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VIA E-MAIL

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City Council
City of West Hollywood
8300 Santa Monica Boulevard
West Hollywood, CA 90069
Em: publiccomment@weho.org

RE: Agenda Item No. 3.B: 8555 Santa Monica Boulevard Mixed-Use Project

Dear Mayor Shyne and Honorable Councilmembers,

On behalf of the **Southwest Regional Council of Carpenters** (“SWMSRCC” or “**Southwest Carpenters**”), my Office is submitting these comments to the City of West Hollywood (“**City**”) to reiterate its concerns with the 8555 Santa Monica Boulevard Mixed-Use Project (“**Project**”) and the Final Environmental Impact Report (“FEIR”) prepared thereon. For the reasons explained below, SWMSRCC supports the appeal of the Planning Commission’s Project approval and requests that the City deny the Project and require that the FEIR be revised to sufficiently analyze the Project’s environmental impacts.

The Southwest Carpenters is a labor union representing 63,000 union carpenters in six states, including California, and has a strong interest in well-ordered land use planning and in addressing the environmental impacts of development projects. Individual members of the Southwest Carpenters live, work and recreate in the City and surrounding communities and would be directly affected by the Project’s environmental impacts.

I. THE CITY SHOULD REQUIRE THE USE OF A LOCAL WORKFORCE TO BENEFIT THE COMMUNITY’S ECONOMIC DEVELOPMENT AND ENVIRONMENT

As previously noted, SWMSRCC maintains that the City should require the Project to be built using a local workers who have graduated from a Joint Labor-Management

Apprenticeship Program approved by the State of California, have at least as many hours of on-the-job experience in the applicable craft which would be required to graduate from such a state-approved apprenticeship training program, or who are registered apprentices in a state-approved apprenticeship training program.

Community benefits such as local hire can also be helpful to reduce environmental impacts and improve the positive economic impact of the Project. Local hire provisions requiring that a certain percentage of workers reside within 10 miles or less of the Project site can reduce the length of vendor trips, reduce greenhouse gas emissions, and provide localized economic benefits.

Furthermore, workforce policies have significant environmental benefits given that they improve an area's jobs-housing balance, decreasing the amount and length of job commutes and the associated greenhouse gas (GHG) emissions. In fact, on May 7, 2021, the South Coast Air Quality Management District found that that the "[u]se of a local state-certified apprenticeship program" can result in air pollutant reductions.¹

Moreover, local hire mandates and skill-training are critical facets of a strategy to reduce vehicle miles traveled (VMT). As planning experts Robert Cervero and Michael Duncan have noted, simply placing jobs near housing stock is insufficient to achieve VMT reductions given that the skill requirements of available local jobs must match those held by local residents.² Some municipalities have even tied local hire and other workforce policies to local development permits to address transportation issues.

Recently, the State of California verified its commitment towards workforce development through the Affordable Housing and High Road Jobs Act of 2022, otherwise known as Assembly Bill No. 2011 ("AB2011"). AB2011 amended the

¹ South Coast Air Quality Management District (May 7, 2021) Certify Final Environmental Assessment and Adopt Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions Program, and Proposed Rule 316 – Fees for Rule 2305, Submit Rule 2305 for Inclusion Into the SIP, and Approve Supporting Budget Actions, *available at* <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2021/2021-May7-027.pdf?sfvrsn=10>.

² Cervero, Robert and Duncan, Michael (2006) Which Reduces Vehicle Travel More: Jobs-Housing Balance or Retail-Housing Mixing? *Journal of the American Planning Association* 72 (4), 475-490, 482, *available at* <http://reconnectingamerica.org/assets/Uploads/UTCT-825.pdf>.

Planning and Zoning Law to allow ministerial, by-right approval for projects being built alongside commercial corridors that meet affordability and labor requirements.

The City should consider utilizing local workforce policies and requirements to benefit the local area economically and to mitigate greenhouse gas, improve air quality, and reduce transportation impacts.

II. THE CITY SHOULD IMPOSE TRAINING REQUIREMENTS FOR THE PROJECT'S CONSTRUCTION ACTIVITIES TO PREVENT COMMUNITY SPREAD OF COVID-19 AND OTHER INFECTIOUS DISEASES

Southwest Carpenters again recommends that the City adopt additional requirements to mitigate public health risks from the Project's construction activities. Specifically, Southwest Carpenters requests that the City require safe on-site construction work practices as well as training and certification for any construction workers on the Project Site.

In particular, based upon Southwest Carpenters' experience with safe construction site work practices, Southwest Carpenters recommends that the City require the policies and mandates specified in SWMSRCC's previous comment letters.

The United Brotherhood of Carpenters and Carpenters International Training Fund has developed COVID-19 Training and Certification to ensure that Carpenter union members and apprentices conduct safe work practices. Thus, the City should require that all construction workers undergo COVID-19 Training and Certification before being allowed to conduct construction activities at the Project Site.

Southwest Carpenters has also developed a rigorous Infection Control Risk Assessment ("ICRA") training program to ensure it delivers a workforce that understands how to identify and control infection risks by implementing protocols to protect themselves and all others during renovation and construction projects in healthcare environments.³

ICRA protocols are intended to contain pathogens, control airflow, and protect patients during the construction, maintenance and renovation of healthcare facilities. ICRA protocols prevent cross contamination, minimizing the risk of secondary

³ For details concerning Southwest Carpenters's ICRA training program, *see* <https://icrahealthcare.com/>.

infections in patients at hospital facilities. The City should also require the Project to be built using a workforce trained in ICRA protocols.

III. THE PROJECT FAILS TO ADEQUATELY ASSESS ALL PERTINENT ENVIRONMENTAL FACTORS

CEQA is a California statute designed to inform decision makers and the public about the potential, significant environmental effects of a project. 14 California Code of Regulations (“**CEQA Guidelines**”) § 15002(a)(1).⁴ At its core, “[i]ts purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made.” *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564.

To achieve this purpose, CEQA mandates preparation of an Environmental Impact Report (“**EIR**”) for projects so that the foreseeable impacts of pursuing the project can be understood and weighed. *Communities for a Better Environment v. Richmond* (2010) 184 Cal. App. 4th 70, 80. The EIR requirement “is the heart of CEQA.” CEQA Guidelines, § 15003(a).

The preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. The EIR’s function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been considered. For the EIR to serve these goals it must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made. *Communities for a Better Environment v. Richmond* (2010) 184 Cal. App. 4th 70, 80 (quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 449–450).

⁴ The CEQA Guidelines, codified in Title 14 of the California Code of Regulations, section 15000 *et seq.*, are regulatory guidelines promulgated by the state Natural Resources Agency for the implementation of CEQA. (Cal. Pub. Res. Code § 21083.) The CEQA Guidelines are given “great weight in interpreting CEQA except when . . . clearly unauthorized or erroneous.” *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal. 4th 204, 217.

Section 15088.5(a) of the CEQA Guidelines provides that an EIR must be recirculated whenever there is disclosure of significant new information, after public notice is given of the EIR's availability but before the EIR's certification. Significant new information includes: (1) disclosure of a new significant environmental impact resulting from the project or from a new proposed mitigation measure; (2) disclosure of a substantial increase in the severity of an environmental impact unless mitigation measures are adopted that reduce the impact to a level of insignificance; and (3) disclosure of a feasible project alternative or mitigation measure considerably different from others previously analyzed which would clearly lessen the significant environmental impacts of the project which the project proponents decline to adopt. *Id.*

The EIR must also be recirculated where there is new information added to the record, showing that the EIR provides no required analysis. *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1120 (“If significant new information is added to an EIR [or to the administrative record], the lead agency must issue a new notice and recirculate the EIR for comments and consultation” & finding that “Given that there was no analysis done on whether the option to build a water system is a feasible mitigation measure, we conclude that the portion of the EIR addressing water concerns should have been recirculated.”)

Additionally, an EIR must be recirculated when it is so fundamentally inadequate and conclusory in nature that meaningful public review and comment is precluded. In *Laurel Heights Impr. Assn. v. Reg. of Univ. of Cal.* (1993) 6 Cal. 4th 1112 (“*Laurel Heights II*”), our Supreme Court explained that Section 21092 favors EIR recirculation prior to certification. The Court stated:

“Section 21092.1 was intended to encourage meaningful public comment. (See State Bar Rep., supra, at p. 28.) Therefore, new information that demonstrates that an EIR commented upon by the public was so fundamentally and basically inadequate or conclusory in nature that public comment was in effect meaningless triggers recirculation under section 21092.1. (See, *Mountain Lion Coalition v. Fish & Game Com.*, supra, 214 Cal.App.3d 1043.” *Laurel Heights II*, 6 Cal.4th at 1130, citing to *Mountain Lion Coalition v. Fish & Game Com.* (1989) 214 Cal.App.3d 1043.

Here, as discussed below, the FEIR analysis fails to substantiate all of its conclusions to allow meaningful public review and comment, provide adequate mitigation

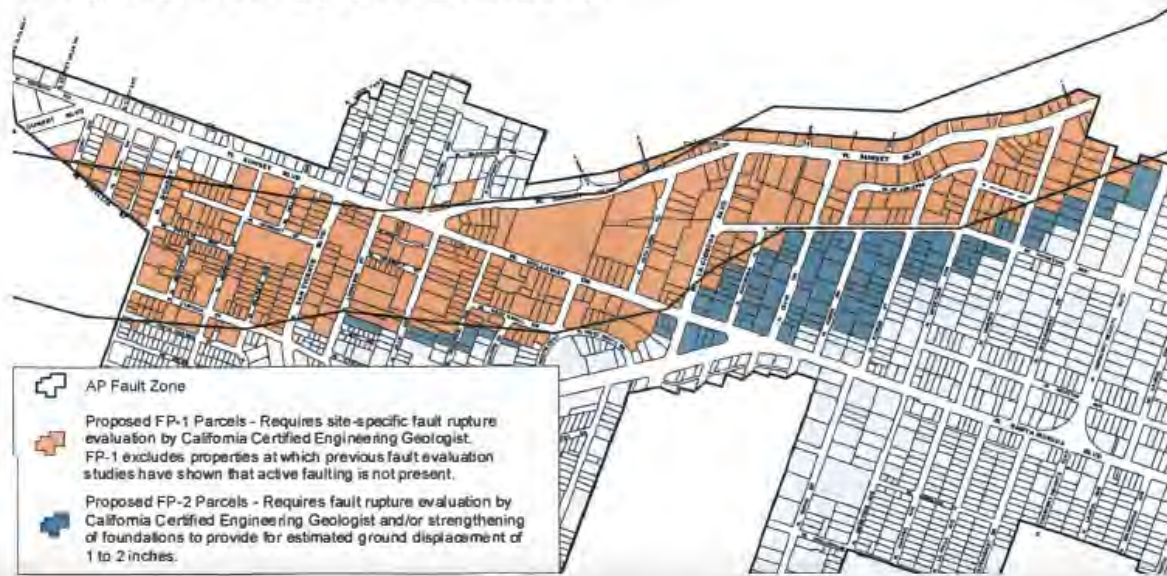
measures, and assess all reasonable environmental factors. Coupled with the fact that the Project runs afoul to the General Plan, the Project must be denied.

A. The FEIR Fails to Adequately Analyze the Potential Hazard of Surface Fault Rupture in its Geological Study

As previously noted by SWMSRCC, a portion of the Project falls within both of the City's Fault Protection zones, as illustrated below:

WEST HOLLYWOOD FAULT PRECAUTION ZONES

The map below shows the City Fault Precaution Zone map



Nevertheless, the Project's geotechnical reports did not include any surface fault rupture hazard evaluation according to the guidelines presented in Guidelines for Evaluating the Hazard of Surface Fault Rupture – CA Geological Survey.

Accordingly, the Geological Survey must be redone to include an evaluation of hazards related to surface fault rupture prepared by a certified geologist pursuant to the guidelines set forth in California Geological Survey (CGS) Special Publication 42⁵

⁵ California Department of Conservation, California Geological Survey, (2018) Special publication 42, a guide for government agencies, property owners / developers, and geoscience practitioners for assessing fault rupture hazards in California, available at, https://www.conservation.ca.gov/cgs/Documents/Publications/Special-Publications/SP_042.pdf

and Note 49⁶, which provide suggested format for fault investigations in addition to detailed guidelines

Additionally, a preliminary assessment of fault displacements for the two Alternatives should be performed using deterministic and probabilistic fault displacement hazard analyses; that is, Deterministic Fault Displacement Hazard Analysis (DFDHA) and Probabilistic Fault Displacement Hazard Analysis (PFDHA), respectively PFDHA.

Therefore, the FEIR must be revised to comply with the General Plan's Safety Element as set forth on the Alquist-Priolo earthquake fault zoning act.

B. The FEIR Fails to Consider a Reasonable Range of Alternatives

An EIR must discuss a reasonable range of alternatives to the project, which “shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects.” CEQA Guidelines § 15126.6(a)&(c). “[T]he discussion of alternatives shall focus on alternatives... which are capable of avoiding or substantially lessening any significant effects of the project...” CEQA Guidelines § 15126.6(b). Further, an EIR is legally inadequate if it contains an overly narrow range of alternatives. *Watsonville Pilots Ass'n v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1087, 20190 [not considering a reduced development alternative was error].

Here, the FEIR considered a (1) no project alternative; (2) existing zoning alternative; (3) reduced density alternative; (4) boutique hotel alternative, and (4) subterranean parking. DEIR at 6-1 *et seq.* However, the FEIR notes that 5 build alternatives it considered would continue to result in equal or even more significant transportation, land use impacts. *Id.* at 6-26. Accordingly, there is a colorful argument that the FEIR failed to consider a reasonable range of alternatives which could eliminate or reduce the Project's impacts, as required.

C. The FEIR Improperly Defers Formulating Its Noise Mitigation Measures

CEQA requires that all mitigation must be feasible and fully enforceable, and that all feasible mitigation must be imposed. CEQA Guidelines, §§ 15041; 15126.4. Similarly,

⁶ California Department of Conservation, California Geological Survey, (2002) Note 49, guidelines for evaluating the hazard of surface fault rupture, *available at*, <https://www.conservation.ca.gov/cgs/Documents/Publications/CGS-Notes/CGS-Note-49.pdf>

CEQA provides that “[f]ormulation of mitigation measures should not be deferred until some future time”. CEQA Guidelines § 15126.4(a)(1)(B). Although “[t]he specific details of a mitigation measure, however, may be developed after project approval when it is impractical or infeasible to include those details during the project's environmental review”, the agency still must “adop[t] specific performance standards the mitigation will achieve.” *Id.* Also, CEQA does not permit deferred mitigation after project approval unless there is a practical or legal hardship or infeasibility to timely formulate mitigation measures. CEQA Guidelines § 15126.4(a)(1)(B).

Here, the FEIR imposes several mitigation measures to mitigate the Project’s significant noise impacts on nearby sensitive receptors. FEIR at ES-12- ES-13. For example, amongst other measures, the FEIR requires sound barriers to be constructed during both the shoring phase of construction (i.e. after installation of soldier piles in the ground) as well as during the building construction phase. *Id.* However, although the FEIR provides specifications for the sound barriers to be implemented during the shoring phase, it provides no specifications for the barriers to be implemented during the building phase. Rather, the FEIR merely provides that the barriers may be used as appropriate, the height and type which will be later approved by the City. Such lack of specificity and formulation is particularly disconcerting given the FEIR’s finding of significant and unavoidable noise impacts even with mitigation. For this reason too, the FEIR is inadequate.

D. The FEIR Fails to Analyze Water Quality & Hydrology Impacts
Whatsoever

Despite the real possibility of hazardous waste and ground water and soil contamination due to the Project falling within the City’s Fault Protection zones, as noted above, the FEIR fails entirely to assess any water quality and hydrology impacts. Such failure directly contradicts the entire purpose of an EIR’s purpose of ensuring that a project’s foreseeable impacts can be understood and weighed. *Communities for a Better Environment v. Richmond* (2010) 184 Cal. App. 4th 70, 80.

IV. THE PROJECT IS INCONSISTENT WITH THE GENERAL PLAN

Each California city and county must adopt a comprehensive, long-term general plan governing development. *Napa Citizens for Honest Gov. v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 352, citing Gov. Code §§ 65030, 65300. The general plan sits at the top of the land use planning hierarchy, and serves as a “constitution” or

“charter” for all future development. *DeVita v. County of Napa* (1995) 9 Cal.4th 763, 773; *Lesher Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 540.

General plan consistency is “the linchpin of California’s land use and development laws; it is the principle which infused the concept of planned growth with the force of law.” *Debottari v. Norco City Council* (1985) 171 Cal.App.3d 1204, 1213. It is well established that development projects may not be approved if they interfere with, or frustrate, the general plan’s policies and objectives. See *Napa Citizens*, 91 Cal.App.4th at 378-79; see also, *Lesher*, 52 Cal.3d at 544. Thus, CEQA requires EIRs to analyze the consistency of a project with the general plan. CEQA Guidelines § 15125(d); see also, *Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Bd. of Sup’rs* (1998) 62 Cal.App.4th 1332, 1336 (“Because an EIR must analyze inconsistencies with the general plan (14 Cal. Code Regs § 15125(d)), deficiencies in the plan may affect the legal adequacy of the EIR. If the general plan does not meet state standards, an EIR analysis based on the plan may also be defective.

Here, as noted in the appeal for this Project, the Project runs afoul to the General Plan for a number of reasons. For example, it misapplies the sloping site method of determining height, fails to identify the location and required information regarding affordable housing units, fails to provide a climate action plan, includes interior bedrooms without exterior egress or air circulation, includes unsecured residential parking within commercial parking areas, and fails to satisfy criteria for 90 green points. Staff Report, Attachment C at 2. Accordingly, the Project is inconsistent with the General Plan and must therefore be denied.

V. CONCLUSION

In sum, SMSWRCC requests that the City approve this appeal as the Project fails to adequately review its environmental impacts and runs afoul to the General Plan. If the City has any questions, feel free to contact my office.

Sincerely,



Talia Nimmer
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Regional Council of Carpenters