EIR.

## **II. Responses to Comments**

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### **B. List of Commenters On the Recirculated Energy Analysis of the Draft EIR**

The following is a list of the Commenters that responded to the Recirculated Energy Analysis of the Draft EIR:

Christine Lan  
Assistant CEQA Project Manager  
Office of Environmental Health and Safety  
Los Angeles Unified School District  
333 S. Beaudry Ave., Fl. 21  
Los Angeles, CA 90017-1466

Hannah Bentley  
Blum Collins LLP  
Aon Center  
707 Wilshire Blvd., Ste. 4880  
Los Angeles, CA 90017-3604

Andrew Salas  
Chairman  
Gabrieleño Band of Mission Indians—Kizh Nation  
P.O. Box 393  
Covina, CA 91723-0393

Su Lertwongkanakool  
1234 Granville Ave., Apt. 1  
Los Angeles, CA 90025-1685

## **II. Responses to Comments**

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### **C. Comment Letters**

#### **Comment Letter No. 1**

Christine Lan  
Assistant CEQA Project Manager  
Office of Environmental Health and Safety  
Los Angeles Unified School District  
333 S. Beaudry Ave., Fl. 21  
Los Angeles, CA 90017-1466

#### **Comment No. 1-1**

Presented below are comments submitted on behalf of the Los Angeles Unified School District (LAUSD) to be incorporated in the Environmental Impact Report (EIR) for the subject project. Due to the fact that University High School and Brockton Avenue Elementary School are adjacent to the proposed project site, LAUSD is concerned about the potential negative impacts of the development to our students, staff and parents traveling to and from the campus.

Based on the extent/location of the proposed development, it is our opinion that significant environmental impacts on the surrounding community (air quality, noise, traffic, pedestrian safety) will occur. Since the project will have a significant impact on LAUSD schools, mitigation measures designed to help reduce or eliminate such impacts are included in this response.

#### **Air Quality**

District students and school staff should be considered sensitive receptors to air pollution impacts. Construction activities for the proposed project would result in short term impacts on ambient air quality in the area resulting from equipment emissions and fugitive dust. To ensure that effective mitigation is applied to reduce construction air pollutant impacts on the schools, we ask that the following language be included as a mitigation measure for air quality impacts:

- If the proposed mitigation measures do not reduce air quality impacts to a level of insignificance, the project applicant shall develop new and appropriate

measures to effectively mitigate construction related air emissions at the affected schools. Provisions shall be made to allow the school and or designated representative(s) to notify the project applicant when such measures are warranted.

## Noise

Noise created by construction activities may affect the schools in proximity to the proposed project site. These construction activities include grading, earth moving, hauling, and use of heavy equipment. The California Environmental Quality Act requires that such impacts be quantified, and eliminated or reduced to a level of insignificance.

LAUSD established maximum allowable noise levels to protect students and staff from noise impacts. These standards were established based on regulations set forth by the California Department of Transportation and the City of Los Angeles. LAUSD's exterior noise standard is 67 dBA Leq and the interior noise standard is 45 dBA L<sub>eq</sub>. A noise level increase of 3 dBA or more over ambient noise levels is considered significant for existing schools and would require mitigation to achieve levels within 2 dBA of pre-project ambient level. To ensure that effective mitigations are employed to reduce construction related noise impacts on District sites, we ask that the following language be included in the mitigation measures for noise impacts:

- If the proposed mitigation measures do not reduce noise impacts to a level of insignificance, the project applicant shall develop new and appropriate measures to effectively mitigate construction related noise at the affected schools. Provisions shall be made to allow the school and or designated representative(s) to notify the project applicant when such measures are warranted.

## Traffic/Transportation

LAUSD's Transportation Branch **must be contacted** at (213) 580-2950 regarding the potential impact upon existing school bus routes. The Project Manager or designee will have to notify the LAUSD Transportation Branch of the expected start and ending dates for various portions of the project that may affect traffic within nearby school areas. To ensure that effective mitigations are employed to reduce construction and operation related transportation impacts on District sites, we ask that the following language be included in the mitigation measures for traffic impacts:

- During the construction phase, truck traffic and construction vehicles may not cause traffic delays for our transported students.

- During and after construction changed traffic patterns, lane adjustment, traffic light patterns, and altered bus stops may not affect school buses' on-time performance and passenger safety.
- Construction trucks and other vehicles are required to stop when encountering school buses using red-flashing-lights must-stop-indicators per the California Vehicle Code.
- Contractors must install and maintain appropriate traffic controls (signs and signals) to ensure vehicular safety.
- Contractors must maintain ongoing communication with LAUSD school administrators, providing sufficient notice to forewarn children and parents when existing vehicle routes to school may be impacted.

### **Pedestrian Safety**

Construction activities that include street closures, the presence of heavy equipment and increased truck trips to haul materials on and off the project site can lead to safety hazards for people walking in the vicinity of the construction site. To ensure that effective mitigations are employed to reduce construction and operation related pedestrian safety impacts on District sites, we ask that the following language be included in the mitigation measures for pedestrian safety impacts:

- Contractors must maintain ongoing communication with LAUSD school administrators, providing sufficient notice to forewarn children and parents when existing pedestrian routes to school may be impacted.
- Contractors must maintain safe and convenient pedestrian routes to all nearby schools. The District will provide School Pedestrian Route Maps upon your request.
- Contractors must install and maintain appropriate traffic controls (signs and signals) to ensure pedestrian and vehicular safety.
- Haul routes are not to pass by **any** school, except when school is **not** in session.
- No staging or parking of construction-related vehicles, including worker-transport vehicles, will occur on or adjacent to a school property.
- Funding for crossing guards at the contractor's expense is required when safety of children may be compromised by construction-related activities at impacted school crossings.

- Barriers and/or fencing must be installed to secure construction equipment and to minimize trespassing, vandalism, short-cut attractions, and attractive nuisances.
- Contractor's are required to provide security patrols (at their expense) to minimize trespassing, vandalism, and short-cut attractions.

The District's charge is to protect the health and safety of students and staff, and the integrity of the learning environment. The comments presented above identify potential environmental impacts related to the proposed project that must be addressed to ensure the welfare of the students attending the University High School, the Brockton Avenue Elementary School, their teachers and the staff, as well as to assuage the concerns of the parents of these students. Therefore, the measures set forth in these comments should be adopted as conditions of project approval to offset unmitigated impacts on the affected school students and staff.

Thank you for your attention to this matter. If you need additional information please contact me at (213) 241-5637.

### **Response to Comment No. 1-1**

These comments are not related to the Recirculated Energy Analysis of the Draft EIR. Thus, as set forth above, in accordance with CEQA Guidelines Section 15088.5(f)(2), no response is required. Note that LAUSD was consulted, and input from LAUSD was incorporated into the original April 2016 Draft EIR.

**Comment Letter No. 2**

Hannah Bentley  
Blum Collins LLP  
Aon Center  
707 Wilshire Blvd., Ste. 4880  
Los Angeles, CA 90017-3604

**Comment No. 2-1**

This is to provide comments on behalf of the Golden State Environmental Justice Alliance (“GSEJA”) regarding the proposed Landmark Apartments Project (“the Project”) Recirculated Energy Analysis (“the RDEIR”). The Project is located at 11750–11770 Wilshire Boulevard in the City of Los Angeles.

**Response to Comment No. 2-1**

This introductory comment is noted for the administrative record and will be forwarded to the decision-makers.

**Comment No. 2-2**

The RDEIR states that its revised analysis is pursuant to CEQA Guidelines section 15088.5. While section 15088.5 is explicitly focused on recirculation prior to certification, we will presume it provides the applicable standard upon recirculation in response to a court order. That said, we disagree that either of the RDEIR’s “Thresholds of Significance” comply with those required for energy analysis under Appendix F of the CEQA Guidelines or the two most recent published cases addressing the subject, *Cal. Clean Energy Comm. v. City of Woodland* (“CCEC”) (2014) 225 Cal. App. 4th 173, and *Ukiah Citizens for Safety First v. City of Ukiah* (“Ukiah Citizens”) (2016) 248 Cal. App. 4th 256, and we respectfully submit the City’s analysis is inadequate.

**Response to Comment No. 2-2**

The Recirculated Energy Analysis was prepared in compliance with the June 28, 2018, Ruling/Order (Court Ruling) as well as CEQA Guidelines section 15088.5. Appendix F does not contain a significance threshold and nor does Public Resources Code (PRC) section 21100(b)(3). Rather, Appendix F was prepared in response to the requirement in PRC section 21100(b)(3), which states that an EIR shall include a detailed statement setting forth “[m]itigation measures proposed to minimize significant effects on the environment, including, but not limited to, measures to reduce the wasteful, inefficient, and unnecessary consumption of energy.” Here, the City exercised its lawful discretion to use

two energy significance thresholds based upon Appendix F, PRC section 21100(b)(3) and the 2006 LA CEQA Thresholds Guide:

**Significance Threshold No. 1**—With regard to energy infrastructure, the Project would result in significant impacts if it would result in an increase in demand for electricity or natural gas or other sources of energy that exceed available supply or distribution infrastructure capabilities that could result in the construction of new energy facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.

**Significance Threshold No. 2**—The Project would result in significant impacts with regard to energy use and consumption, if it would cause wasteful, inefficient, and unnecessary consumption of energy.

These significance thresholds are in compliance with the holdings in *Cal. Clean Energy Comm. v. City of Woodland* (2014) 225 Cal. App. 4th 173, and *Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 Cal. App. 4th 256.

### **Comment No. 2-3**

#### **The CEQA Guidelines and Appendix F**

As the Office of Planning and Research (“OPR”), responsible for issuing the CEQA Guidelines, recently reiterated, “CEQA has required the analysis of a project’s energy since the 1970s.” See Office of Planning and Research, *Thematic Responses to Comments* (Nov. 2017) at 3 (under “Energy Impacts”) (addressing proposed revisions to the CEQA Guidelines, proposing to specifically require energy impacts analysis in revised Guidelines section 15126.2(b)), see *also* Pub. Res. Code § 21100(b)(3).

While Public Resources Code section 21100(b)(3) does require mitigation measures “to reduce the wasteful, inefficient, and unnecessary consumption of energy,” see *also* Pub. Res. Code § 25402 (enabling legislation for the California Energy Commission, providing that the Commission’s goal is “to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy”), this does not provide the CEQA standard. Rather, as both CCEC and *Ukiah Citizens* make clear, something more is required. CCEC, 225 Cal. App. 4th at 211, *Ukiah Citizens*, 248 Cal. App. 4th at 265 (both concluding that mere demonstration of compliance with building code requirements was not sufficient).

### **Response to Comment No. 2-3**

PRC section 21100(b)(3) does not require mitigation measures per se, but rather that an environmental impact report shall include “a detailed statement setting forth...

(b) “[m]itigation measures proposed to minimize significant effects on the environment, including, but not limited to, measures to reduce the wasteful, inefficient, and unnecessary consumption of energy.” In any event, as noted in Response to Comment No. 2-2, the City used PRC section 21100(b)(3) as a significance threshold (Significance Threshold No. 2). As demonstrated in the Recirculated Energy Analysis, under Significance Threshold No. 2, the Project goes well beyond compliance with building code requirements to demonstrate that the Project would not cause wasteful, inefficient and unnecessary consumption of energy during construction and operation: “The Project’s energy usage during peak and base periods would also be consistent with electricity and natural gas future projections for the region. As shown in Table 3 on page 18, the project design features would reduce electricity demand by 7 percent, natural gas demand by 8 percent and transportation energy demand by 16 percent. Therefore, the demand for energy during operation would not cause wasteful, inefficient, and unnecessary use of energy.”

#### **Comment No. 2-4**

CEQA Guidelines Appendix F, adopted by OPR pursuant to Pub. Res. Code sections 21100(b)(3), 21083 and 21087, makes clear that the goal of energy analysis under CEQA is actually the “wise and efficient use of energy,” CEQA Guidelines, Appendix F, Section I, which is to be achieved by

- (1) decreasing overall per capita energy consumption,
- (2) decreasing reliance on fossil fuels such as coal, natural gas and oil, and
- (3) increasing reliance on renewable energy sources.

*Id.* (emphasis supplied).

#### **Response to Comment No. 2-4**

This comment correctly cites portions of CEQA Guidelines, Appendix F, adopted by OPR pursuant to PRC sections 21100(b)(3), 21083 and 21087. It is worth noting that promoting the “wise and efficient use of energy” is merely the opposite of discouraging the “wasteful, inefficient or unnecessary” consumption of energy. However, the subsequent paragraph in the referenced Code section provides additional context. “In order to assure that energy implications are considered in project decisions, the California Environmental Quality Act requires that EIRs include a discussion of the potential energy impacts of proposed projects, with particular emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy.” As demonstrated in the Recirculated Energy Analysis, the Project goes well beyond compliance with building code requirements to demonstrate that the Project would not cause wasteful, inefficient and unnecessary consumption of energy during construction and operation. As shown in Table 3 on page 18

of the Recirculated Energy Analysis, the project design features would reduce electricity demand by 7 percent, natural gas demand by 8 percent and transportation energy demand by 16 percent. Pages 20 and 21 of the Recirculated Energy Analysis contain a detailed discussion of the effects of the Project on energy resources and the use renewable energy sources. Therefore, the demand for energy during operation would not cause wasteful, inefficient, and unnecessary use of energy.”

### **Comment No. 2-5**

As OPR’s proposed amendments to the CEQA Guidelines make clear, it is this higher standard which EIRs must reckon with in assessing energy impacts. See OPR, Proposed 15-Day Revisions to CEQA Guidelines (July 2, 2018) at 63 (providing proposed revision to Guidelines Appendix G inquiring whether the project will “conflict with or obstruct a state or local plan for renewable energy or energy efficiency”). Among the state plans for energy efficiency that the RDEIR should have considered along these lines are:

- SB 350, requiring a doubling of energy efficiency from buildings by 2030.
- SB 32, requiring a statewide reduction in GHG emissions to 40% below 1990 levels by 2030.
- Executive Order B-55-18, establishing a statewide goal of carbon neutrality by 2045.
- The 2017 California Air Resources Board Scoping Plan, calling for reductions in GHG emissions from the transportation sector of 27–32% by 2030.<sup>1</sup>

<sup>1</sup> See California Air Resources Board, *California’s 2017 Climate Change Scoping Plan* at 31 (Table 3).

### **Response to Comment No. 2-5**

The Recirculated Energy Analysis fully complies with the Court Order to correct the inaccurate calculation of the Project’s operational energy demand. Furthermore, the revisions to the CEQA Guidelines noted in the comment have not yet been adopted. Moreover, the City is not using OPR’s proposed CEQA amendments as significance thresholds nor is such required. The significance thresholds used by the City for this Project do not need to consider these proposed amendments, particularly since they were proposed well after the Project Notice of Preparation (NOP). In any event, SB 32, Executive Order B-55-18 and the 2017 CARB Scoping Plan all concern statewide GHG policies. The Draft EIR fully assessed all applicable GHG plans and policies to the Project and determined that the Project would have a less than significant GHG impact, and the Court upheld that analysis and determination. Regarding SB 350, the Recirculated Energy Analysis specifically addressed SB 350 on pages 20 and 21.

**Comment No. 2-6****The RDEIR's Thresholds and Factors**

The RDEIR failed to assess the Project's ability to comply with the above-noted standards, and instead provided two significantly more lenient tests:

1. If the Project "would result in an increase in demand for electricity or natural gas or other sources of energy that exceed available supply or distribution infrastructure capabilities that could result in the construction of new energy facilities or expansion of existing facilities, the construction of which could cause significant environmental effects,"
2. If the Project "would cause wasteful, inefficient, and unnecessary consumption of energy."

As discussed above, neither of these standards reflects the state of the law under CEQA. The first standard appears to require that the Project actually require its own distribution infrastructure, which is clearly not the intent of Appendix F, and the second is simply way too lenient.

**Response to Comment No. 2-6**

As noted in Response to Comment No. 2-5, above, the proposed revisions to the CEQA Guidelines have not been adopted nor do they apply to the Project. The Project NOP was issued on March 6, 2014. The preparation of the Recirculated Energy Analysis did not reset the NOP date, but rather the Recirculated Energy Analysis was prepared following and in compliance with the Court Ruling to correct the inaccurate calculation of the Project's operational energy demand. The above referenced "state plans for energy efficiency" are just that—plans with objectives and goals, not state law as claimed. None of these are mandated CEQA significance thresholds, mentioned in PCR section 21100(b)(3) or Appendix F or mentioned let alone required in *Cal. Clean Energy Comm. v. City of Woodland* (2014) 225 Cal. App. 4th 173, and *Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 Cal. App. 4th 256. Here, as noted in Response to Comment No. 2-2, the City exercised its lawful discretion to use two energy significance thresholds based upon Appendix F, PRC section 21100(b)(3) and the 2006 LA CEQA Thresholds Guide. The Commenter wrongly characterizes the City's significance thresholds as "lenient tests" while providing no basis or evidence for its characterization.

**Comment No. 2-7**

The RDEIR also sets out a number of criteria it acknowledges as relevant to complying with the above two thresholds. These criteria appear to be largely drawn from Appendix F, Section II.C, as well as the City of Los Angeles' 2006 *CEQA Thresholds Guide*. As the

RDEIR tacitly acknowledges, the *CEQA Thresholds Guide* is out of date relative to Appendix F, and it therefore does not on the whole shed a lot of light on whether the Project has or does not have significant energy impacts, except that (1) the *Thresholds Guide* does ask whether the Project would conflict with adopted energy conservation plans, a question that has to be answered in the affirmative, and (2) the *Thresholds Guide* does recommend the use of solar water heating for swimming pools, a measure which the City does not appear to consider.

### **Response to Comment No. 2-7**

The Comment acknowledges the criteria the City elected to use to evaluate Significance Threshold No. 2. The Recirculated Energy Analysis acknowledged that Appendix F was adopted after the 2006 LA CEQA Thresholds Guide; there is no assertion, tacit or otherwise, that the 2006 LA CEQA Thresholds Guide is out of date. In any event, as noted above, the City exercised its lawful discretion to use two energy significance thresholds based upon Appendix F, PRC section 21100(b)(3) and the 2006 LA CEQA Thresholds Guide. The Comment does not raise any analytic or evaluative issues with the Recirculated Energy Analysis. Regarding whether the “Project would conflict with adopted energy conservation plans,” the 2006 LA CEQA Thresholds Guide identifies this as a screening criteria, not a significance threshold. If the answer is yes, then “further study in an... EIR may be required.” Although the Project would not conflict with adopted energy conservation plans as demonstrated in the Recirculated Energy Analysis (and the commenter provides no evidence to the contrary), the Recirculated Energy Analysis provides the “further study” the 2006 LA CEQA Guidelines suggest. With regard to solar water heating for swimming pools, the L.A. CEQA Thresholds Guide lists that as a potential mitigation measure. Here, however, there are no significant energy impacts. Thus no mitigation measures are necessary or required.

### **Comment No. 2-8**

#### **The RDEIR’s Identification of Project Design Features**

The RDEIR sets forth several “Project Design Features” which the City appears to be arguing should support a conclusion that the Project has done more than simply complying with existing Codes relating to energy efficiency. The first two of these are highly misleading:

- Project Design Feature C-1 provides that the Project will comply with the U.S. Green Building Council’s LEED-CS or LEED-NC rating system as of *January 1, 2011*. In other words, the building would comply with LEED v3, or LEED 2009. Since this Project was not approved until February 14, 2017 (prior to the decertification of the original EIR by the Court in June of 2018), it should comply with LEED v4, which became effective in October of 2016. We’ve conferred with

an architecture firm proficient in the LEED standards and they've confirmed that this Project is not doing near what it could be doing to comply with green building standards.

- Project Design Feature C-2 provides that there will be no “hearths” in residences. We find it highly unlikely that the Project as originally designed ever had hearths, and hearths are highly uncommon in apartments in the Los Angeles region as a whole. In other words, the applicant is taking credit for not doing something it never planned to do to begin with, and the credit is illusory.

### **Response to Comment No. 2-8**

The Recirculated Energy Analysis correctly concludes that the Project would result in less than significant energy impacts, and, therefore, no mitigation measures were required or included in the Recirculated Energy Analysis. Project design features were included as part of the Project to further reduce energy use requirements beyond compliance with building code requirements. Project Design Feature C-1 requires the following:

*The design of the new buildings shall incorporate features to be capable of achieving at least Silver certification under the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED)-CS® or LEED-NC® Rating System as of January 1, 2011. Such LEED® features shall include energy-efficient buildings, a pedestrian- and bicycle-friendly site design, and water conservation measures, among others.*

This project design feature goes beyond the applicable requirements under the California Green Building Standards Code (CALGreen Code) and the Green Building Code for Los Angeles. Furthermore, as the City determined energy impacts under both significance thresholds are less than significant, no mitigation measures are necessary or required including LEED v4.

In addition, Project Design Feature C-2 requires the following:

*The Project would include up to four common area gas fire pits and would not include hearths (woodstove and fireplaces) installed in the residences.*

SCAQMD Rule 445, Wood-burning Devices, allows for natural gas hearths (e.g., fire places) and prohibits the installation of wood burning fireplaces within residences. In addition, SCAQMD's CalEEMod default for residential fireplaces within the South Coast Air Basin is 90 percent (e.g., 90 percent of new residential units would include a fireplace). Consistent with Project Design Feature C-2, this Project has been designed to not include

hearths within the residences and only include up to four common area gas fire pits. Based on this information, the energy analysis within the Recirculated Energy Analysis appropriately accounted for the reduction in use of natural gas fire places for the Project as a result of implementation of Project Design Feature C-2.

### **Comment No. 2-9**

We do acknowledge that the applicant is doing more than is required under the Los Angeles Building Code with respect to car charging, though we think both the Los Angeles Building Code and Title 24 are out of date in this regard.

### **Response to Comment No. 2-9**

This comment does not raise an environmental issue that is specific to the Recirculated Energy Analysis. This comment is noted for the administrative record and will be forwarded to the decision-makers for review and consideration.

### **Comment No. 2-10**

#### **Change to the Project Should Be Fully Analyzed**

Appendix B to the RDEIR discloses for the first time that the Project will involve a 5,140-square-foot “strip mall” in addition to the residential use. This new component of the Project was never analyzed and represents significant new information requiring further review under CEQA.

### **Response to Comment No. 2-10**

Table II-1, Summary of Existing and Proposed Floor Area, of the April 2016 Draft EIR includes 5,410 square feet of residential amenities (lounge, fitness center, recreational room, bicycle storage). While these types of uses are often included in high-rise residential buildings and would be considered in the CalEEMod’s default energy use per high-rise residential dwelling unit, the Recirculated Energy Analysis conservatively included these uses as an additional separate land use. Please note that this calculation only pertains to electricity and natural gas use, since fuel usage from vehicle trips were accounted for consistent with the Transportation Study prepared by Gibson Transportation Consulting, Inc.

CalEEMod has limited land use types and sometimes a project’s land uses do not directly match up with CalEEMod provided land use types. As an example, bicycle storage is not a provided land use within CalEEMod. The closest land use within CalEEMod is an unrefrigerated warehouse. Electricity usage associated with an unrefrigerated warehouse use is substantially less than electricity usage associated with a strip mall use. The closest

land use for a fitness center or recreation room within CalEEMod would be a health club. CalEEMod default electricity usage factors are similar for a strip mall and a health club. Rather than attempting to enter multiple types of land uses that do not directly match up with CalEEMod provided land use types and the land uses only account for approximately 1.5 percent of the total square footage of the Project, the Recirculated Energy Analysis selected a “strip mall” as a catch all for these extremely minor sources of energy use (i.e., approximately 0.1 percent of total natural gas usage and 0.7 percent of the total electricity use). These increases represent an upper-end of potential energy use from the identified land uses. Furthermore, the conservative estimate of energy usage from the Project accounts for the CalEEMod default square footage of 376,000 square feet, even though the Project only results in a total of 360,291 square feet of development (Page II-1 of the Draft EIR). The Project itself has not changed. This information would not represent significant new information requiring further review under CEQA.

### **Comment No. 2-11**

#### **Analysis of Compliance with Threshold 1**

Threshold 1 provides a ridiculously lenient standard. It provides the public no meaningful information to simply state, as the RDEIR does, that the Project would not require construction of new energy facilities because it would only result in consumption of 0.04 percent of the Department of Water and Power’s (“DWP’s”) peak load for electricity, or that the Project would only use 0.0005 percent of the County’s gas and diesel usage for 2017 annually. One would not *expect* different statistics for a single apartment building use, and this doesn’t respond to the question of whether the use of energy as proposed under the Project is wise and efficient as Appendix F concludes it should be.

### **Response to Comment No. 2-11**

Significance Threshold No. 1 is based on the L.A. CEQA Thresholds Guide criteria for evaluating Project energy impacts. See L.A. CEQA Thresholds Guide M.4 (page M.4-4). As noted in Response to Comment No. 2-2, the City exercised its lawful discretion in using the energy significance thresholds based upon Appendix F, PRC Section 21100(b)(3) and the LA CEQA Thresholds Guide. The Commenter does not provide any evidence that demonstrates that the City abused its discretion or that the significance threshold is “ridiculously lenient.” The Commenter appears to confuse the energy Significance Threshold No. 1, which addresses infrastructure capacity to meet Project demand, with Significance Threshold No. 2, which addresses whether the Project would cause the wasteful, inefficient and unnecessary consumption of energy. Both significance thresholds are fully evaluated in the Recirculated Energy Analysis, and the City determined the Project would result in less than significant impacts under each threshold.

**Comment No. 2-12**

The RDEIR also attempts to assess the Project's energy use by comparing it to the "former" supermarket use on the site, asserting that there would supposedly be a "net reduction" in electricity use of 81,020 KWh per year. As with greenhouse gas analysis, however, energy analysis should recognize the overall "big picture" and acknowledge that the supermarket that used to be onsite probably moved elsewhere rather than closing. See OPR, Final Statement of Reasons for Regulatory Action: Amendments to the State CEQA Guidelines Addressing Analysis and Mitigation of Greenhouse Gas Emissions Pursuant to SB97 (Dec. 2009) at 83–84. Therefore, it is not appropriate to assume energy use has been reduced overall just because the supermarket is no longer on the site. The DEIR should not take credit for extinguishing the supermarket use, and there therefore is no "net reduction."

**Response to Comment No. 2-12**

Under CEQA, the impacts of a proposed project must be evaluated by comparing expected environmental conditions after project implementation to conditions at a point in time referred to as the baseline. The changes in environmental conditions between those two scenarios represent the environmental impacts of the proposed project. As the supermarket use was appropriately considered as part of the baseline condition, Table 2, Summary of Annual Net New Energy Use During Project Operation, of the Recirculated Energy Analysis appropriately included the supermarket use under baseline. The net change in electricity use equaled a reduction of 81,020 kWh. No changes to the Recirculated Energy Analysis are necessary based on this comment and the suggested analysis approach in this comment would not be consistent with CEQA Guidelines. In any event, Chapter VI, Baseline Discussion, of the Draft EIR addressed Project impacts, including energy impacts, assuming that there was no supermarket use and concluded less than significant energy use impacts. Furthermore, there is no evidence that the former supermarket use "moved elsewhere." To make such an assumption is speculation, and CEQA does not require the analysis of speculative impacts. (CEQA Guidelines Section 15145.)

**Comment No. 2-13****Analysis of Compliance with Threshold 2**

With respect to construction, the RDEIR asserts that construction would constitute a fraction of the energy demand posed by the "former" supermarket; as discussed above, the supermarket should not be netted against the proposed use. The RDEIR then asserts that construction lighting would not be of concern because it would comply with Title 24. As noted above, at least two cases make clear that mere compliance with Title 24 is not

sufficient under Appendix F either. For the same reasons, compliance with the CAFÉ [sic] standards, which are applicable to all on-road vehicles in the U.S., also is not enough.

### **Response to Comment No. 2-13**

As discussed above in Response to Comment No. 2-12, the supermarket use under the baseline condition was appropriately analyzed within the Recirculated Energy Analysis. In addition, this comment misconstrues information from the *CCEC* and *Ukiah Citizens* cases. There, the issue with Title 24 was that it does not address transportation energy use from construction and operation. Here, construction lighting would be fully addressed by compliance with Title 24. In any event, as discussed above in Response to Comment No. 2-2, the Project energy reduction features go well beyond code compliance. As shown in Table 1, Summary of Energy Use During Project Construction, of the Recirculated Energy Analysis, a total of 6,013 kWh of electricity, 69,074 gallons of gasoline, and 121,885 gallons of diesel are estimated to be consumed during Project construction. This comment correctly identifies that the Recirculated Energy Analysis states that the Project Site and staging areas would comply with applicable Title 24 requirements (includes limits on the wattage allowed per specific area), which would result in the conservation of energy. Electricity would be supplied to the Project Site during construction by LADWP and would be obtained from the existing electrical lines that connect to the Project Site. This would be consistent with suggested measures in the L.A. CEQA Thresholds Guide to use electricity from power poles rather than temporary gasoline or diesel powered generators. Furthermore, the comparison of energy use from proposed construction activities to the supermarket under the baseline condition was provided for context (i.e., electricity usage from proposed construction activities represents a small source of energy consumption).

### **Comment No. 2-14**

With respect to electricity for operation, the RDEIR makes about five arguments, none of which are sufficient:

1. The Project would comply with the Green Building Code for Los Angeles, including CAL Green. This is insufficient under *Ukiah Citizens* and *CCEC*.

### **Response to Comment No. 2-14**

As noted in Response to Comment No. 2-3, as demonstrated in the Recirculated Energy Analysis, under Significance Threshold No. 2, the Project goes well beyond compliance with building code requirements to demonstrate that the Project would not cause wasteful, inefficient and unnecessary consumption of energy during construction and operation: “The Project’s energy usage during peak and base periods would also be consistent with electricity and natural gas future projections for the region. As shown in

Table 3 on page 18, the project design features would reduce electricity demand by 7 percent, natural gas demand by 8 percent and transportation energy demand by 16 percent. Therefore, the demand for energy during operation would not cause wasteful, inefficient, and unnecessary use of energy.” In compliance with *Ukiah Citizens* and *CCEC*, transportation energy demand was specifically accounted for and project design features over and above Title 24 demonstrate reduced operational transportation energy demand. Thus, it is incorrect that the significance determination is solely based upon compliance with the building code.

### **Comment No. 2-15**

2. The Project would implement PDF C-1, compliance with LEED Silver certification. However, the Project would not comply with LEED Silver as it now exists; this is a misstatement. The RDEIR claims this would include Energy Star labeled “appliances” “where appropriate,” but this isn’t identified, and we understand from other filings the applicant has done with the City that this means simply dishwashers, “where appropriate,” whatever that means. The RDEIR also asserts that this “certification” would provide for passive energy strategies and implementation of water conservation features, but we do not know enough about what these entail to make a meaningful evaluation of whether they add anything. Title 24 and CALGreen impose as a matter of law a number of measures which would be credited under LEED v3, see LEED Interpretation 10480 (July 2, 2018), and this is not enough under the above two mentioned cases. We also need to point out that SB 350 requires the California Energy Commission to double energy efficiency from new and existing buildings by 2030. This means that the building(s) are subject to a more stringent standard than the RDEIR has acknowledged.

### **Response to Comment No. 2-15**

As this comment misconstrues some of the requirements of Project Design Feature C-1, it is first important to state what Project Design Feature C-1 specifically requires:

*The design of the new buildings shall incorporate features to be capable of achieving at least Silver certification under the U.S. Green Building Council’s Leadership in Energy and Environmental Design (LEED)-CS® or LEED-NC® Rating System as of January 1, 2011. Such LEED® features shall include energy-efficient buildings, a pedestrian- and bicycle-friendly site design, and water conservation measures, among others.*

The Recirculated Energy Analysis appropriately used the Environmental Design (LEED)-CS® or LEED-NC® Rating System as of January 1, 2011. The preparation of the Recirculated Energy Analysis did not change this project design feature, but rather the Recirculated Energy Analysis was prepared following and in compliance with the Court

Ruling to correct the inaccurate calculation of the Project's operational energy demand. Electricity and natural gas estimates assumed compliance with applicable CALGreen Code requirements and implementation of Project Design Feature C-1 (specific mandatory requirements of being capable of achieving LEED Silver Certified) or a 10-percent reduction in Title 24 energy related sources in comparison to LEED baseline. These were the only reduction measures quantified for electricity. In any event, this project design feature goes beyond the applicable requirements under the California Green Building Standards Code (CALGreen Code) and the Green Building Code for Los Angeles. The Recirculated Energy Analysis further acknowledges that LEED Silver Certification for the Project would include additional electricity reduction measures (e.g., use of Energy Star-labeled products and appliances where appropriate, use of light-emitting diode [LED] lighting or other energy-efficient lighting technologies where appropriate, incorporation of passive energy efficiency strategies [e.g., roof overhangs, porches, and inner courtyards], and implementation of water conservation features, among others). Energy Star-labeled products and appliances where appropriate assumes that typical appliances used in residential dwelling units (e.g., air purifiers, clothes dryers, clothes washers, dishwashers, freezers, and refrigerators) would meet Energy Star standards. In addition, the Project will need to include energy-reducing measures to achieve the requisite number of LEED points. The specifics will be determined as part of the LEED certification process. As the City determined energy impacts under both significance thresholds are less than significant, no mitigation measures are necessary or required.

Senate Bill 350 was signed into law on October 7, 2015, well past the NOP date. Regardless, SB 350 requires doubling of energy efficiency savings from electricity and natural gas end-uses by 2030. This reduction will largely be implemented through more stringent requirements in subsequent CALGreen Codes and State regulations and would not be applicable to the Project. SB 350 was specifically addressed in the Recirculated Energy Analysis at pages 20 and 21.

### **Comment No. 2-16**

3. DWP is required to procure at least 33 percent of its energy portfolio from renewable sources by 2020 and it was at 29 percent as of 2017. However, this is an existing "requirement" applicable to all DWP users.

### **Response to Comment No. 2-16**

This comment repeats what was noted in the Recirculated Energy Analysis. However, the Recirculated Energy Analysis does not imply that this reduction in DWP's energy portfolio would somehow exclusively apply to the Project, and no reduction in energy use was applied from the Project in the Recirculated Energy Analysis. Rather, the percentage of renewable energy from DWP's energy sources was noted to acknowledge

that, while the Project itself cannot provide a renewable energy source, its supplier, DWP, does provide electricity that contains a significant renewable percentage.

### **Comment No. 2-17**

4. The Project will comply with Title 24. Again, this is not enough.

### **Response to Comment No. 2-17**

As demonstrated in the Recirculated Energy Analysis, the Project goes well beyond compliance with building code requirements (e.g., Title 24) to demonstrate that the Project would not cause wasteful, inefficient and unnecessary consumption of energy during construction and operation. As shown in Table 3 on page 18, the project design features would reduce electricity demand by 7 percent, natural gas demand by 8 percent and transportation energy demand by 16 percent. Therefore, the demand for energy during operation would not cause wasteful, inefficient, and unnecessary use of energy.” In compliance with *Ukiah Citizens* and *CCEC*, transportation energy demand was specifically accounted for and project design features over and above Title 24 demonstrate reduced operational transportation energy demand. Therefore, the demand for energy during operation would not cause wasteful, inefficient, and unnecessary use of energy.” Compliance with Title 24 is not the sole basis for the Recirculated Energy Analysis determination.

### **Comment No. 2-18**

5. At 18–19 the RDEIR asserts that the roof would specifically include “2,700 square feet of solar panels.” This contention is refuted elsewhere in the document itself. See RDEIR at 21. This leaves the public confused as to what the City is actually doing and is inadequate under CEQA.

### **Response to Comment No. 2-18**

To clarify, pages 18–19 of the Recirculated Energy Analysis state that “the Project would comply with Section 110.10 of Title 24, which includes mandatory requirements for solar-ready buildings, and would specifically include 2,700 square feet of solar panels, or 25 percent of the roof area.” The information included on page 21 of the Recirculated Energy Analysis explains why it is not feasible to include more solar area than the 2,700 square feet (e.g., limited roof area). Thus, there should be no confusion that the Project has a solar area of 2,700 square feet. CEQA does not require any specific amount of solar area, and in any event the Project is providing the amount of solar area that is feasible based on roof area. Furthermore, as the City determined energy impacts under both significance thresholds are less than significant, no mitigation measures are necessary or required.

**Comment No. 2-19**

With respect to natural gas, the RDEIR asserts that the use is not inefficient or wasteful (again, this is the wrong standard) because, supposedly:

1. The Project would have to be capable of LEED Silver certification—it won't be.

**Response to Comment No. 2-19**

Please refer to Response to Comment No. 2-16 which provides an explanation as to how the Project would be capable of LEED Silver certification. Commenter provides no evidence that the Project will not be capable of achieving LEED Silver certification or its equivalent.

**Comment No. 2-20**

2. PDF C-2 would prohibit hearths in residences, but it is absurd to suggest that they would have been there to begin with.

**Response to Comment No. 2-20**

This comment was previously addressed in Response to Comment No. 2-8. As discussed above, Project Design Feature C-2 was properly considered in the Recirculated Energy Analysis.

**Comment No. 2-21**

3. There would be an 8% reduction in natural gas usage associated with new land uses, referring us to Table 3 on page 18. The only percentage reduction we can anticipate from this Table would be due to the nonexistent "Silver certification" or to the "elimination" of hearths.

**Response to Comment No. 2-21**

Footnote B of Table 3, Summary of Energy Efficiency for the Project (New Uses Only) Operation, of the Recirculated Energy Analysis, clearly shows the 8-percent reduction is based on implementation of Project Design Feature C-1 (specific mandatory requirements of being capable of achieving LEED Silver Certified) and Project Design Feature C-2 (prohibits the use of natural gas-fueled fireplaces in the proposed residential units). Please refer to Responses to Comment No. 2-15 which provides an explanation as to how the Project would be capable of LEED Silver certification. Also, refer to Response to Comment No. 2-8 regarding how Project Design Feature C-2 was properly evaluated in the Recirculated Energy Analysis.

**Comment No. 2-22**

Finally, concerning Project operation and transportation fuels, mere compliance with the CAFÉ [sic] standards or the Pavley standards is not sufficient as this is true for every car in the U.S. or California. While we are relieved that there will be some plug-in spaces, there should be more than 5% at buildout.

**Response to Comment No. 2-22**

As demonstrated in the Recirculated Energy Analysis, the Project goes well beyond compliance with CAFE standards and the Pavley standards to demonstrate that the Project would not cause wasteful, inefficient and unnecessary consumption of energy during construction and operation. As shown in Table 3 on page 18 of the Recirculated Energy Analysis, the project design features would reduce transportation energy by 16 percent. Footnote B of this table clearly shows the 16-percent reduction is based on project characteristics consistent with CAPCOA guidance measures and not related to CAFE or Pavely standards as suggested in this comment. Appendix B of the Recirculated Energy Analysis provides additional clarification. Specifically, LUT-1 (Increase Density) and LUT-6 (Integrate Below Market Rate Housing) CAPCOA measures were included in the Recirculated Energy Analysis for the Project. Therefore, the demand for energy during operation would not cause wasteful, inefficient, and unnecessary use of energy.”

**Comment No. 2-23****Effects of the Project on Energy Resources**

While the RDEIR claims that there is enough natural gas for 80 years of consumption in the U.S. (at 2015 rates) and enough oil for 50 years of consumption, apparently worldwide, this completely ignores what it will do to the planet if this consumption occurs. The RDEIR is therefore incredibly misleading in making these benign claims.

**Response to Comment No. 2-23**

The Commenter incorrectly characterizes what the Recirculated Energy Analysis was supposed to address in compliance with the Court Ruling. The discussion in the Recirculated Energy Analysis cited in this comment focused on the effects of the Project on energy resources that are to be used to supply the Project’s energy demands. As discussed in Response to Comment No. 2-22, the Recirculated Energy Analysis demonstrated that the Project would not cause wasteful, inefficient and unnecessary consumption of energy during construction and operation. Global energy demand and use is well beyond the impact issues of this Project and not required under CEQA. The commenter merely speculates, without evidence, regarding “planetary” impacts. CEQA does not require the evaluation of speculative impacts. (CEQA Guidelines Section 15145.)

**Comment No. 2-24**

The RDEIR further refutes here that it will install solar power generation, as is previously asserted in the document. While it may be true that the area for solar panel installation is small relative to the overall consumption anticipated for the Project, it is still viable to install some. Additionally, it would be possible to install solar heating for the pool, as is recommended by the *CEQA Thresholds Guide*.

**Response to Comment No. 2-24**

As discussed in Response to Comment No. 2-18, the Project would comply with Section 110.10 of Title 24, which includes mandatory requirements for solar-ready buildings, and would specifically include 2,700 square feet of solar panels, or 25 percent of the roof area. With regard to solar water heating for swimming pools, the L.A. CEQA Thresholds Guide lists that as a potential mitigation measure. Here, however, there are no significant energy impacts; thus, no mitigation measures are necessary or required.

**Comment No. 2-25****Analysis in Appendix B**

As noted previously, netting out the supermarket use (particularly for a supermarket that ceased operations in March, 2013) is inappropriate given that the supermarket likely was replaced by another one off the site, and one of the mandates of Appendix F is to reduce “overall per capita energy consumption.”

**Response to Comment No. 2-25**

This comment was previously addressed in Response to Comment No. 2-12. As discussed above, the supermarket use was considered as part of the baseline condition. As such, Table 2, Summary of Annual Net New Energy Use During Project Operation, of the Recirculated Energy Analysis appropriately included the supermarket use under baseline. The net change in energy use was then calculated. However, Chapter VI of the Draft EIR specifically analyzed the Project absent the supermarket use and determined less than significant energy use impacts. No changes to the Recirculated Energy Analysis are necessary based on this comment and the suggested analysis approach in this comment would not be consistent with CEQA guidelines. As noted in Response 2-12, there is no evidence that the former supermarket use “moved elsewhere.” To make such an assumption is speculation and CEQA does not require the evaluation of speculative impacts. (CEQA Guidelines Section 15145.)

**Comment No. 2-26**

We also note that the projected vehicle miles traveled (“VMT”) for the office use is different for the Project than for the pre-Project condition, with that VMT skewing downward in the Project condition without any apparent reason why the two figures would be different.

**Response to Comment No. 2-26**

As discussed above in Response to Comment No. 2-22, Footnote B in Table 3 on page 18 of the Recirculated Energy Analysis clearly shows the 16-percent reduction is based on Project characteristics consistent with CAPCOA guidance measures. Appendix B of the Recirculated Energy Analysis provides additional clarification. Specifically, LUT-1 (Increase Density) and LUT-6 (Integrate 16 Below Market Rate Housing Units) CAPCOA measures were included in the Recirculated Energy Analysis for the Project. These CAPCOA measures were included in the CalEEMod modeling and the VMT reduction was calculated within the model.

Application of CAPCOA LUT-1 within CalEEMod for the Project increases the employee density from 551.8 employees per acre to 573.2 employees per acre. In addition, dwelling units would increase from zero to 134.3 dwelling units per acre. This increase in density and corresponding reduction in VMT is applied to all of the land uses on the Project Site. As a result, the VMT from the office use is reduced with implementation of CAPCOA measures.

**Comment No. 2-27**

Thank you for the opportunity to comment on this Project. We hereby request notice of the issuance of any Final RDEIR pursuant to Public Resources Code sections 21092 and 21092.2 to [bentley@blumcollins.com](mailto:bentley@blumcollins.com) and [collins@blumcollins.com](mailto:collins@blumcollins.com).

**Response to Comment No. 2-27**

The Commenter will continue to be included on the list to receive public notices regarding the Project.

**Comment Letter No. 3**

Andrew Salas  
Chairman  
Gabrieleño Band of Mission Indians—Kizh Nation  
P.O. Box 393  
Covina, CA 91723-0393

**Comment No. 3-1**

Please find this letter as a written request for consultation regarding the above-mentioned project pursuant to Public Resources Code § 21080.3.1, subd. (d). Your project lies within our ancestral tribal territory, meaning belonging to or inherited from, which is a higher degree of kinship than traditional or cultural affiliation. Your project is located within a sensitive area and may cause a substantial adverse change in the significance of our tribal cultural resources. Most often, a records search for our tribal cultural resources will result in a “no records found” for the project area. The Native American Heritage Commission (NAHC), ethnographers, historians, and professional archaeologists can only provide limited information that has been previously documented about California Native Tribes. For this reason, the NAHC will always refer the lead agency to the respective Native American Tribe of the area. The NAHC is only aware of general information and are not the experts on each California Tribe. Our Elder Committee & tribal historians are the experts for our Tribe and can provide a more complete history (both written and oral) regarding the location of historic villages, trade routes, cemeteries and sacred/religious sites in the project area.

Additionally, CEQA now defines Tribal Cultural Resources (TCRs) as their own independent element separate from archaeological resources. Environmental documents shall now address a separate Tribal Cultural Resource section which includes a thorough analysis of the impacts to only Tribal Cultural Resources (TCRs) and includes independent mitigation measures created with Tribal input during AB-52 consultations. As a result, all mitigation measures, conditions of approval and agreements regarding TCRs (i.e. [sic] prehistoric resources) shall be handled solely with the Tribal Government and not through an Environmental/Archaeological firm.

In effort to avoid adverse effects to our tribal cultural resources, we would like to consult with you and your staff to provide you with a more complete understanding of the prehistoric use(s) of the project area and the potential risks for causing a substantial adverse change to the significance of our tribal cultural resources.

Consultation appointments are available on Wednesdays and Thursdays at our offices at 910 N. Citrus Ave. Covina, CA 91722 or over the phone. Please call toll free 1-844-390-0787 or email [admin@gabrielenoindians.org](mailto:admin@gabrielenoindians.org) to schedule an appointment.

*\*\* Prior to the first consultation with our Tribe, we ask all those individuals participating in the consultation to view a video produced and provided by CalEPA and the NAHC for sensitivity and understanding of AB52. You can view their videos at: <http://calepa.ca.gov/Tribal/Training/> or <http://nahc.ca.gov/2015/12/ab-52-tribal-training/>*

# Original People of Los Angeles County



Map of territories of Original Peoples with county boundaries in Southern California.

## **Response to Comment No. 3-1**

These comments are not related to the Recirculated Energy Analysis of the Draft EIR. Thus, as set forth above, in accordance with CEQA Guidelines Section 15088.5(f)(2), no response is required. Note that the Gabrieleño Band of Mission Indians—Kizh Nation was sent a Notice of Availability for the original Draft EIR in April 2016 and no response was provided.

**Comment Letter No. 4**

Su Lertwongkanakool  
1234 Granville Ave., Apt. 1  
Los Angeles, CA 90025-1685

**Comment No. 4-1**

In reference to Environmental Case No. ENV-2013-3747-EIR, I've reviewed the Recirculated Energy Analysis for the Landmark Apartments Project's operational energy usage and its impact. Despite the best attempt, my lack of knowledge in environmental energy does not permit me to opine either positively or negatively.

In good faith, I'll put my trust in the City to look out for us—all local residents affected by this project. I sincerely hope the real outcome of the energy usage and its impact on our community will go accordingly to the final approved EIR. Should it does not—I also hope—the City has a provision to rectify it.

If there is any other viewpoint regarding the Landmark Project you might want to know, please do not hesitate to contact me.

Thank you very much for reaching out to us.

**Response to Comment No. 4-1**

This comment does not provide any specific concerns or questions regarding the Recirculated Energy Analysis of the Draft EIR. Thus, as set forth above, in accordance with CEQA Guidelines Section 15088.5(f)(2), no response is required. This comment is noted for the administrative record and will be forwarded to the decision-makers for review and consideration.

# **Appendices**

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## **Appendix PRFEIR-1**

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Recirculated Energy Analysis Comment Letters

# Los Angeles Unified School District

## Office of Environmental Health and Safety

AUSTIN BEUTNER  
*Superintendent of Schools*

VIVIAN EKCHIAN  
*Deputy Superintendent*

CARLOS A. TORRES  
*Interim Director, Environmental Health and Safety*

October 16, 2018

Erin Strellich  
**City of Los Angeles, Department of City Planning**  
221 N. Figueroa Street, Suite 1350  
Los Angeles, CA, 90012

SUBJECT: PROJECT NAME: Landmark Apartment Project  
PROJECT LOCATION: 11750-11770 Wilshire Boulevard; 1211-1235 Stoner Avenue;  
1222 Granville Avenue, Los Angeles, California 90025  
CEQA CASE NUMBER: ENV-2013-3747-EIR

Presented below are comments submitted on behalf of the Los Angeles Unified School District (LAUSD) to be incorporated in the Environmental Impact Report (EIR) for the subject project. Due to the fact that University High School and Brockton Avenue Elementary School are adjacent to the proposed project site, LAUSD is concerned about the potential negative impacts of the development to our students, staff and parents traveling to and from the campus.

Based on the extent/location of the proposed development, it is our opinion that significant environmental impacts on the surrounding community (air quality, noise, traffic, pedestrian safety) will occur. Since the project will have a significant impact on LAUSD schools, mitigation measures designed to help reduce or eliminate such impacts are included in this response.

### **Air Quality**

District students and school staff should be considered sensitive receptors to air pollution impacts. Construction activities for the proposed project would result in short term impacts on ambient air quality in the area resulting from equipment emissions and fugitive dust. To ensure that effective mitigation is applied to reduce construction air pollutant impacts on the schools, we ask that the following language be included as a mitigation measure for air quality impacts:

- If the proposed mitigation measures do not reduce air quality impacts to a level of insignificance, the project applicant shall develop new and appropriate measures to effectively mitigate construction related air emissions at the affected schools. Provisions shall be made to allow the school and or designated representative(s) to notify the project applicant when such measures are warranted.

### **Noise**

Noise created by construction activities may affect the schools in proximity to the proposed project site. These construction activities include grading, earth moving, hauling, and use of heavy equipment. The California Environmental Quality Act requires that such impacts be quantified, and eliminated or reduced to a level of insignificance.

LAUSD established maximum allowable noise levels to protect students and staff from noise impacts. These standards were established based on regulations set forth by the California Department of Transportation

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*Our Mission: To ensure a safe and healthy environment for students to learn, teachers to teach, and employees to work.  
Our Vision: To eliminate all environmental, health, and safety risks at schools.*

and the City of Los Angeles. LAUSD's exterior noise standard is 67 dBA Leq and the interior noise standard is 45 dBA Leq. A noise level increase of 3 dBA or more over ambient noise levels is considered significant for existing schools and would require mitigation to achieve levels within 2 dBA of pre-project ambient level. To ensure that effective mitigations are employed to reduce construction related noise impacts on District sites, we ask that the following language be included in the mitigation measures for noise impacts:

- If the proposed mitigation measures do not reduce noise impacts to a level of insignificance, the project applicant shall develop new and appropriate measures to effectively mitigate construction related noise at the affected schools. Provisions shall be made to allow the school and or designated representative(s) to notify the project applicant when such measures are warranted.

### **Traffic/Transportation**

LAUSD's Transportation Branch **must be contacted** at (213) 580-2950 regarding the potential impact upon existing school bus routes. The Project Manager or designee will have to notify the LAUSD Transportation Branch of the expected start and ending dates for various portions of the project that may affect traffic within nearby school areas. To ensure that effective mitigations are employed to reduce construction and operation related transportation impacts on District sites, we ask that the following language be included in the mitigation measures for traffic impacts:

- During the construction phase, truck traffic and construction vehicles may not cause traffic delays for our transported students.
- During and after construction changed traffic patterns, lane adjustment, traffic light patterns, and altered bus stops may not affect school buses' on-time performance and passenger safety.
- Construction trucks and other vehicles are required to stop when encountering school buses using red-flashing-lights must-stop-indicators per the California Vehicle Code.
- Contractors must install and maintain appropriate traffic controls (signs and signals) to ensure vehicular safety.
- Contractors must maintain ongoing communication with LAUSD school administrators, providing sufficient notice to forewarn children and parents when existing vehicle routes to school may be impacted.

### **Pedestrian Safety**

Construction activities that include street closures, the presence of heavy equipment and increased truck trips to haul materials on and off the project site can lead to safety hazards for people walking in the vicinity of the construction site. To ensure that effective mitigations are employed to reduce construction and operation related pedestrian safety impacts on District sites, we ask that the following language be included in the mitigation measures for pedestrian safety impacts:

- Contractors must maintain ongoing communication with LAUSD school administrators, providing sufficient notice to forewarn children and parents when existing pedestrian routes to school may be impacted.
- Contractors must maintain safe and convenient pedestrian routes to all nearby schools. The District will provide School Pedestrian Route Maps upon your request.

- Contractors must install and maintain appropriate traffic controls (signs and signals) to ensure pedestrian and vehicular safety.
- Haul routes are not to pass by any school, except when school is not in session.
- No staging or parking of construction-related vehicles, including worker-transport vehicles, will occur on or adjacent to a school property.
- Funding for crossing guards at the contractor's expense is required when safety of children may be compromised by construction-related activities at impacted school crossings.
- Barriers and/or fencing must be installed to secure construction equipment and to minimize trespassing, vandalism, short-cut attractions, and attractive nuisances.
- Contractor's are required to provide security patrols (at their expense) to minimize trespassing, vandalism, and short-cut attractions.

The District's charge is to protect the health and safety of students and staff, and the integrity of the learning environment. The comments presented above identify potential environmental impacts related to the proposed project that must be addressed to ensure the welfare of the students attending the University High School, the Brockton Avenue Elementary School, their teachers and the staff, as well as to assuage the concerns of the parents of these students. Therefore, the measures set forth in these comments should be adopted as conditions of project approval to offset unmitigated impacts on the affected school students and staff.

Thank you for your attention to this matter. If you need additional information please contact me at (213) 241-5637.

Regards,



Christine Lan  
Assistant CEQA Project Manager

November 19, 2018

Erin Strellich  
Dept. of City Planning  
221 N. Figueroa Street, Suite 1350  
Los Angeles, CA 90012  
Email: [erin.strellich@lacity.org](mailto:erin.strellich@lacity.org)

Re: *Comments on Revised Draft Environmental Impact Report, Landmark Apartments Project* (State Clearinghouse #2014031014)

Dear Ms. Strellich:

This is to provide comments on behalf of the Golden State Environmental Justice Alliance ("GSEJA") regarding the proposed Landmark Apartments Project ("the Project") Recirculated Energy Analysis ("the RDEIR"). The Project is located at 11750 – 11770 Wilshire Boulevard in the City of Los Angeles.

The RDEIR states that its revised analysis is pursuant to CEQA Guidelines section 15088.5. While section 15088.5 is explicitly focused on recirculation prior to certification, we will presume it provides the applicable standard upon recirculation in response to a court order. That said, we disagree that either of the RDEIR's "Thresholds of Significance" comply with those required for energy analysis under Appendix F of the CEQA Guidelines or the two most recent published cases addressing the subject, *Cal. Clean Energy Comm. v. City of Woodland* ("CCEC") (2014) 225 Cal. App. 4th 173, and *Ukiah Citizens for Safety First v. City of Ukiah* ("Ukiah Citizens") (2016) 248 Cal. App. 4th 256, and we respectfully submit the City's analysis is inadequate.

*The CEQA Guidelines and Appendix F*

As the Office of Planning and Research ("OPR"), responsible for issuing the CEQA Guidelines, recently reiterated, "CEQA has required the analysis of a project's energy since the 1970s." See Office of Planning and Research, *Thematic Responses to Comments* (Nov. 2017) at 3 (under "Energy Impacts") (addressing proposed revisions to the CEQA Guidelines, proposing to specifically require energy impacts analysis in revised Guidelines section 15126.2(b)), see also Pub. Res. Code § 21100(b)(3).

While Public Resources Code section 21100(b)(3) does require mitigation measures “to reduce the wasteful, inefficient, and unnecessary consumption of energy,” *see also* Pub. Res. Code § 25402 (enabling legislation for the California Energy Commission, providing that the Commission’s goal is “to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy”), this does not provide the CEQA standard. Rather, as both CCEC and *Ukiah Citizens* make clear, something more is required. CCEC, 225 Cal. App. 4th at 211, *Ukiah Citizens*, 248 Cal. App. 4th at 265 (both concluding that mere demonstration of compliance with building code requirements was not sufficient).

CEQA Guidelines Appendix F, adopted by OPR pursuant to Pub. Res. Code sections 21100(b)(3), 21083 and 21087, makes clear that the goal of energy analysis under CEQA is actually the “wise and efficient use of energy,” CEQA Guidelines, Appendix F, Section I, which is to be achieved by

- (1) decreasing overall per capita energy consumption,
- (2) decreasing reliance on fossil fuels such as coal, natural gas and oil, and
- (3) increasing reliance on renewable energy sources.

*Id.* (emphasis supplied). As OPR’s proposed amendments to the CEQA Guidelines make clear, it is this higher standard which EIRs must reckon with in assessing energy impacts. *See* OPR, Proposed 15-Day Revisions to CEQA Guidelines (July 2, 2018) at 63 (providing proposed revision to Guidelines Appendix G inquiring whether the project will “conflict with or obstruct a state or local plan for renewable energy or energy efficiency”). Among the state plans for energy efficiency that the RDEIR should have considered along these lines are:

- SB 350, requiring a doubling of energy efficiency from buildings by 2030.
- SB 32, requiring a statewide reduction in GHG emissions to 40% below 1990 levels by 2030.
- Executive Order B-55-18, establishing a statewide goal of carbon neutrality by 2045.
- The 2017 California Air Resources Board Scoping Plan, calling for reductions in GHG emissions from the transportation sector of 27-32% by 2030.<sup>1</sup>

#### The RDEIR’s Thresholds and Factors

The RDEIR failed to assess the Project’s ability to comply with the above-noted standards, and instead provided two significantly more lenient tests:

1. If the Project “would result in an increase in demand for electricity or natural gas or other sources of energy that exceed available supply or distribution infrastructure capabilities that could result in the construction of new energy facilities or expansion of existing facilities, the construction of which could cause significant environmental effects,”

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<sup>1</sup> *See* California Air Resources Board, *California’s 2017 Climate Change Scoping Plan* at 31 (Table 3).

2. If the Project “would cause wasteful, inefficient, and unnecessary consumption of energy.”

As discussed above, neither of these standards reflects the state of the law under CEQA. The first standard appears to require that the Project actually require its own distribution infrastructure, which is clearly not the intent of Appendix F, and the second is simply way too lenient.

The RDEIR also sets out a number of criteria it acknowledges as relevant to complying with the above two thresholds. These criteria appear to be largely drawn from Appendix F, Section II.C, as well as the City of Los Angeles’ 2006 *CEQA Thresholds Guide*. As the RDEIR tacitly acknowledges, the *CEQA Thresholds Guide* is out of date relative to Appendix F, and it therefore does not on the whole shed a lot of light on whether the Project has or does not have significant energy impacts, except that (1) the *Thresholds Guide* does ask whether the Project would conflict with adopted energy conservation plans, a question that has to be answered in the affirmative, and (2) the *Thresholds Guide* does recommend the use of solar water heating for swimming pools, a measure which the City does not appear to consider.

#### *The RDEIR’s Identification of Project Design Features*

The RDEIR sets forth several “Project Design Features” which the City appears to be arguing should support a conclusion that the Project has done more than simply complying with existing Codes relating to energy efficiency. The first two of these are highly misleading:

- Project Design Feature C-1 provides that the Project will comply with the U.S. Green Building Council’s LEED-CS or LEED-NC rating system as of *January 1, 2011*. In other words, the building would comply with LEED v3, or LEED 2009. Since this Project was not approved until February 14, 2017 (prior to the decertification of the original EIR by the Court in June of 2018), it should comply with LEED v4, which became effective in October of 2016. We’ve conferred with an architecture firm proficient in the LEED standards and they’ve confirmed that this Project is not doing near what it could be doing to comply with green building standards.
- Project Design Feature C-2 provides that there will be no “hearths” in residences. We find it highly unlikely that the Project as originally designed ever had hearths, and hearths are highly uncommon in apartments in the Los Angeles region as a whole. In other words, the applicant is taking credit for not doing something it never planned to do to begin with, and the credit is illusory.

We do acknowledge that the applicant is doing more than is required under the Los Angeles Building Code with respect to car charging, though we think both the Los Angeles Building Code and Title 24 are out of date in this regard.

Change to the Project Should Be Fully Analyzed

Appendix B to the RDEIR discloses for the first time that the Project will involve a 5,140-square-foot "strip mall" in addition to the residential use. This new component of the Project was never analyzed and represents significant new information requiring further review under CEQA.

Analysis of Compliance with Threshold 1

Threshold 1 provides a ridiculously lenient standard. It provides the public no meaningful information to simply state, as the RDEIR does, that the Project would not require construction of new energy facilities because it would only result in consumption of 0.04 percent of the Department of Water and Power's ("DWP's") peak load for electricity, or that the Project would only use 0.0005 percent of the County's gas and diesel usage for 2017 annually. One would not *expect* different statistics for a single apartment building use, and this doesn't respond to the question of whether the use of energy as proposed under the Project is wise and efficient as Appendix F concludes it should be.

The RDEIR also attempts to assess the Project's energy use by comparing it to the "former" supermarket use on the site, asserting that there would supposedly be a "net reduction" in electricity use of 81,020 KWh per year. As with greenhouse gas analysis, however, energy analysis should recognize the overall "big picture" and acknowledge that the supermarket that used to be onsite probably moved elsewhere rather than closing. *See* OPR, Final Statement of Reasons for Regulatory Action: Amendments to the State CEQA Guidelines Addressing Analysis and Mitigation of Greenhouse Gas Emissions Pursuant to SB97 (Dec. 2009) at 83-84. Therefore, it is not appropriate to assume energy use has been reduced overall just because the supermarket is no longer on the site. The DEIR should not take credit for extinguishing the supermarket use, and there therefore is no "net reduction."

Analysis of Compliance with Threshold 2

With respect to construction, the RDEIR asserts that construction would constitute a fraction of the energy demand posed by the "former" supermarket; as discussed above, the supermarket should not be netted against the proposed use. The RDEIR then asserts that construction lighting would not be of concern because it would comply with Title 24. As noted above, at least two cases make clear that mere compliance with Title 24 is not sufficient under Appendix F either. For the same reasons, compliance with the CAFÉ standards, which are applicable to all on-road vehicles in the U.S., also is not enough.

With respect to electricity for operation, the RDEIR makes about five arguments, none of which are sufficient:

1. The Project would comply with the Green Building Code for Los Angeles, including CALGreen. This is insufficient under *Ukiah Citizens* and CCEC.
2. The Project would implement PDF C-1, compliance with LEED Silver certification. However, the Project would *not* comply with LEED Silver as it now exists; this is a misstatement. The RDEIR claims this would include Energy Star labeled "appliances" "where appropriate," but this isn't identified, and we understand from other filings the applicant has done with the City that this means simply dishwashers, "where appropriate," whatever that means. The RDEIR also asserts that this "certification" would provide for passive energy strategies and implementation of water conservation features, but we do not know enough about what these entail to make a meaningful evaluation of whether they add anything. Title 24 and CALGreen impose as a matter of law a number of measures which would be credited under LEED v3, *see* LEED Interpretation 10480 (July 2, 2018), and this is not enough under the above two mentioned cases. We also need to point out that SB 350 requires the California Energy Commission to double energy efficiency from new and existing buildings by 2030. This means that the building(s) are subject to a more stringent standard than the RDEIR has acknowledged.
3. DWP is required to procure at least 33 percent of its energy portfolio from renewable sources by 2020 and it was at 29 percent as of 2017. However, this is an existing "requirement" applicable to all DWP users.
4. The Project will comply with Title 24. Again, this is not enough.
5. At 18-19 the RDEIR asserts that the roof would specifically include "2,700 square feet of solar panels." This contention is refuted elsewhere in the document itself. *See* RDEIR at 21. This leaves the public confused as to what the City is actually doing and is inadequate under CEQA.

With respect to natural gas, the RDEIR asserts that the use is not inefficient or wasteful (again, this is the wrong standard) because, supposedly:

1. The Project would have to be capable of LEED Silver certification – it won't be.
2. PDF C-2 would prohibit hearths in residences, but it is absurd to suggest that they would have been there to begin with.
3. There would be an 8% reduction in natural gas usage associated with new land uses, referring us to Table 3 on page 18. The only percentage reduction we can anticipate from this Table would be due to the nonexistent "Silver certification" or to the "elimination" of hearths.

Finally, concerning Project operation and transportation fuels, mere compliance with the CAFÉ standards or the Pavley standards is not sufficient as this is true for every car in the U.S. or California. While we are relieved that there will be some plug-in spaces, there should be more than 5% at buildout.

Erin Strellich, Dept. of City Planning

November 19, 2018

Page 6

Effects of the Project on Energy Resources

While the RDEIR claims that there is enough natural gas for 80 years of consumption in the U.S. (at 2015 rates) and enough oil for 50 years of consumption, apparently worldwide, this completely ignores what it will do to the planet if this consumption occurs. The RDEIR is therefore incredibly misleading in making these benign claims.

The RDEIR further refutes here that it will install solar power generation, as is previously asserted in the document. While it may be true that the area for solar panel installation is small relative to the overall consumption anticipated for the Project, it is still viable to install some. Additionally, it would be possible to install solar heating for the pool, as is recommended by the *CEQA Thresholds Guide*.

Analysis in Appendix B

As noted previously, netting out the supermarket use (particularly for a supermarket that ceased operations in March, 2013) is inappropriate given that the supermarket likely was replaced by another one off the site, and one of the mandates of Appendix F is to reduce "overall per capita energy consumption."

We also note that the projected vehicle miles traveled ("VMT") for the office use is different for the Project than for the pre-Project condition, with that VMT skewing downward in the Project condition without any apparent reason why the two figures would be different.

Thank you for the opportunity to comment on this Project. We hereby request notice of the issuance of any Final RDEIR pursuant to Public Resources Code sections 21092 and 21092.2 to [bentley@blumcollins.com](mailto:bentley@blumcollins.com) and [collins@blumcollins.com](mailto:collins@blumcollins.com).

Sincerely,



Hannah Bentley, APC

cc: Anna C. Shimko  
Damon P. Mamalakis

[ashimko@bwslaw.com](mailto:ashimko@bwslaw.com)  
[damon@agd-landuse.com](mailto:damon@agd-landuse.com)



## GABRIELEÑO BAND OF MISSION INDIANS - KIZH NATION

Historically known as The San Gabriel Band of Mission Indians / Gabrielino Tribal Council  
recognized by the State of California as the aboriginal tribe of the Los Angeles basin

City of Los Angeles  
221 North Figueroa St, Suite 1350  
Los Angeles, CA 90012

October 22, 2018

Re: AB52 Consultation request for the Landmark Apartments Project

Dear Erin Strelch,

Please find this letter as a written request for consultation regarding the above-mentioned project pursuant to Public Resources Code § 21080.3.1, subd. (d). Your project lies within our ancestral tribal territory, meaning belonging to or inherited from, which is a higher degree of kinship than traditional or cultural affiliation. Your project is located within a sensitive area and may cause a substantial adverse change in the significance of our tribal cultural resources. Most often, a records search for our tribal cultural resources will result in a "no records found" for the project area. The Native American Heritage Commission (NAHC), ethnographers, historians, and professional archaeologists can only provide limited information that has been previously documented about California Native Tribes. For this reason, the NAHC will always refer the lead agency to the respective Native American Tribe of the area. The NAHC is only aware of general information and are not the experts on each California Tribe. Our Elder Committee & tribal historians are the experts for our Tribe and can provide a more complete history (both written and oral) regarding the location of historic villages, trade routes, cemeteries and sacred/religious sites in the project area.

Additionally, CEQA now defines Tribal Cultural Resources (TCRs) as their own independent element separate from archaeological resources. Environmental documents shall now address a separate Tribal Cultural Resource section which includes a thorough analysis of the impacts to only Tribal Cultural Resources (TCRs) and includes independent mitigation measures created with Tribal input during AB-52 consultations. As a result, all mitigation measures, conditions of approval and agreements regarding TCRs (i.e. prehistoric resources) shall be handled solely with the Tribal Government and not through an Environmental/Archaeological firm.

In effort to avoid adverse effects to our tribal cultural resources, we would like to consult with you and your staff to provide you with a more complete understanding of the prehistoric use(s) of the project area and the potential risks for causing a substantial adverse change to the significance of our tribal cultural resources.

Consultation appointments are available on Wednesdays and Thursdays at our offices at 910 N. Citrus Ave. Covina, CA 91722 or over the phone. Please call toll free 1-844-390-0787 or email [admin@gabrielenoindians.org](mailto:admin@gabrielenoindians.org) to schedule an appointment.

*\*\* Prior to the first consultation with our Tribe, we ask all those individuals participating in the consultation to view a video produced and provided by CalEPA and the NAHC for sensitivity and understanding of AB52. You can view their videos at: <http://calepa.ca.gov/Tribal/Training/> or <http://nahc.ca.gov/2015/12/ab-52-tribal-training/>*

With Respect,

Andrew Salas, Chairman

Andrew Salas, Chairman

Albert Perez, treasurer |

PO Box 393, Covina, CA 91723

Nadine Salas, Vice-Chairman

Martha Gonzalez Lemos, treasurer |

[www.gabrielenoindians.org](http://www.gabrielenoindians.org)

Christina Swindall Martinez, secretary

Richard Gradias, Chairman of the Council of Elders

[gabrielenoindians@yahoo.com](mailto:gabrielenoindians@yahoo.com)

# Original People of Los Angeles County



Map of territories of Original Peoples with county boundaries in Southern California.

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From: **Su Lert** <[sulert@aol.com](mailto:sulert@aol.com)>  
Date: Sun, Nov 18, 2018 at 5:40 PM  
Subject: Comment on Case No. ENV-2013-3747-EIR  
To: <[erin.strelich@lacity.org](mailto:erin.strelich@lacity.org)>

Dear Ms. Erin Strelch:

In reference to Environmental Case No. ENV-2013-3747-EIR, I've reviewed the Recirculated Energy Analysis for the Landmark Apartments Project's operational energy usage and its impact. Despite the best attempt, my lack of knowledge in environmental energy does not permit me to opine either positively or negatively.

In good faith, I'll put my trust in the City to look out for us--all local residents affected by this project. I sincerely hope the real outcome of the energy usage and its impact on our community will go accordingly to the final approved EIR. Should it does not--I also hope--the City has a provision to rectify it.

If there is any other viewpoint regarding the Landmark Project you might want to know, please do not hesitate to contact me.

Thank you very much for reaching out to us.

Sincerely,

Su Lertwongkanakool  
1234 Granville Avenue #1  
Los Angeles, CA 90025