



**DEPARTMENT OF CITY PLANNING**  
**APPEAL RECOMMENDATION REPORT**

**City Planning Commission**  
**Date:** September 14, 2023  
**Time:** After 12:00 P.M. or 1:00 P.M.  
**Place:** Los Angeles City Hall  
Council Chambers, 3rd Floor

And via Teleconference.  
Information will be provided no  
later than 72 hours before the  
meeting on the meeting agenda  
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[cpc@lacity.org](mailto:cpc@lacity.org)

**Public Hearing:** Required  
**Appeal Status:** Not further  
appealable  
**Expiration Date:** N/A  
**Multiple Approval:** No

**Case No.:** ZA-2022-8997-ZAI-1A  
**CEQA No.:** N/A  
**Related Case:** ZA-2022-8997-ZAI  
**Council No.:** Citywide  
**Plan Area:** Citywide  
**Certified NC:** Citywide  
**GPLU:** N/A  
**Zone:** Citywide

**Applicant:** City of Los Angeles

**Appellants:** i) Jessica Bradley, Warren Resources of California, Inc;  
ii) Sigrid Waggener, Manatt, Phelps & Phillips, LLP on behalf of Native Oil Producers and Employees of California (“NOPEC”) and Western States Petroleum Association (“WSPA”); and  
iii) Nicki Carlsen, Alston & Bird LLP on behalf of E&B Natural Resources Management Corporation

**LOCATION:** Citywide

**ZAI SUMMARY:** A Zoning Administrator’s Interpretation (ZAI) applicable to all oil/gas well operations in the City of Los Angeles, issued by the Chief Zoning Administrator on January 17, 2023, interpreting the meaning of “well maintenance” in the Los Angeles Municipal Code (LAMC), as activities triggering a rework permit from the California Geologic Energy Management Division and/or online notification per South Coast Air Quality Management District Rule 1148.2.

The issuance of this ZAI that defines "well maintenance" is not a "project" as that term is defined by CEQA Guidelines, Section 15378. However, even if this ZAI is determined to be a project for purposes of CEQA, it was evaluated in the Initial Study prepared by the City to support the Mitigated Negative Declaration prepared for the Oil and Gas Drilling Ordinance (Ordinance 187,709).

**APPEALS:**

Three appeals of the Zoning Administrator's Interpretation, pursuant to LAMC Section 12.21-A.2, interpreting the meaning of "well maintenance" in the LAMC, and as relating to all oil/gas well operations in the City of Los Angeles.

**RECOMMENDED ACTIONS:**

- 1) **Grant in part**, as to Appeal Point No. 4;
- 2) **Deny** as to all other appeal points; and
- 3) **Adopt** the modified Zoning Administrator's Interpretation of Well Maintenance, attached as **Exhibit E** to the Appeal Recommendation Report.

VINCENT P. BERTONI, AICP  
Director of Planning



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Estineh Mailian  
Chief Zoning Administrator

**ADVICE TO PUBLIC:** \*The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communications may be mailed to the *Commission Secretariat, Room 532, City Hall, 200 North Spring Street, Los Angeles, CA 90012* (Phone No. 213-978-1300). While all written communications are given to the Commission for consideration, the initial packets are sent to the week prior to the Commission's meeting date. If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agendized herein, or in written correspondence on these matters delivered to this agency at or prior to the public hearing. As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability, and upon request, will provide reasonable accommodation to ensure equal access to these programs, services and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or other services may be provided upon request. To ensure availability of services, please make your request not later than three working days (72 hours) prior to the meeting by calling the Commission Secretariat at (213) 978-1299.

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### Exhibits

- Exhibit A: Warren Resources appeal justification ([link](#))
- Exhibit B: WSPA-NOPEC appeal justification ([link](#))
- Exhibit C: E&B Natural Resources appeal justification ([link](#))
- Exhibit D: ZA-2022-8997-ZAI determination ([link](#))
- Exhibit E: Modified ZAI: ZA-2022-8997-ZAI-1A ([link](#))
- Exhibit F: ZA Memorandum No. 141 ([link](#))
- Exhibit G: ZA Memorandum No. 133 ([link](#))
- Exhibit H: Oil and Gas Drilling Ordinance ([link](#))
- Exhibit I: 1955 Los Angeles Municipal Code - Chapter 13.01 ([link](#))
- Exhibit J: Oil Well Decision reference, ZA-1985-0103-O determination ([link](#))
- Exhibit K: Oil Well Decision reference, ZA 18129(PA2) determination ([link](#))
- Exhibit L: Oil Well Decision reference, ZA 18614(PA3) determination ([link](#))
- Exhibit M: California Independent Petroleum Association - Routine Rig Work ([link](#))
- Exhibit N: October 2021 CalGEM Advisory Panel Report ([link](#))
- Exhibit O: 2017 PSE Study on Oil Well Activities ([link](#))
- Exhibit P: CEQA Operator Notices from 2019 and 2023 ([link](#))
- Exhibit Q: L.A. City Planning emails with Operators on CalGEM Permits ([link](#))
- Exhibit R: Correspondence on Well Maintenance & Land Use Impacts ([link](#))
- Exhibit S: Well Maintenance project & “Odor Event” reference document ([link](#))
- Exhibit T: County of Los Angeles’s Land Use Element ([link](#))

## DETERMINATION ANALYSIS

### SUMMARY

Before the City Planning Commission is the consideration of three appeals of Case No. ZA-2022-8997-ZAI, a citywide Zoning Administrator's Interpretation (ZAI) applicable to all oil/gas well operations in the City of Los Angeles (City). The ZAI, issued by the Chief Zoning Administrator on January 17, 2023, interprets the meaning of "well maintenance" in the Los Angeles Municipal Code (LAMC) simply as activities triggering a rework permit from the California Geologic Energy Management Division (CalGEM) or online notification per South Coast Air Quality Management District (SCAQMD) Rule 1148.2.

In addition to responding to the appeal points raised, this report provides background and context on the need to define well maintenance in the Zoning Code, the process the Chief Zoning Administrator took to reach her interpretation, and the ZAI's relationship to other separate, but related policy matters concerning oil and gas well operations in the City.

### BACKGROUND

The phrase "to maintain [an oil well]" and the term "maintained" have appeared in different versions of the LAMC since at least 1955.<sup>1</sup> LAMC Sections 13.01 and 12.23-C.4 contain language referencing well maintenance activities. Below is a brief chronology referencing key regulations and document relevant to the discussion of this ZAI appeal:

- 04/08/1955 through 1/17/2023 – LAMC Section 13.01 (Supplemental Use District): The primary Zoning Code provisions regulating oil/gas uses within the City were first established in 1946 and remained in effect until the adoption of the Oil and Gas Drilling Ordinance. LAMC Sections 13.01-H and 13.01-I both mentioned well maintenance as of 04/08/1955. See **Exhibit I** for reference to the 1955 LAMC version of Chapter 13.01. LAMC Section 13.01-H required operators to file an application with the Los Angeles Department of City Planning (LACP) if they were proposing "to drill, deepen, or maintain" an oil well, requesting "a determination of the conditions under which the operations may be conducted."
- 9/19/2016 – ZA Memo 133 (Exhibit G): Outlined the procedure for the acceptance and processing of discretionary requests pursuant to LAMC Sections 13.01-H and 13.01-I. As of January 17, 2023, and as outlined in ZA Memo 141 (discussed below), ZA Memo 133 is no longer applicable to the extent that LAMC Sections 13.01-H and 13.01-I are removed from the LAMC by way of Ordinance No. 187,709.
- 12/2/2022 – Oil and Gas Drilling Ordinance (Ordinance No. 187,709) (Exhibit H): Adopted on 12/2/2022 and became effective on January 18, 2023, amending several Zoning Code provisions that regulate oil/gas wells. Specifically, it amended LAMC

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<sup>1</sup> Los Angeles Municipal Code, July 8, 1955, Chapter 1 General Provisions and Zoning, Pages 115-116. <<https://drive.google.com/file/d/1EdO-rbshz0zGLjjo178CQ2K3h3V-sX-/view?usp=sharing>>

Section 13.01 and removed LAMC Sections 13.01-H and 13.01-I, which authorized the Zoning Administrator to review and conditionally approve drilling, deepening, and well maintenance projects. Ordinance No. 187,709 also amended LAMC Section 12.23-C.4 to deem all existing oil/gas wells a legally nonconforming use. Furthermore, it stated that “No existing well for the production of oil, gas or other hydrocarbon substances, which is a nonconforming use, shall be maintained, drilled, re-drilled or deepened, except to prevent or respond to a threat to the public health, safety, or the environment, as determined by the Zoning Administrator”.

- 1/17/2023 – ZA Memo 141 (Exhibit F): Established a comprehensive set of procedures and policies for the acceptance and processing of applications for for discretionary requests pursuant to LAMC Section 12.23-C.4, at existing non-conforming sites, where work is proposed to either prevent or respond to a threat to public health, safety, or the environment.
- 1/17/2023 – ZA-2022-8997-ZAI (Exhibit D): (referred to as “ZAI” and the subject of the current appeal) Interpreted what the term “well maintenance” means in the context of both LAMC Section 13.01 H & I, and LAMC Section 12.24 C.4 as well as what drill site activities qualify as “well maintenance.”

#### *Interpreting Well “Maintenance” in the LAMC*

In the LAMC, while the terms “drill” and “deepen” were clear enough to describe what those activities entail, there was no clear description of what “maintain” included in this context. Prior to this ZAI, the OZA had not yet exercised its authority under LAMC Section 12.21-A.2, to formally interpret what scopes of work would be identified as “well maintenance” activities. On a case-by-case basis, the Zoning Administrator would review an operator’s project description for a well maintenance project(s) and then determine if the project required a discretionary review. Interpreting the term “well maintenance” through this ZAI was an important step in order to more formally inform operators what maintenance activities would require a Zoning Administrator’s review and determination under the previous LAMC Sections 13.01-H & I as well as the recently adopted LAMC Section 12.23-C.4.

The ZAI formalized the types of activities that the Zoning Administrator has always considered well maintenance (including maintenance acidizing, well recasing, adding perforations, and conversion to electrical submersible pump lifts (ESP), to name a few). The term “well maintenance” is in LAMC Sections 13.01 and 12.23-C.4, and it has always been intended and determined to encompass oil well activities that have the potential to cause land use impacts, and that would require further oversight and discretionary review by the Zoning Administrator – previously under LAMC Section 13.01-H and now under LAMC Section 12.23-C.4. The ZAI does not alter or expand the intent of the term “well maintenance,” as that term was reviewed and decided upon, and more informally applied by the Zoning Administrator on a case-by-case basis.

OZA staff have been directly working with and advising operators on how to proceed with applications for well maintenance activities for several years. OZA staff are also involved with the state review process for projects that require a CalGEM Rework permit. CalGEM is the state agency that regulates oil, gas, and geothermal well activities and also, as they describe, “prioritizes protecting public health, safety, and the environment in its oversight of these energies.”<sup>2</sup> Specifically, CalGEM requires operators to identify if the local municipality or county acts as the Lead Agency for CEQA review. Certain oil/gas well activities, such as recasing, which can be a form of a repair project, involve permanently modifying the structural integrity of the oil/gas well, and is a type of project that could result in land use impacts requiring OZA discretionary approval under the LAMC. Because these types of projects would trigger OZA discretionary approval, OZA staff, acting on behalf of the City of Los Angeles as the Lead Agency for CEQA, review these projects to determine whether they will have potential environmental impacts. The OZA’s recent actions to interpret the Zoning Code, in this case with the term, “well maintenance”, is a reasonable implementation step within the larger context of regulating oil/gas well activities. The OZA, acting on behalf of the City as a Lead Agency for CEQA, reviews oil/gas well projects that both extend the life of wells, prolonging oil extraction operations, and also reviews these types of oil/gas well projects that may create land use impacts. Other activities such as sidetracking (horizontal drilling) and converting an oil/gas well from a production well to an injection well all require discretionary review and approval in order for the operator to complete the project. Below are some examples of these consultations between OZA staff and operators:

- On January 29, 2020, OZA staff informed E&B Natural Resources that a CalGEM Rework permit to perform recasing on an oil well required discretionary review in accordance with ZA Memo 133. After reviewing the proposed scope of work, OZA staff informed the operator that their project would be considered “well maintenance” and they would need to file an application. The operator submitted this same request to the OZA for the same oil well on December 16, 2021, almost two years after the initial request. OZA staff again advised that the work required a ZA determination. The operator did not file an application for this work.
- In another example where the OZA determined a proposed scope of work would be considered “well maintenance”, OZA staff advised Warren Resources on April 4, 2022 that a request to modify their oil well casing to increase production levels would require a ZA determination. Staff issued the same guidance for a similar scope of work for Warren Resources on October 21, 2022. The operator did not file an application for this work.
- The most recent occurrence where staff has told an operator that their proposed Rework activity, involving recasing, was considered “well maintenance” was on March 23, 2023 for the Banning Drill Site in the Wilmington neighborhood of the City. The operator did not file an application for this work.

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<sup>2</sup> California Geologic Energy Management Division landing page. Department of Conservation website, 2023. February 14, 2023 <<https://www.conservation.ca.gov/calgem>>

When the Oil and Gas Drilling Ordinance, No. 187,709, became effective on January 18, 2023, it amended several Zoning Code provisions that regulate oil/gas wells. Specifically, it amended LAMC Section 13.01 and removed LAMC Sections 13.01-H and 13.01-I, which authorized the Zoning Administrator to review and conditionally approve drilling, deepening, and well maintenance projects. Ordinance No. 187,709 also amended LAMC Section 12.23-C.4 to deem all existing oil/gas wells a legally nonconforming use.

As a result of this ordinance, LAMC Section 12.23-C.4 now prohibits any oil/gas well from being maintained, drilled, redrilled, or deepened, *except* to prevent or respond to a threat to public health, safety, or the environment, as determined by the Zoning Administrator. Although the need to clarify what maintenance means in the Code predated the recent Oil and Gas Drilling Ordinance, the newly adopted restrictions, including on well maintenance, further amplified the need to define maintenance through a formal ZAI, and to more clearly communicate these scopes of work that are now regulated by the Ordinance. On January 17, 2023, one day before the effective date of the Oil and Gas Drilling Ordinance, the ZAI was issued containing language that applied to both the existing (then, at the time the ZAI was released) LAMC Sections 13.01-H and 13.01-I and future (now, effective under the Ordinance) LAMC Section 12.23-C.4(a), because although the land use regulations were amended through the Ordinance, the treatment of the term “maintenance” has remained the same. The Chief Zoning Administrator’s interpretation of “well maintenance” could apply to (since removed) LAMC Sections 13.01-H and 13.01-I as those provisions contained references to “well maintenance.” At the time of its release, the ZAI was also written so that it would apply to LAMC Section 12.23-C.4(a) – which was amended by the effective date of the Oil and Gas Drilling Ordinance.

A separate document, ZA Memo 141, was released on January 17, 2023 and establishes a comprehensive set of procedures and policies for the acceptance and processing of applications for projects, at existing non-conforming sites, where work is proposed to either prevent or respond to a threat to public health, safety, or the environment. ZA Memo 141 is not appealable and is not part of the scope of this appeal.

As of the date of this report, six lawsuits have been filed against the City seeking to invalidate the Oil and Gas Drilling Ordinance. Regardless of the outcome of these pending lawsuits, there remains a demonstrated need to interpret “well maintenance” in the Zoning Code as it is relevant to both the existing and previous Code applications.

#### *Discretionary Review by the OZA*

While the the Oil and Gas Drilling Ordinance went into effect on January 18, 2023, even before this ordinance, the Zoning Administrator had discretion over requests for oil/gas well projects pursuant to the authority outlined in LAMC Sections 13.01-H and 13.01-I.

There are various examples of the OZA issuing Letters of Determination approving requests to conduct oil/gas well activities such as drilling, redrilling, and deepening of wells. For example, on April 22, 1985, LACP approved a request for an operator to drill an oil producing well at the

South Torrance Unit site in the Wilmington neighborhood of the City. The determination language includes the following, "...the drilling of a Class A oil well identified as STU C106R as a replacement for a Class A oil well identified as STU C106, which has been abandoned, all within Nonurbanized Oil Drilling District No. 71..."<sup>3</sup> In another example, On March 17, 2009, LACP issued a determination for the Packard Drill Site in the Mid-City neighborhood of the City and included the following language in the determination, "...[approve] methods and conditions controlling drilling and production operations for the re-drilling three (3) oil wells..."<sup>4</sup> In a more recent example, on September 20, 2013, LACP approved the drilling of one new well in the Harbor Gateway neighborhood with the following approval language, "[approve] plans to allow the drilling one new well on an existing semi-controlled site known as 'C-7' in the Joughin Unit in Oil Drilling District U-114..."<sup>5</sup>

Subsequent to the adoption of the Ordinance, the Zoning Administrator has maintained the discretion to approve drilling, re-drilling, deepening, and well maintenance projects pursuant to LAMC Section 12.23-C.4.

More recently, an observation and review of the types of inquiries and applications submitted to the OZA may indicate more interest in maintenance activities versus drilling new wells. In fact, no discretionary applications have been filed for the consideration of the OZA to request drilling new wells for several years. Operators, however, have contacted OZA staff concerning oil/gas well maintenance activities. State and city records illustrate that many oil/gas wells in the City were drilled in the mid 20th century. Due to the aging structural integrity of these oil/gas wells, operators have been relying on specific activities to extend the life of the well. Today, operators must either follow specific permit and/or notification requirements from different state agencies prior to completing specific oil/gas well activities related to well maintenance.

### *Interpretation Methodology*

The Chief Zoning Administrator took an informed and purposeful approach in interpreting and clarifying what activities qualify as well maintenance and whether these activities would be subject to discretionary review per the Code. OZA staff completed extensive research and consulted with regulatory agency staff to inform the ZAI.

Oil/gas well regulations are complex because different agencies regulate different aspects of oil drilling operations. Thus, in addition to the specific interactions referenced below, OZA staff spoke with numerous City of Los Angeles, County of Los Angeles, and state officials to understand the scope of what each respective agency is responsible for in regulating oil/gas wells and well maintenance activities. Staff also spoke with land use officials from neighboring

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<sup>3</sup> Zoning Administrator's Determination, Case No. ZA-1985-0103-O, April 22, 1985

<<https://drive.google.com/file/d/1FcssecKBF7CfyQ6DHeTk53lmt0RvkvgV/view?usp=sharing>>

<sup>4</sup> Zoning Administrator's Determination, Case No. ZA-18129(PA2), March 17, 2009

<<https://drive.google.com/file/d/10vqQNQFGo5FIKATten8jQsR3mDoIV3Gm/view?usp=sharing>>

<sup>5</sup> Zoning Administrator's Determination, Case No. ZA 18614(PA3)

<[https://drive.google.com/file/d/1djf39GCK05bXEzJkFzIQmN4\\_XwmvKXb2/view?usp=sharing](https://drive.google.com/file/d/1djf39GCK05bXEzJkFzIQmN4_XwmvKXb2/view?usp=sharing)>



municipalities and counties and reviewed regulations from these nearby entities so as to better understand their approach to regulating oil/gas wells.

Starting in 2020, OZA staff corresponded and inquired with various government agencies to learn how and why those agencies regulate specific oil well maintenance activities. OZA staff also spoke with various entities including oil/gas well operators, government agency policy managers and regulatory enforcement officials to gain a complete perspective on oil/gas well maintenance regulations, including:

- Operators
  - In January 2020, OZA staff, at the suggestion of E&B Natural Resources, reviewed the oil and gas well regulations for the City of Carson to evaluate that municipality's CEQA requirements for well maintenance projects.
  - In October 2021, OZA staff met with an oil operators' association to hear about oil rig operations at drill sites across the City.
  - In June 2022, OZA staff met with the operators of the West Pico Drill Site, Pacific Coast Energy Company, for a site visit to observe the facility's operations.
- California Geologic Energy Management Division
  - OZA staff consulted with CalGEM on various topics and subject areas related to oil and gas well activities. The OZA contacted CalGEM for insight on oil/gas well activities, specifically on Rework projects and what CalGEM required from operators prior to issuing permits for proposed activities. OZA staff also spoke with CalGEM staff concerning well stimulation activities such as maintenance acidizing and well servicing activities such as tracer survey projects. OZA staff has also contacted CalGEM to discuss service rig operations and equipment requirements for well maintenance projects.
- South Coast Air Quality Management District
  - OZA staff consulted with agency staff regarding permit and registration requirements for oil and gas sites. OZA staff also spoke with staff to learn more about Rule 1148.2 and requirements for operators when conducting oil well maintenance activities. These discussions also included details regarding proposed amendments and potential timelines to amending SCAQMD's requirements for oil and gas well projects under consideration.
- County and Municipal Agencies
  - In January 2022, OZA staff consulted with Santa Barbara County staff and discussed their Planning division's requirements for well maintenance projects.
  - OZA staff also spoke with Ventura County's Planning Division in August 2022 to discuss oil and gas permitting requirements for oil/gas well projects in that county jurisdiction.

During this research, staff gained an in-depth understanding of the extent that agencies regulate oil/gas well maintenance activities. For example, staff learned that various municipalities and counties do not have a clear definition of well maintenance, or a definition for each well maintenance activity. Entities such as Santa Barbara County, Long Beach City, and Ventura

County, do not define oil/gas well maintenance activities. CalGEM and SCAQMD also do not have a clear definition for “well maintenance.” Furthermore, the state’s oil oversight agency, CalGEM, does not have any established list of the different activities that could be interpreted as well maintenance, nor do they define those activities.

Within the City’s departments and offices, OZA staff also inquired with senior department staff and officials to understand how well maintenance projects were regulated and/or reviewed in different capacities. OZA staff consulted with the City’s Office of Petroleum and Natural Gas Administration and Safety (OPNGAS) regarding well maintenance activities throughout the research process, including as early as December 2019 and as recently as March 2022 to gain insight on well maintenance projects. OZA staff received and reviewed literature on well maintenance activities from Erica Blyther, the City’s Petroleum Administrator. OZA staff also spoke at different times with OPNGAS’s Deputy Petroleum Administrator, Amanda Suter, for background on well maintenance activities and the technical aspects to those operations. Additional research included consultations with Los Angeles Fire Department personnel including Captain Diana Igawa of the Oil Well Unit (formerly Harbor Industrial Unit) and with Royce Long of the Certified Unified Program Agency unit regarding their oversight of oil drill sites.

In October 2021, OZA staff also met with land use representatives on behalf of E&B Natural Resources, E&B Natural Resources staff themselves, and a representative of the California Independent Petroleum Association (CIPA) to discuss well maintenance projects. The operator, the operator’s representative, and the CIPA representative shared insight on how well maintenance projects could be regulated from a land use perspective and also shared a three-page document<sup>6</sup> on standard maintenance operations that were performed regularly at drill sites. OZA staff carefully reviewed this material and factored in this content when drafting the ZAI.

The ZAI research also included scientific research and academic articles.<sup>7</sup> One specific study examined SCAQMD project data and found that maintenance acidizing projects use the same chemicals used for hydraulic fracturing (otherwise known as fracking) and other forms of oil well stimulation.<sup>8</sup> This study that utilizes SCAQMD project data highlights how these types of oil/gas well activities can have potential land use impacts and therefore, support the conclusion that these types of projects are the types of “maintenance” projects intended to be reviewed by a land use official such as the Zoning Administrator, as referenced in the LAMC.

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<sup>6</sup> California Independent Petroleum Association - Examples of Routine Rig Work. December 15, 2021. <<https://drive.google.com/file/d/11VwrLsdTqyAPK6Dda2rBuWJhz4SwZ1la/view?usp=sharing>>

<sup>7</sup> "Response to CalGEM Questions for the California Oil and Gas Public Health Rulemaking Scientific Advisory Panel." October 1, 2021. University of California, Berkeley; PSE Healthy Energy. <[https://www.conservation.ca.gov/calgem/Documents/public-health/Public%20Health%20Panel%20Responses\\_FINAL%20ADA.pdf](https://www.conservation.ca.gov/calgem/Documents/public-health/Public%20Health%20Panel%20Responses_FINAL%20ADA.pdf)>

<sup>8</sup> Stringfellow WT, Camarillo MK, Domen JK, Shonkoff SBC (2017) Comparison of chemical use between hydraulic fracturing, acidizing, and routine oil and gas development. PLoS ONE 12(4): e0175344. <https://doi.org/10.1371/journal.pone.0175344>

The administrative record for this ZAI demonstrates an intentional and methodical process towards arriving at the interpretation of existing terminology in the LAMC. Additional information from the various consultations and meetings with industry and regulatory staff are included in the administrative record.

### *“Maintenance” Defined*

As previously mentioned, oil and gas wells have been regulated in the LAMC since the mid-20th century. The terms “deepening” and “drilling” have appeared in different versions of the LAMC since at least 1948. In 1955, the first references to “well maintenance” appeared in LAMC Section 13.01-H, requiring operators to seek authorization from the Zoning Administrator to perform maintenance on oil wells with “a determination of the conditions under which the operations may be conducted.” These regulations reflect the City’s past policies and practice of allowing oil and gas wells in a variety of zones, as long as the effects of the land use (e.g., noise, odors, traffic) could be mitigated through conditions in consideration with the surrounding community.

The Chief Zoning Administrator’s interpretation of well maintenance aligns with the intent of the LAMC to regulate and provide additional oversight over oil well activities that commonly result in land use impacts. Over the years, OZA staff has received numerous documented concerns from residents and Council Offices concerning oil/gas well activities and observed that some activities, such as maintenance acidizing, may have land use impacts that require additional review and conditions imposed by the Zoning Administrator to minimize the effects on neighboring properties.

The aforementioned research on maintenance, coupled with the long-standing practice of requiring discretionary oversight over oil well activities that have the greatest land use impacts, helped to inform the Chief Zoning Administrator’s interpretation of well maintenance. The interpretation took an approach that encompassed a wide variety of oil/gas well activities that frequently take place at drill sites and that are also regulated at the State level. Well activities that warrant regulatory oversight from the State often result in the greatest land use impacts – Therefore, starting from long-standing state oil/gas well regulations outlined in the California Public Resources Code and local air district rules, the ZAI’s well maintenance criteria outlines a two-track qualification for whether an activity is interpreted as a well maintenance activity.

Under the first track, an activity is considered well maintenance if it requires a CalGEM “Rework permit.” Operators must apply for and obtain permits from CalGEM for specific well activities such as, but not limited to: permanently sealing and closing wells, repairing an oil well, or drilling a new well. CalGEM has a specific type of permit for when an operator wants to permanently alter the casing of the oil/gas well and it will affect the structural integrity of said well. This permit is known as a “Rework” permit. Operators must apply to CalGEM for this permit and receive approval before completing the scope of work for said Rework permit.

Well maintenance activities also qualify under a second track pursuant to SCAQMD Rule 1148.2. SCAQMD regulates air quality throughout different Southern California counties including all of the City of Los Angeles. Under Rule 1148.2 (“Notification and Reporting Requirements for Oil/Gas Wells and Chemical Suppliers),” oil/gas well operators must submit an electronic notification to SCAQMD prior to commencing any well activities. These activities can include, but are not limited to: maintenance acidizing, gravel packing, and acid fracturing. Given that these activities could result in an odor event where air quality is impacted, SCAQMD instituted this regulation to regulate what chemicals operators are using during well activities. According to the research, both of these aforementioned regulation processes from CalGEM and SCAQMD have been in place for some time now. CalGEM has been issuing Notice of Intention permits since the 1930s per historical records. SCAQMD’s Rule 1148.2 became effective in April 2013.

The ZAI incorporated specific CalGEM and SCAQMD regulations into its interpretation for a variety of reasons. One of the main reasons was familiarity and knowledge of these two key agencies. In addition, the ZAI aligns the description of oil/gas well maintenance activities with how CalGEM and SCAQMD regulate specific activities. Operators must follow numerous rules and standards across different agencies and levels of government, including CalGEM and SCAQMD. Operators are responsible for remaining compliant with those two agencies in particular and it is likely they are already familiar with CalGEM Rework permits and SCAQMD Rule 1148.2 notification rules. All of the oil/gas well operators in the City of Los Angeles have either been operating their drill sites for several years and/or have drill site operations in other parts of California. As a result, they are familiar with CalGEM’s statewide policies and understand the process. Operators who have been active in Southern California for years should also be familiar with their obligations pertaining to SCAQMD rules, especially given the heightened attention and visibility to air quality policies.

With this background and research, on January 17, 2023, the Chief Zoning Administrator issued an interpretation that well maintenance activities are any scope of work that meets either of the following criteria:

1. A scope of work that requires a Notice of Intention “Rework Permit” to carry out a rework project on a well from the California Geologic Energy Management Division (CalGEM).
2. A scope of work that requires online notification per the South Coast Air Quality Management District’s (SCAQMD) Rule 1148.2 - “Notification and Reporting Requirements for Oil and Gas Well and Chemical Suppliers.”

#### *Proposed ZAI Modifications and SCAQMD*

After reviewing all of the appeal points for the ZAI, it was determined that one specific appeal point (further discussed below and referred to as Appeal Point #4) on ambiguity regarding the applicability of the newly amended SCAQMD criteria merits more attention. The OZA recognizes that the proposed modification to the ZAI is necessary because amendments to regulations at the State level were finalized and adopted after the release of the ZAI, and therefore, could not

be properly considered or incorporated in the original release of the ZAI. To address this concern, a Draft modification of the ZAI is proposed and attached to this report for the consideration and the adoption by the City Planning Commission. The proposed Draft modification of the ZAI adds clarifying language as it only pertains to these SCAQMD amendments as well as minor technical updates to bring the document to date, such as verb tense, references to “previous” or “current” code, and appeal rights. The modification, if adopted, will also include a reference to this appeal action and any other pertinent information herein.

As will be discussed in more detail under Appeal Point No. 4, from 2022 to 2023, SCAQMD conducted public outreach meetings and released staff reports on proposed amendments to Rule 1148.2.<sup>9</sup> These proposed amendments were not yet finalized nor were they going to be adopted prior to January 17, 2023, which was the release date of this ZAI. At the time the ZAI was released, the proposed SCAQMD rules, that would trigger Rule 1148.2 electronic notification, were in line with what was included in the ZAI. However, shortly thereafter, when the SCAQMD amendments were adopted on February 3, 2023, the scope of activities was expanded and the categories were restructured, warranting this ZAI modification. These SCAQMD amendments became effective well past the release of this ZAI, and thus, the appeal point questioning how they would be addressed is valid. Even if an appeal on this point had not been filed, the OZA intended to issue a Modification to the ZAI, to further clarify these new points, as have been done in previous such cases.

The proposed Draft modification to the ZAI affirms the original intent to include SCAQMD activities, while further clarifying under which circumstances the currently expanded list of SCAQMD activities will be considered “maintenance” for this purpose. The Chief ZA recommends the consideration and adoption of the modified ZAI, attached and labeled as **Exhibit E**, by the City Planning Commission’s consideration.

#### CEQA

The issuance of ZA-2022-8997-ZAI is not a “project” as that term is defined by CEQA Guidelines, Section 15378. The ZAI constitutes an activity that formalizes an interpretation of an undefined term in the City’s municipal code and Oil and Gas Drilling Ordinance. The ZAI sets forth an interpretation of maintenance that is consistent with the type of maintenance activities normally performed at oil well facilities (i.e., baseline conditions), as well as with the intent of the term “well maintenance,” as present in the LAMC and as adopted by the Oil and Gas Drilling Ordinance. The ZAI and its interpretation of the term “maintenance” is also consistent with the City’s prior interpretation of that term to include certain oil/gas well activities that have the potential to result in land use impacts, and that require further review and approval by the Zoning Administrator. Although the ZAI adopts CalGEM and SCAQMD regulations as reference points, the oil well activities encompassed by these state regulations (including recasing,

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<sup>9</sup> Proposed Amended Rule 1148.2 "Notification and Reporting Requirements for Oil and Gas Wells and Chemical Suppliers", South Coast AQMD Rule Book - Proposed Rules.<<http://www.aqmd.gov/home/rules-compliance/rules/scaqmd-rule-book/proposed-rules/rule-1148-2>>

perforation additions, and maintenance acidizing), are the types of activities that fall within the scope and intent of term “well maintenance,” as the OZA previously interpreted that term informally through application and practice in the LAMC, and as that term is used in the Ordinance. The ZAI does not change or expand the intent and application of the term as previously interpreted or as present in the Ordinance. It has been the long-standing practice of the OZA to treat these types of activities as maintenance. The ZAI also does not change or expand the scope and application of the Ordinance, the Ordinance’s potential impacts, or the baseline conditions for implementing the Ordinance. Accordingly, the ZAI in and of itself does not cause a direct or reasonably foreseeable indirect physical change in the environment. The ZAI will not change these baseline conditions and any potential impacts to the physical environment are properly attributed to the Oil and Gas Drilling Ordinance, which was fully evaluated in the Initial Study and Mitigated Negative Declaration (Case No. ENV-2022-4865-MND) (IS/MND).

Nevertheless, even if the ZAI is determined to be a project for purposes of CEQA, the ZAI is a subsequent discretionary activity implementing the Oil and Gas Drilling Ordinance. The ZAI’s interpretation of the term “maintained,” as that term is present in the Ordinance, is in harmony with the objectives and intent of the Ordinance, which are to make oil/gas wells a legal nonconforming use in the City, ensure that such nonconforming uses are not expanded, and terminate such uses within a specific amortization period. The formal interpretation of “maintained” will facilitate implementation of the Ordinance and its goals, but it will not change the Ordinance or change the circumstances under which the Ordinance was approved. Any impacts resulting from the ZAI (if there are any) would not be different from those of the Ordinance, which were already fully identified and evaluated in the IS/MND. No subsequent or additional environmental review is required. (See CEQA Guidelines Section 15162.)

#### *Appeal Scope & Scope of ZAI*

The appeal analysis and responses discussed below pertain only to Case No. ZA-2022-8997-ZAI and the City Planning Commission will be issuing a determination only on the appeal points raised by appellants as to this ZAI. Neither the Oil and Gas Drilling Ordinance, which amended sections of the LAMC including Sections 12.23-C.4 and 13.01, nor ZA Memo 141 are within the scope of this appeal. The appellants, however, have made references to Sections of the LAMC that previously or currently regulate oil activities, the Oil and Gas Drilling Ordinance and ZA Memo 141 in their appeal justifications. Simply put:

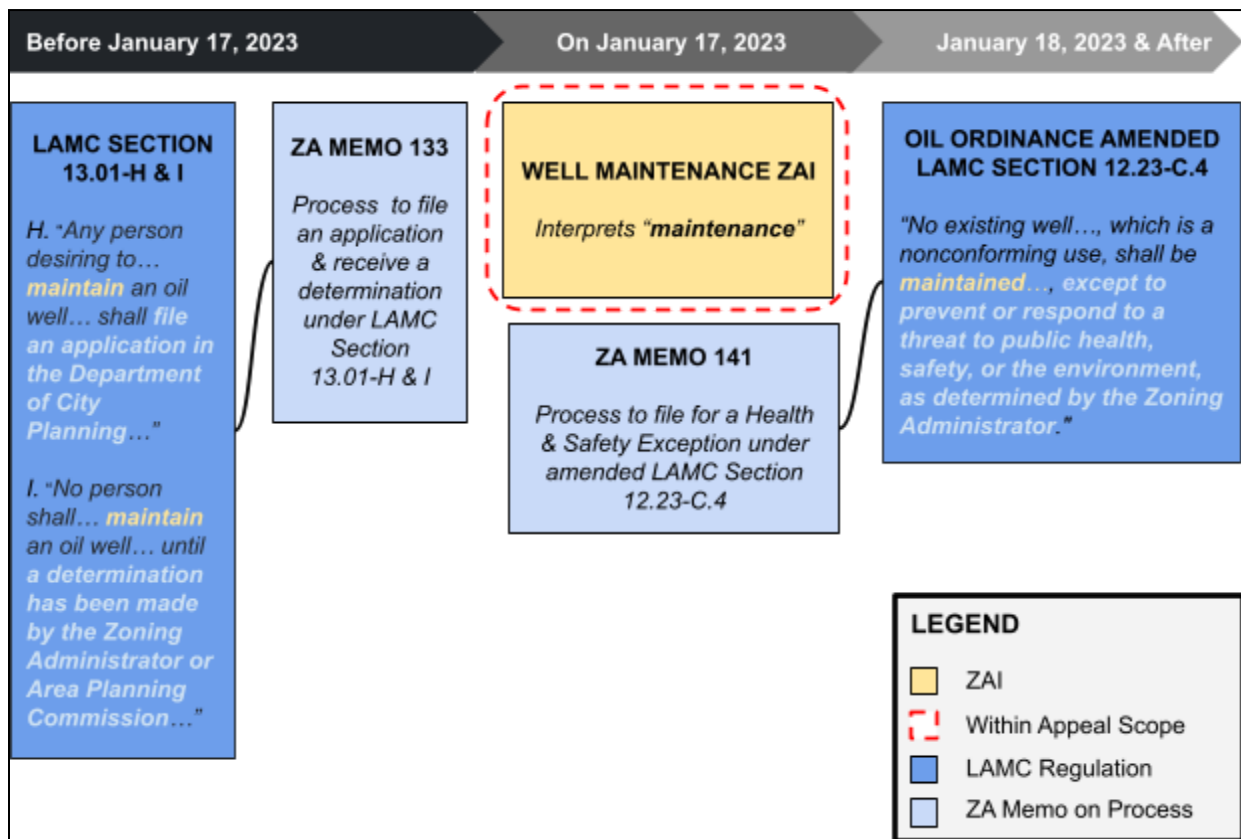
- LAMC Section 12.21-A.2 establishes the Zoning Administrator’s authority to interpret the term “maintenance” through this ZAI. The ZAI does not establish new regulations or review procedures; it is narrowly focused on interpreting terminology found in the LAMC both prior to and after the adoption of the Oil and Gas Drilling Ordinance.
- The recently adopted Oil and Gas Drilling Ordinance and LAMC Section 12.23-C.4 establish the regulations concerning oil/gas wells in the City, prohibiting the maintenance of nonconforming wells unless the Zoning Administrator determines that such work is necessary to preserve public health, safety, or the environment. The Oil and Gas Drilling

Ordinance also amended LAMC Section 13.01 to disallow the issuance of new permits to “drill, deepen, or maintain” an oil well per LAMC Section 13.01-H & I.

- ZA Memo 141 establishes procedures and policies for the acceptance and processing of applications for discretionary requests to implement the Ordinance by allowing operators to seek a Health & Safety Exception pursuant to LAMC Section 12.23-C.4.

Although related to the ZAI interpretation of well maintenance, LAMC sections that previously or currently regulate oil activities, including the Oil and Gas Drilling Ordinance, and ZA Memo 141 are separate documents, outside the scope of this appeal. As shown in **Image 1** below, while both items are related to the Well Maintenance ZAI, they shall not be considered part of the appellate body’s decision.

**Image 1.** ZAI Relationship to LAMC Regulations and ZA Memos.



## APPEAL ANALYSIS

### APPEAL SUMMARY

On January 17, 2023, the Chief Zoning Administrator issued a Zoning Administrator’s Interpretation on the meaning of “well maintenance”, as referenced in the LAMC. Three timely appeals were filed pursuant to LAMC Section 12.21-A,2.

Two of the three appeals are from oil extraction and production companies with active operations in the City: Warren Resources, Inc. and E&B Natural Resources Management Corporation. The third appeal was filed jointly by two oil drilling advocacy groups: the Native Oil Producers and Employees of California (NOPEC), and the Western States Petroleum Association (WSPA). All three appeals are made against the entire interpretation.

Below is a simple chart of the different appeal points from each applicant, with a more in depth discussion in the following section:

**Image 2.** Matrix chart identifying common and distinct appeal points from the appellants.

Matrix of Appeal Points on Well Maintenance ZAI															
Appeal Points	1. CEQA Violation	2. State Law Preemption	3. Vested Rights and Takings	4. Vague and Ambiguous	5. General Plan Inconsistency	6. Just Compensation	7. ZA Exceed Authority	8. Arbitrary and Abuse of Discretion	9. Contract Interference	10. Force Well Abandonment	11. Estopped from Defining Well Maintenance	12. Amortization	13. Police Power	14. Civil Rights Act	15. Due Process
<b>Operators</b>															
Warren Resources	X	X	X	X	X	X	X	X	X	X	X				
WSPA-NOPEC	X	X	X	X	X	X	X	X							
E&B Natural Resources	X	X	X	X	X				X	X		X	X	X	X

### APPEAL POINTS AND RESPONSES

The following statements have been summarized from all three appeals by WSPA and NOPEC, Warren Resources, Inc., and E&B Natural Resources. The appeals in their entirety have been attached herein for reference, as **Exhibit A** for the Warren Resources, **Exhibit B** for the WSPA & NOPEC, and as **Exhibit C** for E&B Natural Resources.



## 1. APPEAL POINT

WSPA-NOPEC     Warren Resources     E&B Natural Resources

### *Summary of Appeal Point*

The adoption of the ZAI constitutes improper piecemealing. The ZAI was also not evaluated in the CEQA clearance for the City's Oil and Gas Drilling Ordinance, Case No. ENV-2022-4865-MND. The ZAI will result in potentially significant impacts to air quality, energy, aesthetics, traffic, odor, and noise from an accelerated rate of abandonment activities and increased importation of oil to replace local production. In addition, the exemptions in CEQA Guidelines Section 15378 do not apply to the ZAI and the ZAI constitutes a "project" requiring environmental review.

### **APPEAL RESPONSE**

#### **The ZAI is not a project per CEQA Guidelines Section 15378.**

CEQA requires government agencies to consider the environmental consequences of their actions before approving plans and policies or committing to a course of action on a project. Within the context of CEQA, the term "project" has a specific meaning.

Section 15378 of the CEQA Guidelines provides the following definition of a project:

(a) "Project" means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is any of the following:

(1) An activity directly undertaken by any public agency including but not limited to public works construction and related activities clearing or grading of land, improvement to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof pursuant to Government Code Sections 65100-65700.

(2) An activity undertaken by a person which is supported in whole or in part through public agency contacts, grants subsidies, or other forms of assistance from one or more public agencies.

(3) An activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

The ZAI is not a project under CEQA because it is an administrative action that formalizes an existing interpretation of terminology in the LAMC and the recently adopted Oil and Gas Drilling Ordinance. The Chief Zoning Administrator's interpretation of this terminology is not a project pursuant to CEQA Guidelines Section 15378 because it is not the kind or sort of activity which has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. The ZAI's interpretation of the term "maintenance" is consistent with the intent of the term to include activities at oil/gas well facilities that could result in land use impacts, and that may require further review and approval by the Zoning Administrator. The ZAI's interpretation is also consistent with the manner in which the Zoning Administrator previously interpreted the term "well maintenance" on a case-by-case basis of the LAMC provisions prior to the adoption of the Oil and Gas Drilling Ordinance. Prior to the ZAI, the Zoning Administrator reviewed and determined the term well maintenance to include activities such as maintenance acidizing and recasing –activities that trigger a rework permit from CalGEM and/or online notification per SCAQMD Rule 1148.2. In fact, prior to the adoption of the Ordinance or issuance of the ZAI, the OZA explained to oil well operators that certain oil well activities, including recasing and acidizing of wells, would constitute maintenance under the LAMC and would require review and approval by the Zoning Administrator. See **Exhibit Q** for various email correspondence illustrating OZA staff requiring ZA review for different activities that qualify as "well maintenance" and require a ZA determination. Additionally, the OZA has consistently treated CalGEM NOI permits for Rework or redrilling as "well maintenance." Put differently, the ZAI does not alter or expand the scope, intent, or application of the term "well maintenance," as that term is used in the LAMC and as previously applied by the Zoning Administrator. Moreover, the ZAI's interpretation of the term "well maintenance" is consistent with the objectives and intent of the Oil and Gas Drilling Ordinance, and does not and cannot change the Ordinance or the Ordinance's potential impacts, nor does it change the baseline conditions for implementation of the Ordinance. The objective of the Oil and Gas Drilling Ordinance is ending oil well operations in the City within a specified time (i.e., within a 20-year amortization period). The potential environmental impacts of the Ordinance were fully evaluated in the IS/MND. The ZAI, however, does nothing more than interpret a term in the Ordinance in a manner that is consistent with the Ordinance's intent and objectives. It formally interprets "well maintenance" to help uniformly implement the Ordinance, without changing the Ordinance's scope, requirements, or goals.

The appellants claim that the ZAI will have potential indirect or direct impacts on the environment, including to air quality, energy, aesthetics, traffic, odor, and noise. The appellants argue that these alleged impacts will result from a purported acceleration of well abandonment and from the increased importation of replacement oil. But, the appellants do not identify a causal connection between the ZAI and these alleged impacts, and only provide speculation that cannot support an argument that there would be any causal connection between the ZAI and a direct or reasonably foreseeable indirect impacts. (See *Union of Medical Marijuana Patients, Inc. v. City of San Diego* (2019) 7 Cal.5th 1171; *San Francisco Taxi Coal. v. City and County of San Francisco*

(9th Cir. 2020) 979 F.3d 1220). An argument that the ZAI will change the pre-existing oil well maintenance activities already occurring, and that such changes could result in a direct or reasonably foreseeable indirect impact, is too attenuated. The ZAI only formalizes the intent and interpretation of the term “well maintenance”, to follow past practice. Instead of relying on a case-by-case interpretation, the ZAI provides a formal interpretation of specific oil/gas well activities that would be considered “well maintenance” requiring discretionary review under the Oil and Gas Drilling Ordinance. The ZAI does not change the Ordinance’s scope, intent, or impacts, and, in and of itself, cannot effect a change in the environment. Any direct or indirect impact to the environment as a result of implementing the requirements of the Ordinance was fully analyzed in the IS/MND. In fact, the IS/MND expressly evaluated the potential environmental impacts from the abandonment of oil wells, which may be a result of the new requirements in the Ordinance. However, no additional impacts can be attributed to the ZAI and its interpretation of maintenance. In this regard, the ZAI cannot and will not result in a direct or reasonably foreseeable indirect impact on the environment, and is thus, not a project under CEQA.

**The City performed a CEQA analysis of any potential impacts on the environment.**

As stated in the ZAI issued on January 17, 2023, even if a court determined that the ZAI was a project, and subject to CEQA, the impacts of the ZAI (if any) were fully evaluated in the IS/MND (Case No. ENV-2022-4865-MND) prepared for the Oil and Gas Drilling Ordinance. As such, the ZAI is a subsequent determination that implements the Oil and Gas Drilling Ordinance. Moreover, pursuant to Public Resources Code Section 21166 and CEQA Guidelines Section 15162, the ZAI does not change the project, change the circumstances of the project, or result in new information of substantial importance. The ZAI only interprets a term used in the Oil and Gas Drilling Ordinance to facilitate implementation of the Ordinance. The ZAI’s interpretation of the term “well maintenance” is consistent with the requirements, intent, and goals of the Ordinance, and only seeks to implement the Ordinance itself in accordance with its stated requirements and objectives. The ZAI does not change or expand the application or scope of the Ordinance. Thus, any impacts from the abandonment of wells are correctly attributed to the Ordinance itself, and those impacts were already fully evaluated in the IS/MND. In fact, the IS/MND explicitly examined the environmental impacts that may result from the abandonment and termination of oil wells, including the environmental impacts appellant identified in this appeal. Appellants argue that the ZAI will accelerate oil well abandonment, but provide no causation or factual support for this conclusory statement. Similarly, appellants contend that there will be new or additional impacts resulting from the importation of replacement oil, but again they fail to identify how the ZAI will change oil importation or cause these alleged impacts. The appellants provide no evidence, let alone substantial evidence, to support their claim that the ZAI changed or expanded the scope or meaning of the term “well maintenance,” as that term is used in the Ordinance, or that the ZAI has the potential to result in a significant impact to the environment or require new mitigation not previously adopted for the Ordinance.

The ZAI only formalizes and codifies the types of activities that qualify as “well maintenance” in a manner consistent with the intent of the Ordinance. It interprets the term “well maintenance” to encompass those oil well operations that trigger a rework permit through CalGEM and/or ones that require online notification per SCAQMD Rule 1148.2. These processes are well established and already occurred in the existing environment when the Ordinance was adopted, and involve activities that the Zoning Administrator already considered well maintenance under the LAMC. Moreover, the requirements for obtaining a discretionary approval for conducting oil well maintenance, including providing evidence that the maintenance operations are required for health and safety reasons, were established by the Ordinance, not the ZAI. Because the ZAI does not change the Oil and Gas Drilling Ordinance, and only seeks to implement the Ordinance, the ZAI’s administrative interpretation of well maintenance does not require additional or subsequent environmental review. Any environmental impacts at issue are attributed to the Ordinance, and were analyzed in the IS/MND.

#### **The City Did Not Piecemeal Environmental Review.**

Appellants generally allege that LACP has piecemealed the environmental review for the ZAI, but provide no actual evidence or explanation as to how this has occurred as a result of interpreting the phrase “well maintenance” for implementation of the Oil and Gas Drilling Ordinance. Even assuming that the ZAI is a project, its impacts are no different than those of the Oil and Gas Drilling Ordinance—all of which were fully analyzed in the IS/MND for the Ordinance.

“Piecemealing” occurs when a public agency separates a single larger project into smaller projects to conduct separate environmental analyses and minimize a project’s true impacts. (See *Aptos Council v. Cnty. of Santa Cruz* (2017) 10 Cal.App.5th 266, 278.) Two elements must be present: “future expansion or other action . . . : (1) . . . is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects.” (*Laurel Heights Improvement Assn. v. Regents of Univ. of California* (1989) 47 Cal.3d 376, 396.)

As stated above, the ZAI is not a project under CEQA requiring environmental review. Per LAMC Section 12.21 A.2, the Chief Zoning Administrator has authority to make an interpretation to administer the code when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation. In this case, the ZAI is an administrative decision, made in the implementation, administration, or enforcement of regulations that involve the determination of facts and the application of objective standards.

Even if the ZAI is a project subject to CEQA, potential impacts (if any) were fully evaluated in the same environmental document for the Ordinance (i.e., the IS/MND). The ZAI will not change the scope or nature of the Ordinance or its environmental effects. There is no piecemealing where the potential impacts of the ZAI (if any) are no different than those of the Ordinance, and where both the Ordinance's and the ZAI's potential impacts were already evaluated in a single environmental document—the IS/MND for the Ordinance.

Thus, the appellants' arguments concerning CEQA and the ZAI are not valid. The ZAI is not a project as it only is an action that interprets existing terminology found in the LAMC and the Ordinance to facilitate their implementation and the City's administration of its own regulations – it does not have the potential to result in direct or reasonably foreseeable indirect impacts to the physical environment. In the hypothetical scenario that the ZAI was deemed a "project" under CEQA, its potential impacts would be no different than those of the Ordinance, whose impacts were already fully evaluated in the adopted MND. The approval of the ZAI is not illegal piecemealing, and no additional or subsequent environmental review is required.

## 2. APPEAL POINT

WSPA-NOPEC     Warren Resources     E&B Natural Resources

### *Summary of Appeal Point*

The ZAI is preempted by state law and by SCAQMD regulations.

### **APPEAL RESPONSE**

#### **ZAI does not conflict with state law and is not preempted by state regulations.**

The Chief Zoning Administrator's ZAI is not preempted by state law because the ZAI solely interprets a word and phrase in the City's zoning code. Land use and zoning regulations derive from a City's general police power. California Constitution, Article XI, Section 7. A land use regulation lies within the City's police power if it is reasonably related to the public welfare. *Associated Home Builders of the Greater Eastbay, Inc. v. City of Livermore* (1976) 18 Cal.3d 582, 600-601.

With respect to oil drilling specifically, the California Supreme Court ruled in 1953 that it is "well settled" that an ordinance limiting a property owner's interest in oil-bearing lands "is not of itself an unreasonable means of accomplishing a legitimate objective within the police power of the city." *Beverly Oil Co. v. City of Los Angeles* (1953) 40 Cal. 2d 552, 558. Other courts also have upheld bans on oil drilling for health and safety reasons. *Hermosa Beach Stop Oil Coalition v. City of Hermosa Beach* (2001 ) 86 Cal. App. 4th 534, 555 [holding that an adopted measure banning all oil drilling and production to

preserve the environment and protect public health is presumptively a justifiable exercise of the City's police power]; *Higgins v. City of Santa Monica* (1964) 62 Cal. 2d 24, 28 [upholding an ordinance prohibiting oil exploration and drilling in the Santa Monica tidelands].

Oil drilling activities are regulated by both the state (through the Geologic Energy Management Division, or CalGEM, and SCAQMD) as well as by local zoning ordinances. 59 Ops.Cal.Atty.Gen. 461 (1976). The Public Resources Code does not preempt local zoning regulation of oil and gas development *Chevron U.S.A., Inc. v. County of Monterey* (2021) 70 Cal.App.5th 153, 172 fn 16 (a local entity may require a permit for oil drilling operations or restrict oil drilling operations to particular zoning districts).

CalGEM is the responsible state agency to issue permits in response to Notices of Intention to drill, rework, or permanently plug and abandon a well. Notably, CalGEM specifically incorporates local oversight into their permitting process by having operators take responsibility for obtaining all permits and approvals from local agencies; the local agency also acts as the Lead Agency. Specifically, Public Resources Code section 3203.5(a) provides that “[CalGEM] shall require a copy of the local land use authorization that supports the installation of a well at the time an operator submits the notice of intention for the well . . . .”

CalGEM, on two separate guidance documents, identifies that it is the operator’s responsibility to check with the local agency and identify if there are any local permitting and/or approval requirements.<sup>1011</sup> In fact, part of CalGEM’s online application portal, WellSTAR, asks the operator whether they have consulted and received approval from the local agency. The City of Los Angeles is the Lead Agency and LACP, on behalf of the City, conducts the CEQA review for oil/gas well projects regarding all Notices of Intention, including well maintenance activities. There have been various occasions when operators, including the appellant, have contacted LACP for CEQA clearance for CalGEM Rework permits.<sup>12131415</sup>

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<sup>10</sup> California Geologic Energy Management Division, Notice to Operators 2019-16, October 24, 2019 <<https://www.conservation.ca.gov/calgem/CEQA/Documents/NTO%202019-16%20%28CEQA%20Compliance%29%20ADA.pdf>>

<sup>11</sup> California Geologic Energy Management Division, CEQA Guidance for Operators, Project Description, Revised January 5, 2023. <[https://www.conservation.ca.gov/calgem/Documents/CEQA\\_Proj%20Desc%20Guidance%20for%20Operators\\_Final\\_20230105.pdf](https://www.conservation.ca.gov/calgem/Documents/CEQA_Proj%20Desc%20Guidance%20for%20Operators_Final_20230105.pdf)>

<sup>12</sup> Correspondence: S-65 at San Vicente email subject from Ted Cordova to Edber Macedo, Friday, January 17, 2020. <[https://drive.google.com/file/d/1tAXOWS6B18wyMzBT-ue9WfZVFxV\\_pg1N/view?usp=sharing](https://drive.google.com/file/d/1tAXOWS6B18wyMzBT-ue9WfZVFxV_pg1N/view?usp=sharing)>

<sup>13</sup> Correspondence: WTU Central - CEQA email subject from Ana Tovar to Edber Macedo, Tuesday, March 29, 2022. <[https://drive.google.com/file/d/1wsm97c5Z8U3PFL8a\\_9RuYyou-mjkGpHG/view?usp=sharing](https://drive.google.com/file/d/1wsm97c5Z8U3PFL8a_9RuYyou-mjkGpHG/view?usp=sharing)>

<sup>14</sup> Correspondence: L.A. City Planning // Additional Information email subject from Mike Guiliani to Edber Macedo, Thursday, July 7, 2022 <<https://drive.google.com/file/d/1b8BRZWDWtG1pYE4M2sJPJ7xcSskD5JAR/view?usp=sharing>>

<sup>15</sup> Correspondence: CEQA Project Description - WTU 1911i email subject from Ana Tovar to Edber Macedo, Friday, September 9, 2022. <[https://drive.google.com/file/d/1CkS37ybFVMYe\\_8LaZI5I9HfUVztHTnWf/view?usp=sharing](https://drive.google.com/file/d/1CkS37ybFVMYe_8LaZI5I9HfUVztHTnWf/view?usp=sharing)>

Pursuant to CalGEM rules, without a CEQA clearance, a permit cannot be issued and the operator does not complete their project. Thus, CalGEM recognizes local jurisdictions and their land use authority with regard to oil wells, based on zoning laws. (See Sections 3012, 3203.5(a); see also Section 3160, which provides that CalGEM and other agencies must comply with existing environmental laws, and section 3161, which provides that a local entity may conduct its own environmental review [in addition to CalGEM's required environmental review]; see also *Chevron U.S.A., Inc. v. County of Monterey* (2021) 70 Cal.App.5th 153, 172 fn 16, aff'd, 532 P.3d 1120 (Cal. 2023)([a local entity may require a permit for oil drilling operations or restrict oil drilling operations to particular zoning districts).

While there have been no Zoning Administrator's determinations or corresponding CEQA clearances for oil/gas well maintenance projects issued by the City, the City maintains its local land use authority to approve or disapprove such proposals prior to CalGEM's (or another agency's) sign-off. OZA staff has consistently advised operators that well maintenance activities require a discretionary determination from the Zoning Administrator and a CEQA clearance, but operators have never followed through with filing such a request with the City.

Importantly here, and in direct contradiction to the voter initiative (Measure Z) struck down in *Chevron U.S.A. Inc. v. Cnty. of Monterey* (2023) 532 P.3d 1120, the ZAI does not impact or dictate which method of drilling or maintenance an operator may choose to use (which must be approved by the State Oil and Gas Supervisor). The ZAI does not ban or prohibit any particular method or technique of drilling or extraction. The ZAI does not attempt to regulate many of the technical aspects of oil drilling operations addressed by state statutes and regulations.

The Zoning Administrator is only interested in whether the project approval the operator seeks is necessary for the protection of the health, safety, or the environment, which falls into the traditional land use authority of local jurisdictions. This is no different than the Zoning Administrator determining the methods and conditions under which drilling operators (whatever they may be) occur. (See former LAMC Section 13.01-H.)

The ZAI is also not preempted by SCAQMD rules because although some well maintenance activities are already regulated by SCAQMD, those activities may result in land use impacts and evaluating those impacts is within the purview of the local agency, and specifically, in Los Angeles, the Zoning Administrator. SCAQMD Rule 1148.2 is a regulation that outlines requirements for operators who carry out specific oil/gas well activities that impact local air quality. This rule requires operators to provide online notification to SCAQMD of when these projects will take place and disclose the quantity and inventory of chemicals planned for use during the well maintenance activity. SCAQMD does not regulate or impose conditions, nor does it require a CEQA clearance as part of Rule 1148.2 because the agency does not issue permits or approvals for activities that require notification. However, some of the activities that trigger SCAQMD

Rule 1148.2 Notification, such as maintenance acidizing, result in impacts that are regulated by the City exercising its local land use authority. The OZA's authority to regulate these activities go well beyond SCAQMD's oversight over regional air quality, and extend to mitigating such impacts as traffic and circulation, parking, noise, hours of operation, public disruption, and the environmental health of the community - just to name a few. These impacts may be addressed through the imposition of land use conditions or CEQA mitigation measures to reduce environmental impacts.

The different agencies responsible for regulating oil/gas wells take on an important role in ensuring safe operations and the ZAI is just another part to the regulation of drill sites in the City. The ZAI is not preempted by any state agency because it does not conflict with any state agency law or regulation. On the contrary, for CalGEM permits, the state agency incorporates local agencies in their review process. SCAQMD's focus on air quality control is essential to mitigating odor and pollution impact. The ZAI clarifies that specific oil/gas well activities are subject to the land use oversight and possible conditions of the Zoning Administrator in order to mitigate land use impacts not regulated by other state agencies.

**The ZAI is another example of state-local oversight.**

CalGEM's practice of incorporating local input on permitting is not uncommon and is reasonable given other forms of state deference to local oversight on land uses. For example, alcohol establishments in the City require both a license from the California State Department of Alcoholic Beverage Control (ABC) and also a Conditional Use Permit from the Zoning Administrator - the same decision maker for oil well projects. ABC requires alcohol establishment operators to complete a Zoning Affidavit and verify compliance with local land use regulations, and application of any discretionary reviews. If the local jurisdiction requires a conditional use permit then ABC factors that information into the processing of the state alcohol license. Similarly, with CalGEM, there is a process set up by CalGEM, through their application processing, to capture any applicable reviews by the local jurisdiction, and CEQA.

Another example of state-local oversight is how the California Legislature recently passed legislation streamlining housing development, including Accessory Dwelling Units, and LACP has consistently released guidance documents and implementation directives to ensure that local planning requirements do not conflict with streamlining requirements. LACP takes proactive measures to craft local housing development requirements where the department's policies work parallel to the state's legislation on housing development. Similarly, with well maintenance projects, LACP's intent in its land use regulation of oil/gas wells is to align with state laws, while incorporating relevant local level land use regulations to ensure safe operations at all drill sites in the City. This ZAI's reference on state regulations, to describe and clarify how a term in the zoning code can be interpreted further exemplifies the importance of the relationship between the state and local regulations.



### 3. APPEAL POINT

WSPA-NOPEC     Warren Resources     E&B Natural Resources

#### *Summary of Appeal Point*

The ZAI impairs the operator's vested rights in a City-granted conditional land use approval and that the ZAI is also subject to takings claims because the City has not compensated the operator for its loss due to not being able to maintain their oil/gas wells.

#### **APPEAL RESPONSE**

##### **The ZAI does not conflict with operators' vested rights at City drill sites.**

This appeal point largely attacks the Oil Ordinance, not the ZAI. The Oil Ordinance is not at issue on this appeal.

Regardless, the ZAI does not conflict with any operators' vested rights. The ZAI interprets terminology referenced in the LAMC and does not impact currently held vested rights. Operators holding valid land use approvals issued under Former LAMC Section 13.01-H or a variance may continue to extract and produce oil at their respective drill site locations while following all imposed conditions of approval as well as all city, county, state, and federal laws and regulations.

The ZAI is also not an expansion of discretionary authority. Since 1955, LAMC Section 13.01- required discretionary approvals.

##### **The Chief Zoning Administrator's interpretation of terminology does not constitute a taking.**

To the extent that appellants' appeal takes issue with the Oil Ordinance (and not the ZAI), the Ordinance is not at issue in this appeal. Nevertheless, the Oil Ordinance is also not a taking. The appellants do not need to cease the now nonconforming uses for 20 years, a more than reasonable amortization period commensurate with the investment involved. *Livingston Rock v. County of Los Angeles* (1954) 43 Cal.2d 121,127 [cement mixing plant in M1 zone]; *City of La Mesa v. Tweed & Gambrell Planning Mill* (1956) 146 Cal.App.2d 762, 770 [lumber mill in residential zone].

#### 4. APPEAL POINT

WSPA-NOPEC     Warren Resources     E&B Natural Resources

##### *Summary of Appeal Point*

The ZAI is impermissibly vague because it fails to clarify what is considered “well servicing” as opposed to well maintenance. In addition, SCAQMD’s proposed amendments to Rule 1148.2 greatly expands the scope of notification and reporting requirements for oil and gas wells and chemical suppliers make it unclear what the ZAI applies to in regards to activities that require SCAQMD online notification.

##### **APPEAL RESPONSE**

**The ZAI’s interpretation of the term maintenance is not vague because it incorporates and references existing state rules.**

The January 17, 2023 ZAI outlines what activities would be considered “well maintenance” in a clear and unambiguous manner that both the public and drill site operators can understand. The ZAI states that any scope of work that requires an operator to apply for a CalGEM NOI to Rework permit and/or submit an online notification to SCAQMD pursuant to the agency’s Rule 1148.2 standards would then qualify that proposed scope of work as “well maintenance”, as it is referenced in the LAMC.

These two state rules are examples of existing standards that are part of the overall regulatory structure for oil/gas wells that the ZAI relies on in order to identify which activities require a Zoning Administrator’s determination. The ZAI’s statement of which oil/gas well projects qualify as well maintenance are activities that operators would have already needed to complete specific steps in order to remain compliant with state rules on oil/gas wells.

**The ZAI acknowledges that further clarification is beneficial.**

In response to the appellant’s arguments that the ZAI is vague because of SCAQMD amendments to the agency’s Rule 1148.2 standards, OZA staff sees the merit in this argument and as a result, is recommending that the City Planning Commission adopt a modified version of the Well Maintenance ZAI to reflect the SCAQMD amendments.

From 2022 to 2023, SCAQMD conducted public outreach meetings and released staff reports on proposed amendments to Rule 1148.2. This rule requires oil/gas well operators to submit notification to SCAQMD whenever performing specific activities, including quantities of chemicals used and a disclosure of which chemicals they are using for the activity. These amendments were not yet finalized nor were they going to

be adopted prior to January 17, 2023 - the release date of the ZAI. At the time the ZAI was released, the proposed SCAQMD rules that would trigger Rule 1148.2 notification, were in line with what was included in the ZAI and included: hydraulic fracturing, gravel packing, maintenance acidizing, matrix acidizing, and acid fracturing. However, shortly thereafter, the SCAQMD amendments were adopted on February 3, 2023, and the scope of activities requiring notification included the aforementioned activities, and was restructured and expanded to include maintenance acidizing for injection wells, chemical treatment activities, and oil/gas well activities that utilized a workover rig that did not use a Tier 4 Final low emission engine or non-combustion source. These SCAQMD amendments became effective well past the release of this ZAI, and thus, this appeal point questioning their applicability is valid. Even if an appeal on this point had not been filed, the OZA intended to issue a Modification to the ZAI to further clarify the SCAQMD changes.

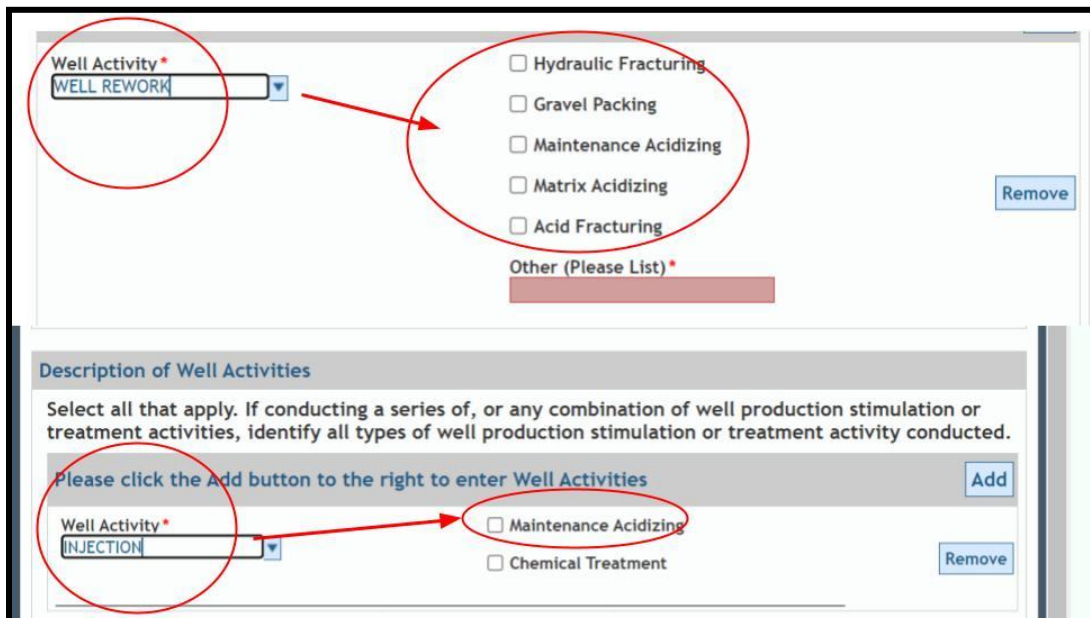
While the expanded list of activities adopted as part of the Rule 1148.2 amendments require SCAQMD oversight to address regional air quality, the restructuring and expansion of the scopes of work do not align with the intent of the ZAI, as previously written to capture maintenance activities. For example, one of the new requirements that SCAQMD has enacted in their February 2023 amendments to Rule 1148.2 includes notification for projects where 20 gallons or more of chemical treatment are being used. The OZA has received documented complaints from community members concerning the land use impacts of oil/gas well activities such as maintenance acidizing. In the OZA's inquiries into these activities, the complaints for maintenance acidizing projects typically used chemical volumes in excess of 1,000 gallons. The decision to modify the ZAI and focus on which SCAQMD activities would actually require a ZA determination remains within the original intention of regulating specific projects such as maintenance acidizing, but not include low volume chemical treatment projects where 20 to 30 gallons were used. Furthermore, projects that use a discrete amount of chemical volumes such as 30 gallons, or the like, would be carried out differently than a maintenance acidizing project using hundreds or over a thousand gallons of chemicals. For example, a chemical treater truck that will be used for a 30 gallon project is smaller than a tanker truck that is carrying hundreds or thousands of gallons of chemical treatment. Projects utilizing a larger volume of chemicals may also require a couple of tanker trucks or more. In addition to the potential transportation impacts, there is an increase in the likelihood of air quality impacts and odor events from conducting larger maintenance acidizing projects. These examples demonstrate the difference in the scale of chemical treatment activities versus maintenance acidizing activities and why chemical treatment was not included as "maintenance". These documented instances also confirm the Zoning Administrator's consistent interpretation to include maintenance acidizing activities as "well maintenance."

To respond to the amendments of the SCAQMD notification requirements post the release of the ZAI, this modification will further clarify/interpret that any Rule 1148.2 Notification for a Well Activity categorized as “Well Rework” or “Injection” as defined by SCAQMD, that will perform any of the following activities, will be considered “well maintenance” pursuant to the LAMC:

1. acidizing,
2. hydraulic fracturing,
3. gravel packing,
4. maintenance acidizing,
5. matrix acidizing, and
6. acid fracturing.

See below for an image of the SCAQMD notification website and the information operators will select when reporting activities.

**Image 3.** Screenshots of the SCAQMD Rule 1148.2 Notification online portal. Red markups have been added by LACP to indicate which activities will be considered “well maintenance” pursuant to the LAMC.



In summary, as mentioned in the Background section of this report and also included in the Conclusion and Recommendations at the end, the proposed Draft modification to the ZAI affirms the original intent to include SCAQMD activities, while further clarifying under which circumstances the currently expanded list of SCAQMD activities will be considered “maintenance” for this purpose. With the draft modifications to the “well maintenance”

interpretation criteria proposed herein, the ZAI is a straightforward interpretation for operators to understand and follow as part of their oil/gas well operations.

In response to this appeal point raised, proposed herein are modifications to the ZAI determination to reflect SCAQMD's amendments to their Rule 1148.2 Oil/Gas Well Notification standards. This modification more clearly interprets which scopes of work would be considered "well maintenance" activities as referenced in the LAMC. A modified version of the ZAI determination showing these proposed changes, along with other minor clarifying language and updates to technical language, is attached to the Appeal Recommendation Report as **Exhibit E**. The relevant text to be modified is copied below with additions to the text noted in **red underline** and deletions in **strikethrough**:

1. A scope of work that requires a Notice of Intention "Rework Permit" to carry out a rework project on a well from CalGEM.
2. A scope of work that requires ~~online~~-notification per the SCAQMDs Rule 1148.2 - "Notification and Reporting Requirements for Oil and Gas Well and Chemical Suppliers" for "Well Rework" and/or "Injection" including one or more any of the following activities: acidizing, hydraulic fracturing, gravel packing, maintenance acidizing, matrix acidizing, and acid fracturing.

Therefore, it is recommended that the City Planning Commission grant in part, as to Appeal Point No. 4, deny all other appeal points, and adopt the modified Zoning Administrator's Interpretation of Well Maintenance, attached as **Exhibit E** to the Appeal Recommendation Report.

## 5. APPEAL POINT

WSPA-NOPEC     Warren Resources     E&B Natural Resources

### *Summary of Appeal Point*

The ZAI is unlawful because it is inconsistent with the City's Land Use Element in the General Plan which encourages the protection of major facilities such as oil and gas production and processing facilities, which allows for continued production from oil/gas operations. The ZAI is also inconsistent with the General Plan's Land Use Element objectives that aims to, "Ensure land use compatibility in areas adjacent...to the drilling for and production of oil and gas, may occur." (General Plan Land Use Element, Pg. 74).

### **APPEAL RESPONSE**

**This appeal point is not applicable because the LAMC does not require general plan consistency findings or compliance with specific community plan guidelines for the issuance of the ZAI.**

The LAMC does not require general plan consistency findings or compliance with specific community plan guidelines for the issuance of the ZAI. The ZAI interprets an existing term found in the LAMC and the ZAI does not create regulations for oil/gas wells that would require such general plan consistency findings.

**This appeal point also does not apply because the Land Use Element language cited does not correspond to the City.**

Two appellants - E&B Natural Resources and WSPA & NOPEC - cite in their appeal justification that there is specific phrasing in the Land Use Element that supports the use of oil and gas well operations. See **Exhibit B** for WSPA & NOPEC appeal justification and see **Exhibit C** for E&B Natural Resources appeal justification. The Land Use Element cited by the appellants is for a different jurisdiction - the County of Los Angeles. See **Exhibit T** for the County of Los Angeles's General Plan document. The County of Los Angeles's land use guidelines apply to unincorporated areas of Los Angeles County, not to an incorporated municipality such as the City of Los Angeles. The two entities are different and have distinct General Plan documents.

## 6. APPEAL POINT

WSPA-NOPEC     Warren Resources     E&B Natural Resources

### *Summary of Appeal Point*

The ZAI constitutes a taking without just compensation. The appellant states that the Chief Zoning Administrator's interpretation of existing terminology in the LAMC would constitute a taking against oil operators and their mineral rights. In addition, the appellant states that the ZAI infringes on property rights and does not provide compensation for this infringement.

### **APPEAL RESPONSE**

**An interpretation of an existing LAMC provision does not constitute a taking.**

The ZAI is only an interpretation; it is not the ordinance. Once again, appellants take issue with the Oil Ordinance, not the ZAI. The Ordinance is not at issue on this appeal to the City Planning Commission.

Under the constitution, no private property shall be taken for public use without the payment of just compensation. U.S. Const. 5th Amend. The ZAI is not an infringement on property rights or an operator's vested rights to operate wells. Rather, the ZAI interprets a term in the LAMC. It does not create requirements or prohibit activities. .

**7. APPEAL POINT:**

**WSPA-NOPEC**     **Warren Resources**     **E&B Natural Resources**

*Summary of Appeal Point*

The Chief Zoning Administrator is exceeding their scope of authority by issuing the ZAI. The appellants specifically claim that the background and context for LAMC Section 12.21-A.2 does not allow for the interpretation of “well maintenance” activities and does not permit the prohibition of activities. In addition, the ZAI effectively amends the City’s Zoning Code, which is not permitted without the requisite notice and comment period.

The appellant claims that this ZAI prohibits well maintenance and argues that the ZAI cannot be a land use directive that prohibits oil/gas well maintenance activities.

Also, there was no draft of the ZAI released to the public for potential feedback. The ZAI, which effectively amended the Zoning Code, was not permitted to do so without the requisite notice and comment period. It is inappropriate for the City to interpret language in LAMC Sections 13.01-H and 13.01-I that has been removed.

**APPEAL RESPONSE****Zoning Administrators hold clear City Charter land use authority.**

Pursuant to the Los Angeles Charter and Administrative Code, Volume 1, Article V (General Provisions Related to Departments - City Planning), Section 561, the Chief Zoning Administrator functions as a lead decision maker within the quasi judicial agency known as the Office of Zoning Administration. Appointed by the Director of Planning, the Chief Zoning Administrator manages and leads the OZA in investigating and determining all applications for variances from any of the regulations and requirements of the zoning ordinances, and exercise other powers and duties with respect to zoning and land use as prescribed by ordinance. In addition, the Chief Zoning Administrator yields the unique authority to “adopt rules necessary to carry out the requirements prescribed by ordinance and which are not in conflict or inconsistent with those ordinances.” (L.A. Charter, art. V. § 561.)

**The LAMC permits the Chief Zoning Administrator to interpret uses.**

LAMC Section 12.21-A.2 empowers the Chief Zoning Administrator to interpret specific uses and zoning regulations:

*“The Zoning Administrator shall have the authority to determine other uses, in addition to those specifically listed in this article, which may be permitted in each*

*of the various zones, when in their judgment, the other uses are similar to and no more objectionable to the public welfare than those listed.*

*The Zoning Administrator shall also have authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation.*

*The Zoning Administrator shall also have authority to adopt general interpretations determining the proper application of the yard regulations to groups of lots located in hillside districts or affected by common problems.”*

In the ZAI, the Chief Zoning Administrator, relying upon the extensive research of well maintenance activities, interprets a zoning regulation that is not clear: what oil/gas well activities are permitted pursuant to the relevant LAMC sections that mention “well maintenance.” The Chief Zoning Administrator has historically exercised this same authority for the formal interpretation of other terms, uses and regulations.

The Chief Zoning Administrator is also within their jurisdiction to release a ZAI that addresses how the interpreted language will be applicable before and after the effective date of the Oil and Gas Drilling Ordinance. ZA-2022-8997-ZAI was released when LAMC Section 13.01-H and LAMC Section 13.01-I were still in effect, therefore, the ZAI referenced and applied to these previous LAMC sections. Since the Oil and Gas Drilling Ordinance had already been adopted, and would soon be effective, the Chief Zoning Administrator also clarified on how the interpretation would apply the same under the new Oil and Gas Drilling Ordinance, which amended LAMC Section 12.23-C.4. The purpose of the Chief Zoning Administrator’s ZAI was to interpret “well maintenance” and clarify what activities qualify as “well maintenance” projects.

### **The ZAI does not prohibit activities or land uses.**

The ZAI does not prohibit any activities or uses, but rather interprets language in the Zoning Code. The Oil and Gas Drilling Ordinance, adopted by the Los Angeles City Council on December 2, 2022, prohibits operators from maintaining, drilling, re-drilling, or deepening legally nonconforming wells, but allows for certain exceptions pursuant to LAMC Section 12.23-C.4.

The word “maintain” appears in the amended version of the Code, which was legally approved following a series of public hearings wherein the advisory and decision-making bodies considered hundreds of public comments prior to the approval and adoption of the Ordinance.



**A Zoning Administrator Interpretation is not the same as a Code Amendments.**

ZAIs are formal land use interpretations from the Chief Zoning Administrator.s. ZAIs are not code amendments that require a public outreach process. As discussed earlier in this appeal response, the authority and purview of the Chief Zoning Administrator granted in the City Charter and LAMC includes issuing ZAIs. The ZAI is a codified process described in the LAMC Section 12.21-A.2. There are no requirements to issue a draft copy of the ZAI and/or require a staff report for release prior to issuing a citywide ZAI.

Nevertheless, the Office of Zoning Administration did complete an extensive amount of research concerning land use impacts and well maintenance activities. OZA staff also received, read, and considered feedback from the public, including oil drilling operators, environmental justice advocates, and even some of the appellants, regarding the interpretation of “well maintenance.” The research and outreach efforts are summarized in this report and are detailed more extensively in the administrative record.

And whereas the LAMC does not require a public hearing or a circulation of a draft report for a ZAI, there is still a process by which an appeal can be made to the Area Planning Commission or the City Planning Commission to address challenges to the interpretation.

**8. APPEAL POINT**

WSPA-NOPEC     Warren Resources     E&B Natural Resources

*Summary of Appeal Point*

The ZA Interpretation is arbitrary and capricious, lacking in evidentiary support, and an abuse of discretion.

**APPEAL RESPONSE**

**The ZAI was the result of rigorous and methodical research.**

The Chief ZA has the authority to interpret the Zoning Code. LAMC Section 12.21-A.2. The City’s interpretation of its own ordinance is entitled to deference. *J. Arthur Properties, II, LLC v. City of San Jose* (2018) 21 Cal.App.5th 480, 486. Greater deference is appropriate where, as here, there is a record of careful consideration by senior agency officials. *J. Arthur Properties, supra*, 21 Cal.App.5th at 486.

The record here demonstrates that OZA staff assisted the Chief Zoning Administrator in the research and development of the ZAI. The extensive research encompassed various consultations with regulatory agency staff, correspondence, and data requests in order to develop a thorough understanding of well maintenance activities. As seen in the ZAI’s

administrative record, OZA staff corresponded and inquired with various city, county, and state officials to discuss the regulation of oil/gas well maintenance activities. OZA staff also spoke with senior managers and inspection officials to gain both a policy and implementation perspective on well maintenance activities. Staff's research includes review of academic articles discussing the effects of oil and gas well activities. Several of the studies referenced in the ZAI and in the administrative record are based in California and Los Angeles and are as recent as October 2021. One 2017 study discussing the overlap of chemicals across different types of oil well activities, used SCAQMD project data in their analysis. The authors of this study share that this overlap exists because these chemicals have a high degree to change fluid properties of oil (such as the cohesiveness) and to otherwise increase production of oil within the [oil reservoir] formation. Specific chemicals and acids are also used because they facilitate hydrocarbon production at the oil/gas well sites.

These types of studies illustrate the existing literature on oil well activities, public health, and the environment as it pertains to well maintenance activities. This highlights the need for a ZAI that interprets which oil/gas well activities would qualify as "well maintenance" and be subject to a Zoning Administrator's determination.

**The ZAI also factored in land use impacts from well maintenance activities.**

OZA staff's inquiries with operators, regulatory agency staff, and neighborhood constituents highlighted that the specific oil/gas well maintenance activities had the greatest land use impacts to public and environmental health and welfare. OZA staff consulted with various parties as to what these projects entailed in regards to their project duration, noise levels, off-road machinery involved, number of employees onsite required, and more. OZA staff spoke with a number of agency staff including personnel from CalGEM, SCAQMD, LA City Fire, and OPNGAS - to name a few. OZA staff also learned of the potential risk to public and environmental health for specific projects through documented oil well project events in addition to the thorough research previously discussed.

For example, in May 2021, constituents contacted OZA staff concerning a maintenance acidizing project at the Murphy Drill Site in Jefferson Park, South Los Angeles and the concerns associated with such project. See **Exhibit R** for the email correspondence documents. Photographic evidence was submitted that showed the amount of heavy duty tanker trucks arriving into a residential neighborhood for the activity that as of July 1, 2023, will now require SCAQMD notification, and as a result, a ZA determination. OZA staff would later identify that a maintenance acidizing project coincided with several odor complaints. See **Exhibit S** for reference documents on these SCAQMD records on the odor event violation. A SCAQMD inspector would end up categorizing this as an "odor event" and require a root cause analysis of the "odor event" from the operator. These concerns submitted by constituents informed the ZAI in identifying maintenance acidizing as a type of maintenance activity referred to in the LAMC, which can have potential land

use impacts, and intended to have a discretionary review. These instances also underscored the need for a Zoning Administrator's Interpretation to formally interpret what activities would be considered as "well maintenance" so as to clearly implement and enforce the the intent of the Zoning Code.

**The ZAI's interpretation mirrors existing state rules.**

The ZAI incorporated existing CalGEM and SCAQMD regulations into the interpretation for a variety of reasons. First, well activities that warrant regulatory oversight from the State often result in land use impacts that are regulated at the local level. It enables the City to meet the intent of its local zoning regulations to protect the public health, safety, and environment by requiring discretionary review for maintenance activities that have the greatest land use impacts on communities, while helping to facilitate coordination with State agencies on matters relating to oil well operations. In meeting with different staff, the OZA was able to understand the intent and process of how different agencies, including CalGEM and SCAQMD, regulated oil wells. This insight allowed OZA staff to shape the ZAI interpretation so as not to conflict with existing state regulations. It also supported the interpretation research by ensuring that OZA staff were referencing key terms and programs correctly, including CalGEM and SCAQMD regulations.

To elaborate, a primary factor in deciding on the two-track interpretation for which activities would be considered "well maintenance" largely centered on that two state agencies are regulating these activities. These two state agencies had already decided these activities merited some form of regulation or permitting in order for the operator to complete said well maintenance activity. These two state regulations are also easy for OZA staff to track and monitor for when operators attempt to complete these projects. CalGEM is in contact with the OZA on when Rework projects are submitted for oil wells within the City of Los Angeles. OZA staff are also subscribed to email notifications for when operators submit a notification for a Rule 1148.2 activity that could be considered "well maintenance." This can lead to better inter-agency coordination and enforcement.

Additionally, the operators are familiar with how these processes work in regards to oil/gas well operations. Operators must follow numerous rules and standards across different agencies and levels of government, including CalGEM and SCAQMD. Operators are responsible for remaining compliant with those two agencies in particular and it is likely they are already familiar with CalGEM Rework permits and SCAQMD Rule 1148.2 notification rules. All of the oil/gas well operators in the City of Los Angeles have either been operating their drill sites for several years and/or have drill site operations in other parts of California. As a result, it is likely they are familiar with CalGEM's statewide policies and understand the process. Operators who have been active in Southern California for years should also be familiar with their obligations pertaining to SCAQMD rules, especially given the heightened attention and visibility to air quality policies. That is, they are familiar with these activities and would know that if they are applying for a

CalGEM Rework permit or submitting a SCAQMD notification -- then their activity would be considered "well maintenance" pursuant to the LAMC.

## 9. APPEAL POINT

WSPA-NOPEC     Warren Resources     E&B Natural Resources

### *Summary of Appeal Point*

By eliminating maintenance activities, the ZAI will consequently force operators to cease production in an estimated three years, and, generally, can also force unintended abandonment for operators. As a result, the ZAI unlawfully interferes with contracts with numerous mineral owners, and with the City of Los Angeles.

### **APPEAL RESPONSE**

**The ZAI does not require, implicitly or explicitly, for operators to close operations, nor does it forbid or eliminate all maintenance activities.**

The ZAI does not require any operator to cease operations or stop payments to any entities. The ZAI also does not forbid well maintenance because the ZAI only interprets which activities are considered "well maintenance."

As stated earlier, the new Oil and Gas Drilling Ordinance, which became effective on January 18, 2023, amended several Zoning Code provisions that regulate oil/gas wells. Specifically, it amended LAMC Section 13.01 and removed LAMC Section 13.01-H, which authorized the Zoning Administrator to review and conditionally approve drilling, deepening, and well maintenance projects. Ordinance No. 187,709 also amended LAMC Section 12.23-C.4 to deem all existing oil/gas wells a legally nonconforming use, allowed to continue operating for up to 20 years. During this period, and pursuant to same Code provisions, operators may submit an application, to request a review and determination from the Zoning Administrator, for new well maintenance activities if the operator can demonstrate that those activities are necessary to prevent or respond to a threat to public health, safety, or the environment. The activities are not always prohibited and may even be permitted pursuant to a Zoning Administrator's determination.

Alternatively, operators could seek a general variance, pursuant to LAMC Section 12.27, for any type of drilling activity.. *Stolman v. City of Los Angeles* (2013) 114 Cal. App. 4th 916, 926.

Operators have two discretionary review processes available to them for oil/gas well project requests. Operators have the choice to apply for a Health and Safety Exception review or a Zone Variance. If operators choose not to apply for any discretionary review process and they elect to cease operations earlier than 20 years then it is not because of

any requirement in the ZAI or in the Oil and Gas Drilling Ordinance. An operator's decision to not submit an application to conduct well maintenance and instead willingly choose to cease operations is a voluntary decision impacting a private agreement.

## 10. APPEAL POINT

WSPA-NOPEC     Warren Resources     E&B Natural Resources

### *Summary of Appeal Point*

The obstacles and delays created by the ZAI and ZA Memo 141 will cause the unintended abandonment of existing wells.

### **APPEAL RESPONSE**

**ZA Memo 141 is not within the scope of this ZAI appeal.**

This appeal point challenges ZA Memo 141 which is not within the scope of what the City Planning Commission will decide regarding this ZAI.

**ZA Memo 141 is not burdensome, and provides a clearly defined set of application procedures.**

The ZAI interprets what activities would be considered as "well maintenance" and clarifies LAMC provisions regarding oil/gas well regulations. It is a different document than what is referenced in the Oil and Gas Drilling Ordinance and in ZA Memo 141. The ZA Memo is not at issue on this appeal.

**ZA Memo 141 will not cause the unintended abandonment of existing wells**

The ZA Memo is not at issue on this appeal. As set forth throughout this report, neither the Ordinance, the ZAI, or the ZA Memo prohibit maintenance of wells.

## 11. APPEAL POINT

WSPA-NOPEC     Warren Resources     E&B Natural Resources

### *Summary of Appeal Point*

The City is estopped from enforcing the ZAI as it relates to Warren Resources Inc.'s operations because it restricts the ability to continue the productive life of its wells.

**APPEAL RESPONSE****Appellant's point is a matter that is outside the scope of the ZAI appeal.**

Appellant Warren Resources claims that Zoning Administrator should be prevented from interpreting what activities qualify as "well maintenance" because by doing so, the ZAI is breaching requirements imposed onto Warren Resources as part of a previous land use approval. The appellant provides an example that is specific to a drill site operation and specific to a land use approval where the Zoning Administrator had allowed specific oil/gas well activities within a permitted timeframe. That land use approval was issued in July 2006 pursuant to case number ZA-1972-20725-O-PA1.

This appeal is not the proper place to raise this argument. The appellant has a LAMC Section 12.26-K (Building and Safety Appeal case) appeal currently pending before the Zoning Administrator where it raises this very issue and is a separate matter from this ZAI appeal. That separate matter is being reviewed under Case No. DIR-2022-6559-BSA.

The ZAI is a zoning interpretation of what a specific term means in the City's Zoning Code provisions. The ZAI does not impose a prohibition on well maintenance, but instead defines which activities would be considered as "well maintenance" projects. The ZAI does reference LACP application pathways that may result in permitting specific oil/gas well maintenance projects and operators may apply for a Health & Safety Exception to be authorized to carry out well maintenance projects.

**12. APPEAL POINT**

WSPA-NOPEC     Warren Resources     E&B Natural Resources

*Summary of Appeal Point*

The ZAI is inapplicable because, as a prior court case in California illustrates, the use of an amortization period for a legally nonconforming use does not apply to mineral resources, in this case, oil and gas.

**APPEAL RESPONSE**

**This matter regarding the use of amortization period is outside the scope of the ZAI appeal.**

The appellant claims that the diminishing asset doctrine applies in California and that the use of a 20-year amortization period, as identified in the Oil and Gas Drilling Ordinance, violates their legal rights to continuing oil/gas operations. The appellant also claims that

the interpretation of well maintenance is in and of itself a restriction on those types of activities and that action also violates their legal rights to operate their oil/gas wells.

The ZAI does not violate legal rights to continuing oil/gas wells because it merely interprets existing terminology in the City's Zoning Code provisions. The ZAI formalizes existing practice and interpretation of what is considered well maintenance. For example, LACP has consistently treated CalGEM NOI permits for Rework or redrilling as "well maintenance."

The appellant also alleges that amortization does not apply to mineral resources and is unlawful to apply to said mineral resources. The use of an amortization period is a lawful measure to impose on legally nonconforming uses. The amortization period for legally non-conforming wells is also a separate matter more directly concerning the Oil and Gas Drilling Ordinance and outside the scope of the ZAI appeal. The legality of the Oil and Gas Ordinance is the subject of current litigation. That said, because oil and gas are not minerals, their extraction is not mining. Because oil and gas extraction is not mining, the diminishing asset exception, which is specific to mining enterprises and does not apply to oil and gas extraction. *Hansen Brothers Enterprises, Inc. v. Board of Supervisors* (1996) 12 Cal.4th 533, 553.

### 13. APPEAL POINT

WSPA-NOPEC     Warren Resources     E&B Natural Resources

#### *Summary of Appeal Point*

The maintenance requirements and procedures determined by the ZAI are not a legitimate exercise of the police power.

### APPEAL RESPONSE

#### **The ZA may Interpret the Zoning Code.**

The Chief Zoning Administrator, or Associate Zoning Administrator has the authority to interpret terms in an already established ordinance and/or Zoning Code provisions. The interpretations by the Chief Zoning Administrator, or Associate Zoning Administrator, are made with the clear intent to remain true to the original intent of the LAMC provision. In this specific case with the well maintenance ZAI, the Chief Zoning Administrator's interpretation of "well maintenance" remains committed to the original intention and that is to review well maintenance projects, similar to other oil/gas well activities that may have an impact on the welfare of a community.

There are other forms of authority granted to the Chief Zoning Administrator and Associate Zoning Administrator related to the LAMC that illustrate the discretion granted

to these officials. The LAMC gives the Zoning Administrator the authority to grant approval or to disapprove projects, or even modify existing land use approvals for drill sites in order to protect the health, safety, and general welfare of the community. LAMC Sections 13.01-E.2, 12.27.1, and, historically, 13.01-H and 13.01-I, identify the Zoning Administrator as an appropriate decision maker for projects and for the oversight of oil/gas well operations. It is within the Zoning Administrator's authority to review projects and prescribe any land use approvals with necessary conditions to safeguard neighbors and the environment.

The Chief ZA has the authority to interpret the Zoning Code. LAMC Section 12.21-A.2. The City's interpretation of its own ordinance is entitled to deference. *J. Arthur Properties, II, LLC v. City of San Jose* (2018) 21 Cal.App.5th 480, 486. Greater deference is appropriate where, as here, there is a record of careful consideration by senior agency officials. *J. Arthur Properties, supra*, 21 Cal.App.5th at 486.

#### 14. APPEAL POINT

WSPA-NOPEC     Warren Resources     E&B Natural Resources

##### *Summary of Appeal Point*

The City is liable for damages under the Civil Rights Act.

#### **APPEAL RESPONSE**

E&B alleges that the Oil and Gas Drilling Ordinance will impair its constitutional rights under the Civil Rights Act. The Oil Ordinance is not at issue in this appeal.

The ZAI does not violate the appellant's Civil Rights because the appellant does not possess a due process right to a specific interpretation of terminology contained in the City's Zoning Code. E & B has exercised its right to appeal this interpretation under the City's Code, and will be provided a public hearing to have its appeal heard.

Nevertheless, this formal interpretation is consistent with past practice. Prior to the adoption of the Oil and Gas Drilling Ordinance, operators who contacted City Planning seeking approval for well maintenance projects were advised to file an application according to the requirements outlined in a guideline document known as ZA Memo 133. The operator was required to follow a specific set of review procedures in order to apply for approval and, if approved, then the operator could complete their proposed project to "drill, deepen, or maintain" a well.. Now, ZA Memo 141 outlines the procedures available for operators who seek to conduct oil/gas well maintenance projects to prevent any threats to public health or safety.



**15. APPEAL POINT**

WSPA-NOPEC     Warren Resources     E&B Natural Resources

*Summary of Appeal Point*

The Oil Ordinance, ZAI, and ZA Memo 141 violate Due Process under the U.S. and California Constitutions.

**APPEAL RESPONSE**

This appeal point challenges ZA Memo 141 and the Oil and Gas Drilling Ordinance which are not within the scope of what the City Planning Commission will decide regarding this ZAI.

**The City has not violated the Appellant's due process rights.**

The ZAI is not code amendment and does not require a public outreach process. There are no requirements to issue a draft copy of the ZAI and/or require a staff report for release prior to issuing a citywide ZAI.

Nevertheless, the Office of Zoning Administration did complete an extensive amount of research concerning land use impacts and well maintenance activities. OZA staff also received, read, and considered feedback from the public, including oil drilling operators, environmental justice advocates, and even some of the appellants, regarding the interpretation of "well maintenance." The research and outreach efforts are summarized in this report and are detailed more extensively in the administrative record.

And whereas the LAMC does not require a public hearing or a circulation of a draft report for a ZAI, there is still a process by which an appeal can be made to the Area Planning Commission or the City Planning Commission to address challenges to the interpretation.

**CONCLUSION AND RECOMMENDATION**

For the reasons stated herein, interpretation of well maintenance is a valid action by the Chief Zoning Administrator for the land use regulation of oil/gas wells in the City authorized by the City Charter. By interpreting this terminology, the ZAI formalizes a practice that has been consistently applied in the OZA - to facilitate the implementation of the LAMC and its intent to include oversight of "maintenance" activities with land use impacts. In doing so, this ZAI also furthers the purpose of the zoning code to protect public health, safety, and the environment from oil/gas well activities that tend to have the highest impacts on communities – a valid exercise of the City's local land use authority.

OZA staff evaluated the ZAI and determined it does not conflict with existing city, county, state, or federal rules and regulations. OZA staff find that the ZAI is a valid interpretation of Zoning Code provisions. The determination is an action by the Chief Zoning Administrator in formalizing existing implementation direction and practice regarding specific oil/gas well activities. The ZAI is not an abuse of the Zoning Administrator's authority or discretion. References to well maintenance have long been stated in the LAMC and have for decades outlined that the Zoning Administrator has the discretionary authority to review well maintenance scopes of work. In recent years, the OZA has continued to advise operators consistently and transparently that specific activities will require a ZA determination and land use approval in order for that work to be completed; the ZAI is merely a formalization of existing practice.

In response to an appeal point raised, proposed herein are modifications to the ZAI determination to reflect SCAQMD's amendments to their Rule 1148.2 Oil/Gas Well Notification standards. This modification more clearly interprets which scopes of work would be considered "well maintenance" activities as referenced in the LAMC. A modified version of the ZAI determination showing these proposed changes, along with other minor clarifying language and updates to technical language, is attached to the Appeal Recommendation Report as **Exhibit E**. The relevant text to be modified is copied below with additions to the text noted in red underline and deletions in ~~red strikethrough~~:

3. A scope of work that requires a Notice of Intention "Rework Permit" to carry out a rework project on a well from CalGEM.
4. A scope of work that requires ~~online~~-notification per the SCAQMDs Rule 1148.2 - "Notification and Reporting Requirements for Oil and Gas Well and Chemical Suppliers" for "Well Rework" and/or "Injection" including one or more any of the following activities: acidizing, hydraulic fracturing, gravel packing, maintenance acidizing, matrix acidizing, and acid fracturing.

Therefore, it is recommended that the City Planning Commission grant in part, as to Appeal Point No. 4, deny all other appeal points, and adopt the modified Zoning Administrator's Interpretation of Well Maintenance, attached as **Exhibit E** to the Appeal Recommendation Report.