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VIA E-MAIL

March 21, 2023

Nhi Atienza
Claremont Planning Commission
City of Claremont
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RE: Agenda Item No. 4: Claremont Residence Inn Project

Dear Chair Jones and Honorable Commissioners,

On behalf of the **Southwest Mountain States Regional Council of Carpenters** (“**The Carpenters**” or “**SWMSRCC**”), my Office is submitting these comments to the City of Claremont (the “**City**”) for the March 21, 2023 Planning Commission meeting regarding Agenda Item No. 4, the proposed Claremont Residence Inn project (“**Project**”).

The Carpenters is a labor union representing 63,000 union carpenters in 10 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 SWMSRCC live, work, and recreate in the City and surrounding communities and would be directly affected by the Project’s environmental impacts.

The Carpenters expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearing and proceeding related to this Project. Gov. Code, § 65009, subd. (b); Pub. Res. Code, § 21177, subd. (a); see *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1199-1203; see also *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal.App.4th 1109, 1121.

The Carpenters incorporates by reference all comments raising issues regarding the environmental assessment for the Project prior to approval of the Project. See *Citizens*

for Clean Energy v City of Woodland (2014) 225 Cal.App.4th 173, 191 (finding that any party who has objected to the project’s environmental documentation may assert any issue timely raised by other parties).

Moreover, the Carpenters requests that the City provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act, Pub. Res. Code, § 21000 *et seq.* (“**CEQA**”) and the California Planning and Zoning Law, Gov. Code, §§ 65000–65010 (“**Planning and Zoning Law**”). California Public Resources Code sections 21092.2, and 21167(f) and California Government Code section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body.

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

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. As environmental consultants Matt Hagemann and Paul E. Rosenfeld note:

[A]ny local hire requirement that results in a decreased worker trip length from the default value has the potential to result in a reduction of construction-related GHG emissions, though the significance of the reduction would vary based on the location and urbanization level of the project site.

March 8, 2021 SWAPE Letter to Mitchell M. Tsai re Local Hire Requirements and Considerations for Greenhouse Gas Modeling.

Workforce requirements promote the development of skilled trades that yield sustainable economic development. As the California Workforce Development Board and the University of California, Berkeley Center for Labor Research and Education concluded:

[L]abor should be considered an investment rather than a cost—and investments in growing, diversifying, and upskilling California’s workforce can positively affect returns on climate mitigation efforts. In other words, well-trained workers are key to delivering emissions reductions and moving California closer to its climate targets.¹

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.²

Locating jobs closer to residential areas can have significant environmental benefits. As the California Planning Roundtable noted in 2008:

People who live and work in the same jurisdiction would be more likely to take transit, walk, or bicycle to work than residents of less balanced communities and their vehicle trips would be shorter. Benefits would include potential reductions in both vehicle miles traveled and vehicle hours traveled.³

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

¹ California Workforce Development Board (2020) Putting California on the High Road: A Jobs and Climate Action Plan for 2030 at p. ii, *available at* <https://laborcenter.berkeley.edu/wp-content/uploads/2020/09/Putting-California-on-the-High-Road.pdf>.

² 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>.

³ California Planning Roundtable (2008) Deconstructing Jobs-Housing Balance at p. 6, *available at* <https://cproundtable.org/static/media/uploads/publications/cpr-jobs-housing.pdf>

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.⁴ Some municipalities have even tied local hire and other workforce policies to local development permits to address transportation issues. Cervero and Duncan note that:

In nearly built-out Berkeley, CA, the approach to balancing jobs and housing is to create local jobs rather than to develop new housing. The city's First Source program encourages businesses to hire local residents, especially for entry- and intermediate-level jobs, and sponsors vocational training to ensure residents are employment-ready. While the program is voluntary, some 300 businesses have used it to date, placing more than 3,000 city residents in local jobs since it was launched in 1986. When needed, these carrots are matched by sticks, since the city is not shy about negotiating corporate participation in First Source as a condition of approval for development permits.

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 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

Construction work has been defined as a Lower to High-risk activity for COVID-19 spread by the Occupations Safety and Health Administration. Recently, several

⁴ 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>.

construction sites have been identified as sources of community spread of COVID-19.⁵

Southwest Mountain States Carpenters recommend that the City adopt additional requirements to mitigate public health risks from the Project's construction activities. SWMSRCC 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 Mountain States Carpenters' experience with safe construction site work practices, SWMSRCC recommends that the City require that while construction activities are being conducted at the Project Site:

Construction Site Design:

- The Project Site will be limited to two controlled entry points.
- Entry points will have temperature screening technicians taking temperature readings when the entry point is open.
- The Temperature Screening Site Plan shows details regarding access to the Project Site and Project Site logistics for conducting temperature screening.
- A 48-hour advance notice will be provided to all trades prior to the first day of temperature screening.
- The perimeter fence directly adjacent to the entry points will be clearly marked indicating the appropriate 6-foot social distancing position for when you approach the screening area. Please reference the Apex temperature screening site map for additional details.
- There will be clear signage posted at the project site directing you through temperature screening.

⁵ Santa Clara County Public Health (June 12, 2020) COVID-19 CASES AT CONSTRUCTION SITES HIGHLIGHT NEED FOR CONTINUED VIGILANCE IN SECTORS THAT HAVE REOPENED, available at <https://www.sccgov.org/sites/covid19/Pages/press-release-06-12-2020-cases-at-construction-sites.aspx>.

- Provide hand washing stations throughout the construction site.

Testing Procedures:

- The temperature screening being used are non-contact devices.
- Temperature readings will not be recorded.
- Personnel will be screened upon entering the testing center and should only take 1-2 seconds per individual.
- Hard hats, head coverings, sweat, dirt, sunscreen or any other cosmetics must be removed on the forehead before temperature screening.
- Anyone who refuses to submit to a temperature screening or does not answer the health screening questions will be refused access to the Project Site.
- Screening will be performed at both entrances from 5:30 am to 7:30 am.; main gate [ZONE 1] and personnel gate [ZONE 2]
- After 7:30 am only the main gate entrance [ZONE 1] will continue to be used for temperature testing for anybody gaining entry to the project site such as returning personnel, deliveries, and visitors.
- If the digital thermometer displays a temperature reading above 100.0 degrees Fahrenheit, a second reading will be taken to verify an accurate reading.
- If the second reading confirms an elevated temperature, DHS will instruct the individual that he/she will not be allowed to enter the Project Site. DHS will also instruct the individual to promptly notify his/her supervisor and his/her human resources (HR) representative and provide them with a copy of Annex A.

Planning

- Require the development of an Infectious Disease Preparedness and Response Plan that will include basic infection prevention measures (requiring the use of personal protection equipment), policies and procedures for prompt identification and isolation of sick individuals, social distancing (prohibiting gatherings of no more than 10 people including all-hands meetings and all-hands lunches) communication and training and workplace controls that meet standards that may be promulgated by the Center for Disease Control, Occupational Safety and Health Administration, Cal/OSHA, California Department of Public Health or applicable local public health agencies.⁶

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. 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 Mountain States 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.⁷

ICRA protocols are intended to contain pathogens, control airflow, and protect patients during the construction, maintenance and renovation of healthcare facilities.

⁶ See also The Center for Construction Research and Training, North America’s Building Trades Unions (April 27 2020) NABTU and CPWR COVID-19 Standards for U.S. Construction Sites, available at https://www.cpwr.com/sites/default/files/NABTU_CPWR_Standards_COVID-19.pdf; Los Angeles County Department of Public Works (2020) Guidelines for Construction Sites During COVID-19 Pandemic, available at https://dpw.lacounty.gov/building-and-safety/docs/pw_guidelines-construction-sites.pdf.

⁷ For details concerning Southwest Carpenters’ ICRA training program, see <https://icrahealthcare.com/>.

ICRA protocols prevent cross contamination, minimizing the risk of secondary infections in patients at hospital facilities.

The City should require the Project to be built using a workforce trained in ICRA protocols.

III. THE PROJECT CONSTITUTES PIECEMEAELED ENVIRONMENTAL REVIEW AND APPROVAL, IN VIOLATION OF CEQA.

It is well established that projects must not be separated into smaller parts, or piecemealed, for purposes of environmental review; environmental review must include all phases of the project. (CEQA Guidelines §§ 15063, subd. (a)(1); 15378, subd. (a); *Natural Resources Defense Council v. City of Los Angeles* (2002) 103 Cal.App.4th 268, 271 [“[t]he CEQA process is intended to be a careful examination, fully open to the public, of the environmental consequences of a given project, covering the entire project, from start to finish”].) Thus, CEQA prohibits evading comprehensive CEQA analysis by “chopping a large project into many little ones -- each with a minimal potential impact on the environment -- which cumulatively may have disastrous consequences.” (*Bozung v. LAFCO*. (1975) 13 Cal.3d 263, 283-84; *Orinda Assn v. Board of Supervisors* (1986) 182 Cal.App.3d 1145, 1171.)

Further, “if projects are ‘various steps which taken together obtain an objective,’ they are a single project for the purposes of CEQA.” (*Aptos Council v. County of Santa Cruz* (2017) 10 Cal.App.5th 266, 283.) This is also true for projects that are “integrally related.” (*Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 272.) Lead agencies must “construe the project broadly to capture the whole of the action and its environmental impacts.” (*Save Berkeley’s Neighborhoods v. Regents of University of California* (2020) 51 Cal.App. 5th 226, 239.)

Here, although the Project required an amendment to the Claremont municipal code, said amendment is not being considered at this hearing and was instead considered and approved by the City separately via an ordinance despite the sole purpose of the ordinance being to accommodate the Project. Thus, the Project constitutes piecemealed environmental review and approval, in violation of CEQA.

IV. THE CITY SHOULD PREPARE AN ENVIRONMENTAL IMPACT REPORT FOR THE PROJECT.

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).⁸ 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).

A strong presumption in favor of requiring preparation of an EIR is built into CEQA. This presumption is reflected in what is known as the “fair argument” standard, under which an agency must prepare an EIR whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal. App. 4th 1597, 1602; *Friends of “B” St. v. City of Hayward* (1980) 106 Cal. 3d 988, 1002.

An EIR must be prepared for Project for the following reasons:

- A. There is New Information of Substantial Importance Since the Adoption of the Southwest San Jose Specific Plan Mitigated Negative Declaration

The Staff Report contends that no environmental review is necessary for the Project because the Project is within the scope previously adopted Southwest San Jose Specific Plan Mitigated Negative Declaration (“MND”) and there is no basis for subsequent or supplemental environmental review pursuant to CEQA Guidelines

⁸ 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 15162. Attachment A at 2. However, CEQA Guidelines section 15162(b) specifically provides that “[i]f [substantial] changes to a project or its circumstances occur or new information [of substantial importance] becomes available after adoption of a negative declaration, the lead agency shall prepare a subsequent EIR”. Amongst other things, the Guidelines define new information of substantial importance as mitigation measures “which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment”. CEQA Guidelines, § 15162(a)(3)(d).

Here, there is substantial new information in light of the new electric vehicle (“EV”) requirements identified in the 2022 Green Building Code (“GBC”). The GBC, which became effective January 1, 2023, requires new hotel projects with more than 20 units to designate 10% of on-site parking spaces as EV capable, to equip 25% of the parking spaces with low power level 2 EV charging receptacles, and equip 5% of the spaces with level 2 EV supply equipment. GBC § 4.106.4.2. Thus, although the MND does not account for these mitigatory requirements, the Project must comply for its on-site parking spaces.

Further, the new solar requirements in 2022 Building Energy Efficiency Standards (“BEES”) constitute new information of substantial importance. Specifically, the BEES require that new hotel projects (1) provide solar zones which are “no less than 15 percent of the total roof area of the building”; and (2) install photovoltaic systems, with battery storage systems, which are consistent with the equations used to determine minimum size and capacity. BEES §§ 110.10(b); 140.10.

Accordingly, there is new information of substantial importance since the adoption of the MND which the Project must comply with in order to mitigate greenhouse gas impacts, requiring preparation on an EIR for the Project.

B. The Project Does Not Qualify for a Class 32 CEQA Exemption

Alternatively, the Staff Report contends that no environmental review is necessary for the Project because the Project is within the scope of the Class 32 CEQA exemption. Attachment A at 2. However, class 32 exemptions for in-fill development projects must meet *all* of the conditions identified in CEQA Guidelines section 15332, as follows:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations;
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses;
- (c) The project site has no value, as habitat for endangered, rare or threatened species;
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and
- (e) The site can be adequately served by all required utilities and public services.

Thus, class 32 exemptions are reserved for projects without any potential to have significant environmental effects. See *Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, 1107 [“If a project may have a significant effect on the environment, CEQA review must occur”].

Here, the Project has the potential to cause a number of significant environmental impacts. For example, notwithstanding the short-term potential for noise and transportation associated environmental impacts due to construction of the Project, the Project also proposes long term hotel stays which will likely result in increased transportation, noise, and energy use. Given that the Staff Report notes that Indian Hill Boulevard is already “congested during peak hours”, the Project’s potential noise and transportation impacts must be studied and quantified rather than speculating that they will not exist. Attachment A at 3. For this reason too, an EIR for the Project must be prepared.

VI. CONCLUSION

In sum, SMSWRCC requests that the City require a local workforce, that the City impose training requirements for the Project’s construction activities to prevent community spread of COVID-19 and other infectious diseases, that the City consider the environmental impacts and entitlements associated with the Project holistically rather than piecemealed, and that the City prepare and EIR for the Project. If the City has any questions, feel free to contact my office.

Sincerely,



Talia Nimmer
Attorneys for Southwest Mountain
States Regional Council of Carpenters

Attached:

March 8, 2021 SWAPE Letter to Mitchell M. Tsai re Local Hire Requirements and Considerations for Greenhouse Gas Modeling (Exhibit A);

Air Quality and GHG Expert Paul Rosenfeld CV (Exhibit B); and

Air Quality and GHG Expert Matt Hagemann CV (Exhibit C).