

VTT-74529-1A

Attachment to Appeal to City Council

Justification/Reason for Appeal

The EIR Fails to Provide an Adequate Alternatives Analysis

The City of Los Angeles' (City) EIR for 520 Mateo (Project) is fatally flawed because the alternatives presented fail to substantially lessen the significant environmental effects of the project. CEQA requires alternatives to the project which "offer substantial environmental advantages over the project proposal (Pub. Resources Code, § 21001); and (2) may be 'feasibly accomplished in a successful manner' considering the economic, environmental, social and technological factors involved." (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 566.) "[T]he key to the selection of the range of alternatives is to identify alternatives that meet most of the project's objectives but have a reduced level of environmental impacts." (*Watsonville Pilots Assn. v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1089.) The EIR fails to satisfy the first prong of the alternatives requirement because the alternatives presented do not offer substantial environmental advantages over the project proposal.

Table 6-2 of the Draft EIR (DEIR) compares the project with four other alternatives, in addition to the no project alternative. None of the four alternatives offer substantial environmental advantages over the project proposal. All alternatives have virtually the same impact as the Project, if not more environmental effects.

The EIR's Discussion on Greenhouse Gases, Hazardous Materials, and Cumulative Impacts is Inadequate

CEQA requires:

- (b) A lead agency should consider the following factors, among others, when assessing the significance of impacts from greenhouse gas emissions on the environment:
- (1) The extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting;
 - (2) Whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project; and
 - (3) The extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction

or mitigation of greenhouse gas emissions. Such requirements must be adopted by the relevant public agency through a public review process and must reduce or mitigate the project's incremental contribution of greenhouse gas emissions. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements, an EIR must be prepared for the project.

(14 Cal. Code Regs. § 15064.4(b); *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal.4th 204.)

The City does not have a Climate Action Plan that establishes quantitative thresholds of significance. In lieu of an adopted plan, the City relies on California Air Resources Board's AB 32 Scoping Plan, the Southern California Association of Governments 2012-2035 Regional Transportation Plan/Sustainable Communities Strategy (RTP), and ClimateLA Implementation Plan. But these plans are not instructive for purposes of CEQA compliance. The City has elected to compare the Project to a no-action taken scenario, and to draw conclusions regarding the Project by stating the percentage decrease of greenhouse gases the Project will achieve in relation to the no-action-taken scenario—an analysis startlingly similar to that undertaken by respondents, and denounced by the Supreme Court, in *Center for Biological Diversity*. The City appears to recognize that utilizing the Scoping Plan's "percent reduction from business as usual" analysis would require explanation of how the statewide greenhouse gas reduction goal would be appropriate at the project level, but failed to provide that analysis.

Similarly, the City's discussion of cumulative impacts regarding greenhouse gases is incomplete. The City has failed to provide discussion of indicate whether the past, pending, and foreseeable project approvals are increasing local and regional greenhouse gas emission, or whether the City's policies are realizing reductions in these emissions.

The City has not set significance thresholds for Project-level greenhouse gas emission and thus, has not disclosed whether it has even determined Project emissions to be significant. "Thresholds of significance to be adopted for general use as part of the lead agency's environmental review process must be adopted by ordinance, resolution, rule or regulation, and developed through a public review process and be supported by substantial evidence. (14 Cal. Code Regs. § 15064.7(b).) "In the absence of substantial evidence to support the EIR's no significance findings, as noted above, the EIR's readers have no way of knowing whether the project's likely greenhouse gas emissions impacts will indeed be significant and, if so, what mitigation measures will be required to reduce them. This is not the sort of '[i]nsubstantial or merely technical omission[]' that can be overlooked in deciding whether to grant relief." (*Center for Biological Diversity v. Department of Fish & Wildlife, supra*, 62 Cal.4th at 229.) Absent

identifiable significance standards, the City has failed to state (1) what would constitute a significant impact, and (2) whether the Project's emissions exceed this threshold.

The City's conclusion that the Project will cause less than significant direct, indirect, and cumulative air quality impacts is based on a faulty and incomplete impacts analysis, and the City's failure to provide sufficient mitigation measures constitutes an abuse of discretion. "An EIR shall describe feasible mitigation measures which could minimize significant adverse impacts." (14 Cal. Code Regs. § 15126.4(a).) "Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments." (14 Cal. Code Regs § 15126.4(a)(2).)

The EIR Fails to Disclose the Proper Baseline for Hazardous Materials

The City has failed to disclose the environmental setting, or baseline, regarding hazardous materials. The baseline should describe "the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published." (14 Cal. Code Regs. § 15125(a).) The EIR must disclose the baseline environmental conditions of the Project site, including whether Project soils contain hazardous materials. The mitigation measures proposed for hazardous materials are inadequate. The EIR must provide feasible, enforceable, and binding mitigation measures that would reduce the Project's impacts on hazardous materials. (14 Cal. Code Regs. § 15126.4(a).)

Aggrieved By Decision

Southwest Carpenters live and work in the City of Los Angeles and is concerned about the environmental impacts of this Project. Without an adequate EIR, Southwest Carpenters is aggrieved by the lack of disclosure regarding the Project's environmental impacts. Similarly, Southwest Carpenters has a keen interest in seeing adequate mitigation provided to properly address environmental impacts.

Decision-Maker Error

The Planning Commission erred in approving a Project that lacks an adequate EIR. Approval of an EIR that does not satisfy the requirements under CEQA and the CEQA Guidelines constitutes an abuse of discretion.