DEPARTMENT OF CITY PLANNING

COMMISSION OFFICE
(213) 978-1300

CITY PLANNING COMMISSION

SAMANTHA MILLMAN
PRESIDENT

VAHID KHORSAND
VICE-PRESIDENT

DAVID H. J. AMBROZ
CAROLINE CHOE
HELEN LEUNG
KAREN MACK
DANA M. PERLMAN
YVETTE LOPEZ-LEDESMA

CITY OF LOS ANGELES
CALIFORNIA

ERIC GARCETTI
MAYOR

EXECUTIVE OFFICES
200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801
(213) 978-1271

VINCENT P. BERTONI, AICP
DIRECTOR

KEVIN J. KELLER, AICP
EXECUTIVE OFFICER

SHANA M.M. BONSTIN
DEPUTY DIRECTOR

ARTHI L. VARMA, AICP
DEPUTY DIRECTOR

LISA M. WEBBER, AICP
DEPUTY DIRECTOR

VACANT
DEPUTY DIRECTOR

November 19, 2020

Councilmember Marqueece Harris-Dawson, Chair
Councilmember Bob Blumenfield
Councilmember Gilbert Cedillo
Councilmember John Lee
Councilmember Curren D. Price
Planning and Land Use Management (PLUM) Committee

c/o Office of the City Clerk
Los Angeles City Hall, Room 395
Los Angeles, California 90012

Re: CF 20-1383
VTT-73718-2A
ENV-2014-4706-EIR

Dear Honorable Members of the PLUM Committee:

On October 2, 2020, the City Planning Commission (CPC) denied appeals and sustained actions of the Advisory Agency approved a Vesting Tentative Tract Map (VTT-73718) in connection with the 6220 Yucca Project (Project) proposal. The Project involves the construction and operation of a mixed-use development, with up to 316,948 square feet of floor area, within a new 30-story tower (Building 1) and two existing one- and two-story single-family buildings (1765 and 1771 Vista Del Mar Avenue) on an approximately 1.16-acre (net area) site. Building 1 would include up to 269 multi-family residential units (17 of which would be set aside for Very Low Income households) and approximately 7,760 square feet of commercial/restaurant uses. The residence at 1771 Vista Del Mar Avenue would remain as a single-family use and the residence at 1765 Vista Del Mar Avenue, which currently contains three residential units, will be restored and converted back to a single-family use. Five levels of subterranean and above-ground automobile parking would be located within the podium structure of Building 1 and surface parking would be provided for the two single-family residences. Four existing residential buildings containing 40 residential units would be removed from the Project Site. The Project is an Environmental Leadership Development Project (ELDP). In order to develop the project, the applicant also requested related land use entitlements from the City under related Case No. CPC-2014-4705-ZC-HD-DB-MCUP-CU-SPR.

On October 9, 2020, an appeal was filed by Kate Unger on behalf of AIDS Healthcare Foundation from the entirety of the Commission's decision. This report serves to respond to the points raised in the appeal.

Project Background

On August 19, 2020, a joint public hearing was held to consider the entitlement requests for the 6220 Yucca Project, which included entitlements under CPC-2014-4705-ZC-HD-DB-MCUP-CU-SPR, as well as the related Vesting Tentative Tract Map (VTT-73718). In its August 19, 2020 decision, the Advisory Agency approved the project and adopted findings relating to the certification of the Environmental Impact Report (EIR), and approved a Vesting Tentative Tract Map for the merger and resubdivision of four lots into one master ground lot for condominium purposes and five airspace lots on an approximately .90-acre (39,375 square foot) portion of the overall 1.16-acre site, and a Haul Route for the export of 23,833 cubic yards of soil.

Three separate appeals were filed in a timely manner on September 1 and September 2, 2020. The appeals were filed by LA Tenants Union, AIDS Healthcare Foundation, and J.H.McQuiston.

The Department of City Planning responded to the appeals (VTT-73718-1A) in an Appeal Response Recommendation Report. The Appeal Response Recommendation Report and associated documents were presented to the City Planning Commission at its meeting on September 24, 2020. On October 2, 2020, the City Planning Commission, following its consideration of the materials before them during the hearing of September 24, 2020, issued its determination to deny the appeals, thereby sustaining the actions of the Advisory Agency in certifying the EIR and approving the Vesting Tentative Tract Map. The City Planning Commission also issued its determination for the related case for the project, approving the environmental clearance, recommending that the City Council approve the Zone Change and Height District Change requests, and approving a Density Bonus Compliance Review, a Master Conditional Use permit for alcohol sales, a Conditional Use to allow live entertainment and dancing, and a Site Plan Review for the Project.

On October 9, 2020, a second-level appeal was filed by Kate Unger on behalf of AIDS Healthcare Foundation on VTT-73718-1A. The appeal again claimed that the Project EIR failed to comply with CEQA and that proper entitlement findings could not be made. In addition, on October 15, 2020, an appeal was filed by Susan Hunter on behalf of the LA Tenants Union – Hollywood Local and the Yucca Argyle Tenants Association, and on October 23, 2020 an appeal was filed by J.H. McQuiston, both on CPC-2014-4705-ZC-HD-DB-MCUP-CU-SPR. Both the Tract Map appeal (Council File 20-1383) and CPC case appeal (Council File 20-1383-S1) will be heard by the Planning and Land Use Management (PLUM) Committee of the City Council on December 3, 2020.

The following represents a summary and response to the Vesting Tentative Tract Map appeal filed on October 9, 2020:

APPELLANT: KATE UNGER, AIDS HEALTHCARE FOUNDATION (AHF)

Summary of Appeal Points

- *Demolition of rent-controlled housing, tenant displacement*
- *Failure to meet required Subdivision Map Act findings for General Plan Consistency and Passive or Natural Heating and Cooling*
- *Inadequate analysis of Air-quality, GHG, Noise, Cultural Resources, Hazardous Materials, Land Use, and Transportation impacts*
- *Improper labeling of some Mitigation Measures as Project Design Features*

The appeal points listed above restate the same points from the appellant's previous public comments regarding the Project and are nearly identical to its appeal of the Project's tract map,

dated September 2, 2020. The appellant provides no new information or substantial evidence regarding these appeal points to dispute the City's EIR and findings. Moreover, these appeal points were addressed in detail in the Final EIR response to the Appellant's comment letter (Comment Letter No. ORG 5) and in the September 24, 2020 Appeal Response Recommendation Report (September Appeal Report), which is included in Council File 20-1383. A summarized version of the appeal points and Staff responses are included below.

Appeal Point 1:

The Appellant asserts that the Project's 252 multi-family units that would not be covenanted to be affordable to very low-income households and would be market-rate units, and that the Project would demolish affordable multi-family RSO units and displace their occupants.

Response to Appeal Point 1:

The existing units at the Project Site that would be demolished are RSO units, not "affordable units," as claimed by the Appellant. Affordable units are units covenanted to be affordable to households of moderate, low-, or very-low income levels as defined in the applicable statutes (See Gov't Code §§ 65915; Health & Safety Code §§ 50105, 50079.5, 50093). The Project's 252 RSO units are not covenanted to be affordable, and could be rented pursuant to RSO regulations. Further, the Project's potential impacts on housing, including displacement, are analyzed in Section IV.J, *Population and Housing*, of the Draft EIR and in the Final EIR in Chapter 3, *Revisions, Clarification and Corrections*, in Section 3 on pages 3-43 and 3-44. The EIR concludes, based on substantial evidence, that because the Project would result in a net increase in housing units, it would have a less than significant impact on housing and would not displace substantial numbers of existing people or housing and thereby create the need for the construction of housing elsewhere. Therefore the appeal point should be denied.

The Appellant's claims raised in this appeal point are identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to AHF Appeal Point 1* on p. A-9 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

Appeal Point 2:

The Appellant states that it is opposed to demolishing RSO housing, that new RSO units cannot be developed once existing RSO units have been demolished, and that the Applicant should find another site for the Project where RSO units would not have to be demolished.

Response to Appeal Point 2:

The Project would replace the existing 43 RSO units with 252 RSO units and 17 multi-family units covenanted for Very Low-Income households. Under the section of LAMC Section 151.28.A that applies to the Project, since the Applicant is removing 43 current RSO units from the market, the Applicant can either replace those 43 RSO with an equal number of covenanted affordable units on-site or 20 percent of the units, whichever is less, or, alternatively, can apply the RSO to all new Project rental units other than covenanted affordable units. This applies if the replacement units are offered for rent or lease within 5 years of the filing of the Notice of Intent to Withdraw per 15.128 of the Los Angeles Municipal Code (LAMC). Therefore, the Project would result in a net increase of 209 RSO units and an increase of 17 covenanted affordable units.

The Appellant also states that another site should be located for the Project, or that RSO units should not be demolished. However, these suggestions for alternatives to the Project have been

demonstrated to be infeasible in the EIR analysis. CEQA requires that an EIR analyze a reasonable range of feasible alternatives that could substantially reduce or avoid the significant impacts of a project while also meeting the project's basic objectives. An EIR must identify ways to substantially reduce or avoid the significant effects that a project may have on the environment (PRC § 21002.1). The EIR considered and rejected an alternative for off-site development of the project (Draft EIR, Section V. Alternatives, pages 6-7). Due to the improbability of finding an equivalent location that could meet the Project's objectives related to size, density, and proximity to transit in the Hollywood Community, and competition for such locations, it is not expected that the acquisition of an equivalent off-site location would be feasible. Also, because of the objective for proximity to the Metro Station in the context of the area's dense urban character and growth, it is expected that an alternative location that would also be near other residential uses and, thus, result in similar significant construction noise and vibration impacts as at the Project Site. It is not expected that an alternative location would avoid or reduce to less than significant levels the Project's significant and unavoidable construction impacts. Therefore, the development of the Project at an off-site location would not be feasible based on CEQA criteria and an off-site location not given further consideration as a Project Alternative.

The Alternatives analysis also considered a project scenario where the existing RSO units would not be demolished. Under the No Project/No Build Alternative, no new development would occur on the Project Site, and the existing uses at the Project Site would continue to operate in their current state. Thus, the physical conditions of the Project Site would remain exactly as they are today. With this Alternative, all of the environmental impacts projected to occur from the development of the Project would be avoided. Therefore, this Alternative would be environmentally superior to the Project. However, the No Project/No Build Alternative would not realize any of the Project objectives. Although the No Project/No Build Alternative would have fewer impacts than the Project, because this Alternative would not include a development program, it would not contribute to growth and development within the Hollywood Community and therefore, it would not satisfy any of the Project Objectives. In addition, this Alternative would not provide certain benefits associated with the Project, including the development of additional housing units, creation of new employment opportunities, enhancement of the property and community, or implementation of energy efficiency, energy conservation, or water quality measures. Therefore, for the reasons stated above, this Alternative is infeasible and has been rejected.

The site is fully developed with existing buildings and therefore, would not allow any development to occur on the site without first demolishing the existing buildings. As a result, there is no feasible method of developing the site with an additional substantial amount of units while retaining the existing RSO units. Without the demolition of the existing RSO units, the Project would not be able to contribute to a net increase of 209 RSO units and a net increase of 17 covenanted affordable units at the Project Site, in the Hollywood Community and in the City, all of which would substantially benefit City residents.

The Appellant has failed to demonstrate how the City has erred or abused its discretion in certifying the EIR and approving the tract map and therefore the appeal point should be denied.

The Appellant's statements with respect to this appeal point are identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to AHF Appeal Point 6* on p. A-11 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

Appeal Point 3:

The Appellant asserts that although the existing units are not covenanted affordable units, they are in fact affordable units, in that working-class households can afford to live in them as a result of the RSO's protections, and that the Project would result in a loss of these affordable RSO units and would replace them with mostly market-rate units.

Response to Appeal Point 3:

The Project's replacement of the 43 existing RSO units with 252 RSO units and 17 units covenanted to be affordable to very low-income households fully complies with the City's RSO. The Project would result in a net increase of 209 RSO units and a net increase of 17 covenanted affordable units at the Project Site, in the Hollywood Community and in the City – both increases substantially benefit City residents.

As part of the Project, under Condition 14(d) of CPC-2014-4705-ZC-HD-DB-MCUP-CU-SPR, existing tenants will be offered the ability to return to a comparable unit within the project; and, during construction of the project, funding of the difference in rent of a comparably-sized unit between the tenant's rental rate immediately prior to the demolition of the building and the tenant's new rental rate, until the ability to return, if accepted, is exercised. Therefore, the Project's new units will be affordable to existing tenants should the tenant enter into a right-of-return agreement with the developer and should they wish to continue to live at the Project Site once the Project is built. The Appellant has failed to demonstrate how the Commission erred or abused its discretion in approving the Project and the appeal point should be denied.

The Appellant's claims with respect to this appeal point are similar to those previously raised by the Appellant in the appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to AHF Appeal Point 1* on p. A-9 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

Appeal Point 4:

The Appellant states that the Project's 17 covenanted affordable units should be provided in addition to the units provided to the existing tenants under the Project's offer to the existing tenants to return to a comparable unit in the Project once occupied, so that the Project would result in a net increase in units on the site that are affordable.

Response to Appeal Point 4

Affordable units are units covenanted to be affordable to households of moderate, low-, or very-low income levels as defined in the applicable statutes (See Gov't Code §§ 65915; Health & Safety Code §§ 50105, 50079.5, 50093). Currently, there are no affordable units at the Project Site. The Project would include 17 units covenanted for Very Low-Income households. Therefore, the Project would result in a net increase in affordable units and the appeal point has failed to demonstrate how the Commission erred or abused its discretion in making its decision to approve the Project..

The Appellant's statements with respect to this appeal point are virtually identical to those previously raised by the Appellant in the appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to AHF Appeal Point 7* on p. A-12 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

Appeal Point 5:

The Appellant asserts that a loss of affordable housing or an increase in rents, may result in displacement or homelessness for existing tenants, which is an environmental impact under CEQA, in that it is a change in the physical environment because, for example, homelessness can impact sanitation, human health, and water quality. The Appellant asserts that, under CEQA, the EIR was required to analyze the Project's potential to create significant impacts related to displacement and homelessness, but failed to do so.

Response to Appeal Point 5:

The Appellant's assertion that the Project could result in the existing tenants becoming homeless is not supported by facts, but rather constitutes "[a]rgument, speculation, [and] unsupported opinion and narrative," not substantial evidence. (CEQA Guidelines §§ 15064(f)(5), 15384(a).) The claim that the Project allegedly causing homelessness would lead to impacts on health, sanitation and water quality is equally speculative, based on unsupported opinion, and relies on a chain of causation that is far too uncertain and attenuated to require analysis under CEQA. (CEQA Guidelines, 15064(d)(3).)

Further, the Appellant's claim that homelessness is an environmental impact under CEQA is not supported by any citation to authority. The Project's potential impacts on housing, including displacement, are analyzed in Section IV.J, *Population and Housing*, of the Draft EIR and in the Final EIR in Chapter 3, *Revisions, Clarification and Corrections*, in Section 3 on pages 3-43 and 3-44. The EIR concludes that, because the Project would result in a net increase in housing units, it would have a less than significant impact on housing, and would not displace substantial numbers of existing people or housing necessitating the construction of housing elsewhere. As such, the appeal point should be denied.

The Appellant's claims with respect to this appeal point are virtually identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to AHF Appeal Point 9* on pp. A-12 and A-13 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

Appeal Point 6:

The Appellant states that the Project's offer to existing tenants of the existing RSO units at the Project Site to return to comparable units in the Project at their last year's rent as set forth in the EIR will be illusory unless it is fully enforceable by the tenants and the City. The Appellant further asserts that although the City Planning Commission added a qualified condition of approval (Q Condition 14d) in the Project's related case that purports to protect the right of tenants to return to a comparable unit in the Project, that condition does not sufficiently protect the right because it relies on individual tenants' ability to negotiate an individual agreement with a sophisticated project developer and to enforce that agreement in the event of a breach.

Response to Appeal Point 6:

The Appellant has only appealed the City Planning Commission's decision in sustaining the Deputy Advisory Agency's approval of Vesting Tentative Tract Map 73718-1A and its certification of the Project's EIR and adoption of the CEQA Findings, Statement of Overriding Considerations and Mitigation Monitoring Program. The Q Condition 14d is one of the conditions under consideration by the City Council in the related Zone Change request for Case No. CPC-2014-

4705-ZC-HD-CB-MCUP-CU-SPR and cannot be modified through the appeal to the Tentative Tract Map

For informational purposes, only, however, it should be noted that there is no State or local regulation which requires the right-to-return for RSO tenants. As the Applicant has nonetheless offered to make a good-faith effort to provide a right-of-return program, Q Condition 14d is included as a recommended condition of approval to the related Zone Change entitlement, This condition only requires the Applicant to provide the City with proof that agreements compliant with the terms of the Condition were *offered* to tenants, and that such agreements were signed or some explanation as to why they were not signed, and that such proof be provided prior to and as a condition of obtaining permits for the Project. Further, the City would not be a party to the private agreement covered by Q Condition 14d, and the condition only specifically mandates the following terms, including: (1) the tenant's ability to return to a comparable unit at the Project, when and if constructed, and (2) during construction of the Project, the Applicant's provision of monetary compensation to each tenant who accepts a unit in the Project, once built, representing the difference in rent between the tenant's current rent and new rent until the ability to return is exercised.

Q Condition 14d does not guarantee or agree to provide housing to any tenant at the Project Site or elsewhere during Project construction. Further, Q Condition 14d also does not prohibit the Applicant from exercising its rights under the California Ellis Act and the RSO to evict tenants from the existing residential units at the Project Site prior to the commencement of construction activities. In accordance with the Project as proposed, the existing apartment buildings on the Project Site must be demolished in order for the Project to be constructed. Accordingly, all apartment tenants must vacate their current residences at the Project Site prior to the commencement of construction activities. Consequently, any tenants who do not voluntarily vacate their current units would be subject to future eviction under the Ellis Act and the RSO. Notably, the Applicant would be responsible for ensuring that such evictions comply with all applicable legal requirements, including the Ellis Act and the RSO.

Moreover, Appellant's opinions regarding the Project's offer to return to the existing tenants do not constitute substantial evidence and are not supported by any facts or evidence, but merely constitute "[a]rgument, speculation, [and] unsupported opinion and narrative." (CEQA Guidelines §§ 15064(f)(5), 15384(a).) The Appellant's opinions regarding the Project do not raise any issue with respect to the content or adequacy of the EIR or the Project's potential environmental effects, do not identify any specific deficiency in the information, facts, or analysis in the EIR, and do not identify any abuse of discretion on the party of the City Planning Commission. As such, the appeal point should be denied.

The Appellant made this same comment on the Draft EIR, to which the City responded in the Final EIR; see Comment No. ORG 5-4 and Response to Comment No. ORG 5-4 in Chapter 2, *Responses to Comments*, in the Final EIR. The Appellant's claims with respect to this appeal point are also virtually identical to those previously raised by the Appellant in the appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to AHF Appeal Point 11* on p. A-13 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

Appeal Point 7:

The Appellant asserts that the relocation assistance afforded to existing tenants at the Project Site under the RSO may not be sufficient to pay for those tenants' rent until Project construction is complete, and that, as a result, the tenants may be evicted and become homeless.

Response to Appeal Point 7:

The Appellant's assertion that the existing tenants could become homeless constitutes "[a]rgument, speculation, [and] unsubstantiated opinion and narrative," not substantial evidence. (CEQA Guidelines §§ 15064(f)(5), 15384(a).) Further, the Appellant's speculation that the current tenants could become homeless in the future does not raise an environmental issue under CEQA, does not raise any specific issue with respect to the content or adequacy of the EIR or the Project's potential environmental effects, does not identify any specific deficiency in the information, facts, or analysis in the EIR, and does not identify any abuse of discretion on the party of the City Planning Commission, and therefore should be denied.

The Appellant's claims with respect to this appeal point are identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to AHF Appeal Point 13* on p. A-14 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

Appeal Point 8:

While acknowledging the potential factors that can affect a construction schedule, the Appellant asserts that the EIR contains too little information regarding the Project's proposed construction schedule to enable the EIR to engage in a sufficient analysis of the potential for the length of Project's construction period to create significant impacts related to homelessness.

Response to Appeal Point 8:

The Final EIR estimates that construction of the Project would require approximately two years, and further detail regarding construction of the Project is provided in each environmental topic area. (See Chapter 3, *Revisions, Clarifications and Corrections*, page 3-28.) The Appellant's assertion that the length of Project construction could create a risk of homelessness constitutes speculation, not substantial evidence, and is not an environmental issue under CEQA. (CEQA Guidelines §§ 15064(f)(5), 15384(a).) Further, the Appellant does not offer any facts or evidence in support of its assertion that there is a direct link between the length of the Project's construction and the likelihood that existing tenants could become homeless, particularly since, as conditioned in Q Condition 14d under case CPC-2014-4705-ZC-HD-CB-MCUP-CU-SPR, for those existing tenants who accept the Applicant's offers of a new unit, the Project would fund the difference in rent between the tenants' current rent and new rent until the ability to return is exercised. Finally, the Appellant's comment does not raise any specific issue with respect to the content or adequacy of the EIR or the Project's potential environmental effects, does not identify any specific deficiency in the information, facts, or analysis in the EIR, and does not identify any abuse of discretion on the party of the Deputy Advisory Agency or the City Planning Commission. The appeal point should be denied.

The Appellant's claims with respect to this appeal point are identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to AHF Appeal Point 14* on pp. A-14 and A-15 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

Appeal Point 9:

The Appellant asserts that the City's finding that the design of the Project reflected in the tract map will provide, to the extent feasible, for future natural or passive heating or cooling opportunities in the subdivision, referencing Section 66473.1 of the Subdivision Map Act, is

conclusory, and not supported by evidence that the developer has made any attempt to maximize passive and natural heating or cooling opportunities in the Project. The Appellant asserts that the Subdivision Map Act requires that every feasible measure that will increase passive or natural cooling or heating be adopted, and that the City will violate the Subdivision Map Act if it approves the Project without evidence that such measures have been considered.

Response to Appeal Point 9:

Section 66473.1 requires only that, to the extent feasible, the design of a subdivision provide for future passive or natural heating and cooling opportunities in the subdivision. Section 66473.1 does not require that the map actually contain such design features. Design and improvement of a subdivision is defined by Section 66418 of the Subdivision Map Act and LAMC Section 17.02. Section 66418 of the Subdivision Map Act defines the term "design" as follows: "Design" means: (1) street alignments, grades and widths; (2) drainage and sanitary facilities and utilities, including alignments and grades thereof; (3) location and size of all required easements and rights-of-way; (4) fire roads and firebreaks; (5) lot size and configuration; (6) traffic access; (7) grading; (8) land to be dedicated for park or recreational purposes; and (9) such other specific physical requirements in the plan and configuration of the entire subdivision as may be necessary to ensure consistency with, or implementation of, the general plan or any applicable specific plan. Further, Section 66427 of the Subdivision Map Act expressly states that the "Design and location of buildings are not part of the map review process for condominium, community apartment or stock cooperative projects." The design features the Appellant describes are not the type of features that are incorporated into a tract map. Rather, they are generally developed after a project has been approved and is in the design phase. Further, the City's finding is supported by substantial evidence in the administrative record.

The Appellant's claims with respect to this appeal point are identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to AHF Appeal Point 3* on p. A-10 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

Appeal Point 10:

The Appellant claims that the EIR improperly relies on Project Design Features ("PDFs") to concludes that some of the Project's potential environmental impacts are not significant. The Appellant asserts that these conclusions violate CEQA because many of the PDFs are in fact mitigation measures because they reduce or eliminate the Project's impacts; therefore, the City was required to analyze the significance of the Project's potential impacts prior to identifying mitigation measures, citing CEQA Guidelines section 15126.4(a)(1)(B). The Appellant asserts that mischaracterizing these measures as PDFs interferes with the EIR's disclosure and analysis of the Project's environmental impacts.

Response to Appeal Point 10:

CEQA encourages a project applicant to *design* its project initially to avoid or reduce its impacts. (See CEQA Guidelines § 15002(a)(2).) All of the Project's PDFs are specific design and/or operational characteristics proposed by the Project Applicant and agreed to by the City that are incorporated into the Project to avoid or reduce its potential environmental effects. Therefore, by treating the Project's PDFs as design features of the Project, the EIR properly analyzes Project's impacts in accordance with CEQA. All the PDFs identified are fully disclosed in the EIR, and will be adopted as mandatory conditions of approval for the Project. The appellant does not demonstrate with substantial evidence how including these proposed measures as mandatory components of the Project's design and not mitigation measures conceals or otherwise prevents

the public and decisionmakers from understanding the Project and its impacts. The Appeal merely asserts in conclusory manner that such is the case, which is insufficient to demonstrate any violation of CEQA.

The Appellant's claims with respect to this appeal point are virtually identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to AHF Appeal Point 16* on pp. A-15 and A-16 and in *Supplemental Response No. 1 Related to Project Design Features and Mitigation Measures* of the Supplemental Responses provided in Appendix F of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

Appeal Point 11:

The Appellant disagrees with the EIR's conclusion that the Project's GHG impacts would be less than significant, based on the Appellant's assertion that the Project's GHG emissions would be cumulatively considerable based on a "lower threshold," and, therefore, the Project must adopt all feasible mitigation measures including the measures listed by Appellant. The Appellant restates its prior assertion that PDF-GHG-1 is a mitigation measure, not a project design feature, and therefore the EIR should have analyzed the Project's GHG impacts without the offsets referenced in PDF-GHG-1.

Response to Appeal Point 11:

The Appellant claims that CEQA mandates a different, and lower, threshold for determining whether a project's contribution to GHGs would be cumulatively considerable than for determining whether a project would have a significant impact on GHGs. The Appellant provides no support for this assertion, which is contrary to the provisions of CEQA Guidelines sections 15064(h), 15065(a)(3), 15131(a), and 15355. The assertion is further undermined by the California Supreme Court, which has explicitly recognized that GHG impacts are, by their nature, cumulative impacts, as individual projects do not likely singularly contribute to the global issue of Climate Change. (See *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal.4th 204, 2019.) The EIR contains substantial evidence supporting its conclusion that the Project's GHG emissions would not be cumulatively considerable based on qualitative thresholds. With respect to Appellant's claim that the EIR should have analyzed the Project's potential GHG impacts without taking PDF-GHG-1 into consideration, as discussed above in Response to Appeal Point 10, by treating the Project's PDFs as design features of the Project, the EIR properly analyzes the Project's potential impacts under CEQA. Finally, contrary to assertions made by the Appellant in support of its claim, the Draft EIR specifically discusses the Project's consistency with the 2017 Climate Change Scoping Plan on pages IV.F-55 through IV.F-66 of Section IV.F, *Greenhouse Gas Emissions*, of the Draft EIR, which provide substantial evidence supporting the EIR's conclusion that the Project would not conflict with applicable actions and strategies related to energy, mobile sources, water, solid waste, and other actions and strategies. As such, the appeal point should be denied.

The Appellant's claims with respect to this appeal point are identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to AHF Appeal Point 17* on pp. A-16 and A-17 and in *Supplemental Response No. 2 Related to Greenhouse Gas Emissions* of the Supplemental Responses provided in Appendix F of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

Appeal Point 12:

The Appellant asserts that the EIR does not properly analyze or mitigate the Project's operational air quality impacts because it assesses the Project's operational emissions assuming that PDF-AQ-1 is part of the Project, rather than a mitigation measure. Therefore, the Appellant concludes, the EIR fails to disclose the Project's actual operational air quality impacts. Additionally, the Appellant claims that the EIR fails to discuss or support its selection of significance thresholds, which Appellant claims violates CEQA Guidelines section 15064.7.

Response to Appeal Point 12:

As discussed above in Response to Appeal Point 10, PDF-AQ-1 is properly designated as a PDF, and the EIR properly analyzes the Project's impacts under CEQA by assuming that PDF-AQ-1 is a feature of the Project. Further, the EIR supports its selection of thresholds used in Section IV.B, *Air Quality*, of the Draft EIR with substantial evidence, and fully complies with CEQA Guidelines Section 15064.7. CEQA Guidelines Section 15064.7(b) provides that lead agencies have the discretion either to adopt thresholds of significance for general use, or to use thresholds on a case-by-case basis as provided in Section 15064(b)(2). Subsection (c) of Section 15064.7 provides that, when adopting or using thresholds of significance, lead agencies can consider thresholds of significance "previously adopted or recommended by other public agencies or recommended by experts," so long as their decisions are supported by substantial evidence. On pages IV.B-35 through IV.B-40 Section IV.B, *Air Quality*, the Draft EIR provides an extensive discussion of the thresholds of significance used to determine the Project's potential air quality impacts, where it explains why the thresholds are relevant and how they reduce the Project's impacts, as required by subsection (d) of Section 15064.7. The Draft EIR relies on air quality thresholds of significance supported by the regional air quality expert, the SCAQMD, as permitted by subsection (c) of CEQA Guidelines Section 15064.7 and explains each threshold and the reason for its use. As such, the Draft EIR fully complies with CEQA Guidelines Section 15064.7. The appeal point should be denied.

The Appellant's claims with respect to this appeal point are identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to AHF Appeal Point 18* on pp. A-17 and A-18 and in *Supplemental Response No. 3 Related to Operational Air Quality Impacts* of the Supplemental Responses provided in Appendix F of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

Appeal Point 13:

The Appellant asserts that the EIR's analysis of the Project's impacts to cultural resources, including historical resources, is inadequate based on the Appellant's disagreement with the EIR's conclusions that the Project would have less than significant impacts on the Vista del Mar/Carlos Historic District and that the Project would be compatible with the District's massing, size, scale, and architectural features and would protect the historic integrity of the District and its environment.

Response to Appeal Point 13:

The Appellant claims the EIR's analysis of the Project's impacts on the Vista del Mar/Carlos District is defective for several reasons, including: (1) it improperly concludes that 1765 N. Vista Del Mar is not a contributor to the Vista del Mar/Carlos District because the disqualifying alterations were made before the residence was identified as a contributor; (2) the analysis improperly conflicts with the City's 2010 and 2020 surveys identifying 14 contributors in the District

instead of 13; (3) the analysis does not consider the character of the District as a whole; (4) the conclusion that the Project would be compatible with the District's massing, size, scale, and architectural features and would protect the historic integrity of the District and its environment is conclusory and unsupported, citing page 3-35 of the Final EIR.

Section IV.C, *Cultural Resources*, of the Draft EIR, together with the Historical Resources Assessment Report and the Historical Resources Peer Review Report prepared for the Draft EIR (and contained in Appendix D to the Draft EIR), provide substantial evidence supporting the Draft EIR's conclusions that 1765 N. Vista Del Mar is not a contributor to the Vista del Mar/Carlos Historic District. Nonetheless, the Project will not demolish the existing residences located at 1765 and 1771 N. Vista Del Mar, and would return the residence located at 1765 N. Vista Del Mar, which had previously been converted to a duplex with an apartment over the garage, to a single-family residence without changing the exterior of the structure. The Project would also convert the existing paved-surface parking lot within the Project Site at the corner of Yucca Street and Vista Del Mar Avenue to a publicly accessible open space/park. Although the residences at 1765 and 1771 N. Vista Del Mar and the parking lot are not contributors to the Vista del Mar/Carlos Historic District, the Project's retention of the two residences without any alteration to their exterior appearance and creation of a park at the site of the former surface parking lot align with Standards 9 and 10 of the Secretary of Interior Standards for Rehabilitation, for the reasons discussed in the Supplemental Historic Resources Assessment (Appendix C-2 to the Final EIR).

On pages IV.C- 36 and IV.C-37 of Section IV.C, *Cultural Resources*, of the Draft EIR, the Draft EIR concludes that the Draft EIR Project would be compatible with the District's massing, size, scale and architectural features and would protect the historic integrity of the District and its environment. Both the Final EIR and the supplement to the Historical Report explain that the Project would be more compatible with the District's massing, size, scale and architectural features and would protect the historic integrity of the District and its environment than the Draft EIR Project because it eliminates the Draft EIR Project's Building 2 and demolition of 1765 and 1771, the reduction in bulk and massing of the Project's Building 1 as compared to the Draft EIR Project's Building 1 and, generally, the Project's increased setbacks, increased open space and green space with the inclusion of the park. Therefore, the EIR concludes that the Project would have even less of an effect on the Vista del Mar/Carlos Historic District than the Draft EIR Project's less than significant effect, and its conclusion is supported by substantial evidence. The appeal point has failed to demonstrate that the EIR provided a deficient analysis and therefore the appeal point should be denied.

The Appellant's claims with respect to this appeal point are identical to those previously raised by the Appellant in the appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to AHF Appeal Point 19* on pp. A-18 and A-19 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

Appeal Point 14:

The Appellant asserts that the EIR should have assessed whether the Project could result in a significant impact related to hazards or hazardous material, rather than relying on the Initial Study's conclusions that such impacts would be less than significant, because the existing buildings that would be demolished could contain asbestos or lead-based paint and therefore could create a hazard to nearby sensitive receptors, including students at the Cheremoya Avenue Elementary School.

Response to Appeal Point 14:

The potential impacts of development at the Project Site, associated with asbestos containing materials (ACM) and lead based paint (LBP) are fully addressed, based on substantial evidence, in the Initial Study, which is attached to the Draft EIR in Appendix A-2, on pages B-15 through B-18. The Initial Study notes that the school is located approximately one-quarter mile away from the Project Site and is separated from the Project Site by the 101 Freeway. It states that that any ACMs or LPBs encountered during demolition of the existing buildings at the Project Site would be subject City Regulatory Compliance Measures IS-5 and IS-6 and would be localized to the Project Site, and that the distance of the school from the Project Site and the existence of intervening structures are sufficient such that no real risk to the students attending the school exists. The Initial Study concludes based on this analysis there would be no significant impact on the school with respect to ACMs and LPBs, and its conclusion is supported by substantial evidence.

The Appellant provides no substantial evidence that hazardous materials impacts from ACMs and LBPs may be significant. Under CEQA, speculation is not substantial evidence. (CEQA Guidelines, §§ 15064(f)(5); 15384(a).) Moreover, the Appellant provides no evidence supporting its assertion that these topics should have been addressed in the body of the EIR, rather than in the Initial Study attached to the Draft EIR as Appendix A-2. Further, the Appellant fails to address the substantial evidence in the Initial Study and explain why it does not support the Initial Study's conclusion that potential impacts resulting from the removal of ACMs and LBPs during demolition would be less than significant. Notably, the Project reduces this potential impact by preserving two of the existing on-site structures that the Draft EIR Project would have demolished at 1765 and 1771 Vista del Mar Avenue, which are the two oldest structures on the Project Site. Based on these facts, substantial evidence also supports the conclusion that the Project would not result in significant impacts with respect to ACMs, LPBs and hazardous materials, and the appeal point should be denied.

The Appellant's claims with respect to this appeal point are identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to AHF Appeal Point 20* on pp. A-19 and A-20 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

Appeal Point 15:

The Appellant asserts that the analysis of the Project's transportation impacts is flawed and does not provide sufficient and/or accurate information about the Project's potentially significant impacts. The Appellant identifies several specific claimed defects that are set forth and individually discussed below.

Response to Appeal Point 15:

Analysis with Project Design Features

The Appellant asserts that the EIR's discussion under Transportation Threshold (a) fails to analyze the significance of the Project's impacts before the implementation of two traffic-related PDFs. However, the construction traffic management plan (PDF-TRAF-1) and the pedestrian safety plan (PDF-TRAF-2) are incorporated into the Project as part of the Project itself, in compliance with CEQA's mandate to avoid or reduce its impacts from the onset. (See CEQA Guidelines § 15002(a)(2).) Therefore, the Project's potential impacts have been properly

analyzed under CEQA by considering these PDFs as integral parts of the Project, rather than as mitigation measures.

The Appellant also argues that the Draft EIR "incorrectly relies on PDF-TRAF-1 in its analysis of emergency access impacts." However, Project construction would not prevent through access on any streets adjacent to the Project Site at any time, and also would not prevent access to the Project Site itself, and, therefore, substantial evidence supports the EIRs conclusion that impacts regarding emergency access during construction would be less-than-significant.

VMT Analysis Assumptions

The Appellant asserts that the EIR's analysis of the Project's vehicle miles traveled ("VMT") is insufficient and incorrect because it is based on assumptions that are inconsistent with other information in the EIR and does not consider all VMT that would be generated by the Project. However, the analysis of the Project's VMT was prepared in accordance with the *LADOT Transportation Assessment Guidelines* (July 2019) ("TAG") using the latest version of LADOT's VMT Calculator that was operative at the time. The Project's analyses with respect to VMT were based on valid data sources, that provided substantial evidence in support of the assumptions utilized. Finally, the Project's analyses with respect to VMT were also conducted in accordance with the TAG regarding the types of Project VMT to be included in the analyses, and the Appellant does not address the substantial evidence supporting this methodology, or provide any information to suggest the methodology is flawed in any manner, or that the methodology produced an invalid analysis and conclusion as a result.

Evidence for TDM Effectiveness

The Appellant asserts that the EIR's conclusion that implementation of Mitigation Measure MM-TRAF-1, the transportation demand management ("TDM") program, would reduce the Project's potentially significant household VMT impact to a less than significant level is not supported by substantial evidence. The Appellant primarily asserts that the alleged invalidity of the EIR's analysis of the effectiveness of the Project's TDM program (MM-TRAF-1) results from the use of an inappropriate population per residential unit figure in the Draft EIR's transportation analysis. However, the population per unit number utilized by the City in its VMT calculator is valid, is supported by substantial evidence, is a more conservative figure for the per capita analysis, and did not produce an invalid analysis or impact conclusion. The Appellant's claim constitutes only "[a]rgument, speculation, [and] unsubstantiated opinion or narrative." Further, the Project's unbundling parking strategy and strategies involving promotions and marketing have the potential to create reductions in both residential and employee-based VMT based on research and methodology from *Quantifying Greenhouse Gas Mitigation Measures* (California Air Pollution Control Officers Associates, 2010).

Deferral of Mitigation

The Appellant incorrectly claims the EIR improperly defers the formulation of mitigation measures to a later date. The Appellant asserts that neither PDF-TRAF-1 nor PDF-TRAF-2 contain performance criteria by which to judge their success. However, as explained immediately above and in Responses to Appeal Points 10 and 12, above, PDF-TRAF-1 and PDF-TRAF-2 are properly characterized as design features of the Project, and, as such, are not required to meet the requirements that CEQA imposes on mitigation measures. Additionally, the minimum requirements of both PDFs are specifically delineated on pages IV.L-24 and IV.L-25 of Section IV.L, *Transportation*, of the Draft EIR, and PDF-TRAF-1 calls for preparation of a plan to be approved by the Los Angeles Department of Transportation.

The Appellant also incorrectly asserts that MM-TRAF-1 improperly defers mitigation to a later date. On page IV.L-43 in Section IV.L, *Transportation*, the Draft EIR states that the TDM program "shall include at a minimum" strategies for unbundled parking and promotions and marketing. These strategies are the only two strategies for which reduction credit was taken in the VMT Calculator, and which, together, were sufficient to fully mitigate the potentially significant household VMT impact to a less than significant impact. Accordingly, additional potential TDM program strategies and membership in the Hollywood TMO were not considered in the analysis of the effectiveness of MM-TRAF-1 as they were not needed to reduce the Draft EIR Project's potentially significant household VMT impact to a less than significant level. Therefore, there is no improper deferral of mitigation, nor is there a failure to demonstrate that the TDM program would effectively mitigate the Draft EIR Project's potentially significant household VMT impact.

Conflict with Programs, Plans, Ordinances, or Policies

The Appellant claims that the EIR's conclusion under Threshold (a) (conflicting with programs, plans, ordinances, or policies addressing the circulation system) is insufficiently supported by the analysis or substantial evidence due to the purported flaws and insufficiencies in the EIR's VMT analysis. However, as the above discussion shows, the VMT analysis presented in the EIR is neither flawed nor insufficient, and substantial evidence supports the EIR's VMT analysis, which in turn, provides substantial evidence supporting the EIR's consistency analysis under Threshold (a).

As the Appellant has failed to demonstrate that the Commission erred or abused its discretion in approving the project, the appeal points should be denied.

The Appellant's claims with respect to this appeal point are virtually identical to its comment on the Draft EIR, to which the City responded in the Final EIR; see Comment No. ORG 5-13 and Response to Comment No. ORG 5-13 in Chapter 2, *Responses to Comments*, of the Final EIR. The Appellant's claims with respect to this appeal point are also virtually identical to those previously raised by the Appellant in the appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to AHF Appeal Point 21* on pp. A-20 through A-24 and in *Supplemental Response No. 4 Related to Transportation Impacts* of the Supplemental Responses provided in Appendix F of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

Appeal Point 16:

The Appellant asserts that the analysis of existing ambient noise levels at locations of noise-sensitive receptors is incomplete and undermines the validity of the EIR's analyses of the Project's noise impacts.

Response to Appeal Point 16:

Ambient noise measurements were taken at five locations along or near the public right-of-way. The short-term and long-term noise measurements comply with the City's requirements for determining ambient noise under in LAMC Section 111.01. The noise measurement locations were selected because they are considered to be representative of the noise environment of the existing off-site noise-sensitive receptors, including residential and hotel uses. Furthermore, as the two structures on Vista Del Mar would be retained, they would be a part of the project and would not be considered new sensitive receptors. Therefore, substantial evidence supports the EIR's use of these noise measurement locations as representative of the existing ambient noise levels at the off-site noise-sensitive receptors surrounding the Project Site, and no additional analysis is required, and the appeal point should be denied

The Appellant's claims with respect to this appeal point are virtually identical to its comment on the Draft EIR, to which the City responded in the Final EIR; see Comment No. ORG 5-14 and Response to Comment No. ORG 5-14 in Chapter 2, *Responses to Comments*, of the Final EIR. The Appellant's claims with respect to this appeal point are also virtually identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to AHF Appeal Point 22* on pp. A-24 and A-25 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

Appeal Point 17:

The Appellant asserts that the EIR uses "flawed" significance thresholds that do not adequately identify potentially significant noise impacts and that the EIR's conclusions that operational noise impacts would be less than significant for sensitive receptors represented by noise measurement locations R3 and R4 are incorrect due to the flaws in the EIR's ambient noise measurements noted in Appeal Point 16.

Response to Appeal Point 17:

The Appellant does not explain why the Appellant believes the EIR uses "flawed" significance thresholds that do not adequately identify potentially significant noise impacts, and does not support its assertion that the Draft EIR's thresholds are flawed with any facts or substantial evidence. "Argument, speculation, unsubstantiated opinion or narrative, [or] evidence which is clearly erroneous or inaccurate" does not constitute substantial evidence. (CEQA Guidelines §§ 15064(f)(5), 15384(a).)

The Appellant's claim that the Draft EIR's conclusions that operational noise impacts would be less than significant for sensitive receptors represented by noise measurement locations R3 and R4 due to the flaws in the EIR's ambient noise measurements noted in Appeal Point 16 is also incorrect. As discussed in Response to Appeal Point 16 above, ambient noise measurements were properly collected to represent the existing ambient noise environment of the off-site noise-sensitive receptors surrounding the Project Site. The appeal point should be denied.

The Appellant's claims with respect to this appeal point are virtually identical to its comment on the Draft EIR, to which the City responded in the Final EIR; see Comment No. ORG 5-15 and Response to Comment No. ORG 5-15 in Chapter 2, *Responses to Comments*, of the Final EIR. The Appellant's claims with respect to this appeal point are also virtually identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to AHF Appeal Point 23* on p. A-25 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

Appeal Point 18:

The Appellant claims that the EIR's analysis of the noise impacts of the Project's emergency generator is flawed due to the purported faulty ambient noise measurements.

Response to Appeal Point 18:

With respect to the emergency generator noise, as discussed on page IV.I-40 in Section IV.I, *Noise*, of the Draft EIR and in Section 3 of Chapter 3, *Revisions, Clarifications and Corrections*, of the Final EIR, the emergency generator is anticipated to be located approximately 75 feet from

Argyle Avenue and along the southern perimeter of Building 1, which is located approximately 155 feet from the multi-family residential uses to the west side of Argyle Avenue (represented by sensitive receptor location R1) and approximately 200 feet from the noise-sensitive uses to the south side of Carlos Avenue (represented by sensitive receptor location R4). Other off-site noise-sensitive receptors, represented by sensitive receptor locations R2 and R3, would be farther away or would not have a line-of-sight to the emergency generator and thus would be less impacted by noise from this noise source.

Based on a noise survey that was conducted for an equivalent generator by ESA, noise from the emergency generator would be approximately 96 dBA (Leq) at 25 feet. Two off-site sensitive receptor locations (represented by sensitive receptor locations R1 and R4) would experience noise from the emergency generator exceeding the existing ambient noise levels, with sensitive receptors represented by sensitive receptor location R1 experiencing approximately 80 dBA at 155 feet and sensitive receptors represented by sensitive receptor location R4 experiencing approximately 78 dBA at 200 feet. As discussed on page IV.I-60 of Section IV.I, *Noise,* of the Draft EIR and in Section 3 of Chapter 3, *Revisions, Clarifications and Corrections*, of the Final EIR, MM-NOI-5 would require a sound enclosure and/or equivalent noise-attenuating features (i.e., mufflers) for the emergency generator that would provide noise reduction of approximately 25 dBA. The required 25 dBA noise reduction from a sound enclosure and/or equivalent noise-attenuating features (i.e., mufflers) is feasible given the many different types of materials (e.g., steel enclosure, concrete masonry enclosure, etc.) that can achieve this level of noise reduction, or even greater reductions, as per the Federal Highway Administration, Noise Barrier Design Handbook (see page IV-I-41 of Section IV.I, *Noise,* of the Draft EIR, footnote 89). During the plan check phase, building plans for the Project would be provided along with documentation prepared by a noise consultant verifying compliance with this measure. Therefore, substantial evidence supports the EIR's conclusions that, with implementation of Mitigation Measure MM-NOI-5, which is feasible based on substantial evidence, noise impacts associated with the emergency generator would be reduced to a less-than-significant level and no additional analysis is required, and the appeal point should be denied.

The Appellant's claims with respect to this appeal point are virtually identical to its comment on the Draft EIR, to which the City responded in the Final EIR; see Comment No. ORG 5-17 and Response to Comment No. ORG 5-17 in Chapter 2, *Responses to Comments*, of the Final EIR. The Appellant's claims with respect to this appeal point are also virtually identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to AHF Appeal Point 24* on p. A-26 of the Appeal Report prepared for the City Planning Commission hearing.

Appeal Point 19:

The Appellant asserts that the EIR's analysis of the Project's composite noise levels is weakened because, as discussed in the Appellant's appeal points stated above, each of the component noise sources appears understated, resulting in the understatement of the composite noise levels.

Response to Appeal Point 19:

See Responses to Appeal Points 16, 17, and 18, above. As discussed in those responses, substantial evidence supports the Draft EIR's analysis of the composite noise levels generated by the noise sources that combine to create the composite noise levels, and reasonable assumptions. The appeal point should be denied.

The Appellant's claims with respect to this appeal point are virtually identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more

detailed and comprehensive response can be found in the *Staff Response to AHF Appeal Point 25* on p. A-27 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

Appeal Point 20:

The Appellant asserts that the EIR does not adequately discuss the feasibility of additional mitigation measures beyond those proposed and does not provide information regarding the incremental benefits of increasing mitigation beyond what is identified.

Response to Appeal Point 20:

On pages IV.I-57 through IV.I-60 of Section IV.I, *Noise*, of the Draft EIR, the proposed mitigation measures to minimize construction and operational-related impacts are discussed. The mitigation measures included were developed to be feasible, effective, and implementable. Pursuant to CEQA Guidelines Section 15151, "[a]n EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible…The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure." Mitigation Measures MM-NOI-1 through MM-NOI-5 meet the requirements of CEQA Guidelines Section 15126.4(a)(1) in that they are feasible measures that the EIR demonstrates, based on substantial evidence, could minimize the Project's significant adverse impacts. Moreover, to the extent the Appeal claims the Project should include additional unspecified noise mitigation, such unspecified requests for such mitigation do not present feasible mitigation measures for the City to consider. Therefore, the appeal point should be denied.

The Appellant's claims with respect to this appeal point are virtually identical to its comment on the Draft EIR, to which the City responded in the Final EIR, including with respect to the feasibility of taller noise barriers. See Comment No. ORG 5-19 and Response to Comment No. ORG 5-19 in Chapter 2, *Responses to Comments*, of the Final EIR. The Appellant's claims with respect to this appeal point are also virtually identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to AHF Appeal Point 26* on pp. A-27 through A-29 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

Appeal Point 21:

The Appellant asserts that the City cannot make all proper findings to approve the vesting tentative tract map under the Subdivision Map Act, and thus cannot approve the Project. The Appellant asserts that the EIR's analysis of the Project's significant environmental impacts is inadequate and the significant impacts are insufficiently mitigated such that the City must grant AHF's appeal and remand the Project back to City Planning to modify the Project and the EIR to comply with CEQA and the LAMC. The Applicant asserts that the Project destroys affordable RSO units in an area of the City that is greatly lacking in affordable housing. The Appellant asserts that the Project is an example of gentrification and development for the sake of profit at the expense of the City's working-class residents, and that the City should stop approving market-rate development that sacrifices existing RSO units and reduces the affordable housing stock of Hollywood and Los Angeles.

Response to Appeal Point 21:

Regarding the Appellant's claim that the City's findings under the Subdivision Map Act are improper, see *Staff Response to AHF Appeal Points 1-3* on pp. A-9 and A-10 of the Appeal Report prepared for the City Planning Commission. Regarding the Appellant's claim that the Project would destroy "affordable RSO units" and would reduce the affordable housing stock in Hollywood and Los Angeles, see *Response to Appeal Point 1*, above. The Appellant's unsupported statements that the Project is an example of gentrification and development for the sake of profit at the expense of the City's working-class residents and that the City should stop approving market-rate development constitute "[a]rgument, speculation, [and] unsubstantiated opinion and narrative," not substantial evidence. (CEQA Guidelines Sections 15064(f)(5), 15384(a)). Because there are no covenanted affordable units on the Project Site, granting the appeal would eliminate the net gain in covenanted affordable units and RSO units that would be provided by the Project, and denial of the Project would reduce the availability of covenanted affordable units and RSO in the area.

The Appellant's claims with respect to this appeal point are virtually identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to AHF Appeal Point 4* on p. A-10 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

Conclusion

The appeal points address specific concerns regarding the adequacy of the EIR and entitlement findings, among other issues. Upon careful consideration of the appellants' points, the appellant has failed to adequately disclose how the City erred or abused its discretion. In addition, no new substantial evidence was presented that the City has erred in its actions relative to the EIR and the associated entitlements. The appellant has repeatedly failed to raise new information to dispute the Findings of the EIR or the City's actions on this matter. Therefore, the appeal should be denied and the actions of the City Planning Commission should be sustained.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning

Alan Como, AICP
City Planner

VPB:LI:MZ:AC

Enclosures
none

c: Craig Bullock, Planning Director, Council District 13