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May 23, 2023

Via Email and Overnight Mail

More Song, City Planner
City of Los Angeles, Department of City Planning
200 North Spring Street, Room. 763
Los Angeles, CA 90012
E-mail: More.Song@lacity.org

Re: Agenda Item 2 – Supplemental Comments on the FOUND Residences Project (Case Nos. ENV-2022-1049-SCEA; CPC-2022-1048-DB-HCA; AA-2019-476-PMEX).

Dear Mr. Song:

We are writing on behalf of **Coalition for Responsible Equitable Economic Development Los Angeles (“CREED LA”)** to provide supplemental comments on the Sustainable Communities Environmental Assessment (“SCEA”) prepared by the City of Los Angeles (“City”) for the FOUND Residences Project (Case Nos. ENV-2022-1049-SCEA; CPC-2022-1048-DB-HCA) (“Project”), proposed by 6422 Selma Owner, LLC (“Applicant”). The Project will be considered at the May 23, 2023 Hearing Officer Hearing as Agenda Item 2.¹

The Project proposes the demolition of an existing one-story storage building and the refurbishment of portions of the existing one-story historic commercial building on the Project Site to develop a 15-story building with 45 4-bedroom residential units. The Project would encompass a total floor area of up to 67,599 square feet resulting in a Floor Area Ratio (“FAR”) of 4.5:1 and would have a maximum building height of 180 feet and five inches (180’-5”). The Project site is an approximately 15,022 square foot (0.35 acre) site located at 6422 Selma Avenue, and portions of 1540-1552 N. Wilcox Avenue, Lots 2, 3, 4, and 5 of Tract No. 1754, Assessor Parcel Numbers (APN) 5546-013-002 and 5546-013-003.

CREED LA filed comments on the SCEA on April 10, 2023. CREED LA’s SCEA comments explained that the SCEA prepared for the Project fails to comply

¹ May 23, 2023 Hearing Officer Agenda, available at <https://planning.lacity.org/dcpapi/meetings/document/74490>.

with the requirements of CEQA, and that a Sustainable Communities Environmental Impact Report (“SCEIR”)² is required for the Project.

The SCEA fails to accurately disclose the Project’s potentially significant air quality, greenhouse gas (“GHG”), and health risk impacts by failing to consider emissions from the onsite back-up generator, which is a reasonably foreseeable use at the Project site. CREED LA’s SCEA comments explained that, although the SCEA and its air quality/greenhouse gas study assume that the Project would not include a stationary back-up generator,³ the design drawings from the SCEA’s project description show a generator on the second floor.⁴ Further, use of a back-up generator is a reasonably foreseeable consequence of the Project due to increasingly common Public Safety Power Shutoff events and extreme heat events which result in temporary power outages that necessitate a back-up power source.⁵ In addition to these factors, the comments herein show that a back-up generator is also a reasonably foreseeable consequence of the Project due to requirements in the California Building Standards Code, Los Angeles Building Code, and Los Angeles Fire Code which require high-rises like the Project to provide a back-up power source.

In sum, the SCEA underestimates air quality, GHG, and health risk impacts by failing to consider emissions from an onsite back-up generator. The City therefore lacks substantial evidence to conclude that these impacts would be less than significant based on compliance with the mitigation measures and criteria of the 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy (“2020-2045 RTP/SCS”).⁶ Instead, the Project meets the requirements of Public Resources Code Section 21155.2(c)(2) to prepare an SCEIR to address these impacts. The City cannot approve the Project until the errors and omissions in the SCEA are remedied in an SCEIR⁷ that is recirculated for public review and comment.

² Pub. Res. Code § 21155.2(c)(2).

³ SCEA, pg. IV-44, 47; Appendix B, pg. 48.

⁴ Letter from Adams Broadwell Joseph & Cardozo to City of Los Angeles, re: Comments on the Sustainable Communities Environmental Assessment for the FOUND Residences Project (Case Nos. ENV-2022-1049-SCEA; CPC-2022-1048-DB-HCA; AA-2019-476-PMEX) (April 10, 2023), pg. 7.

⁵ *Id.* at 8.

⁶ Pub. Res. Code § (a), (b)

⁷ Pub. Res. Code § 21155.2(c)(2).

I. A Back-Up Generator is a Reasonably Foreseeable Consequence of the Project

CREED LA's SCEA comments explained that the SCEA failed to include back-up generator emissions in its air quality, greenhouse gas, and health risk analyses. Courts have explained that a complete description of a project must "address not only the immediate environmental consequences of going forward with the project, but also all "*reasonably foreseeable* consequence[s] of the initial project."⁸ The City has not resolved this issue with any additional analysis. As explained previously, a back-up generator is a reasonably foreseeable consequence of the Project due to the Project's design and because of increasingly common Public Safety Power Shutoff events and extreme heat events. Back-up generator emissions must be analyzed in the Project's CEQA document.

In addition, the Project must supply standby and emergency power, as required by the California Building Standards Code, Los Angeles Building Code, and the Los Angeles Fire Code (the Los Angeles Building Code replicates the California Building Standards Code's provisions on emergency power, and the Los Angeles Fire Code's provisions are very similar to the state code on this issue).⁹ According to the California Building Standards Code, high-rise buildings exceeding 75 feet in height must install standby and emergency power systems. Specifically, Section 403.1 of the Building Standards Code states that "[n]ew high-rise buildings (see Section 202 for definition of a high-rise) [...] shall comply with Section 403.2 through 403.7. Section 202 provides that "high-rise buildings" are defined as "[e]very building of any type of construction or occupancy having floors used for human occupancy located more than 75 feet above the lowest floor level having building access, except buildings used as hospitals."¹⁰ This definition is shared by the Los Angeles Fire Code.¹¹ The Project constitutes a high-rise building because the highest occupied floor proposed by the Project would be located more than 75 feet above the floor level.¹² Levels 8-15 proposed by the Project are all located higher than 75 feet, as shown in the excerpt from the SCEA's Figure II-14 (South and North Building Elevations).¹³

⁸ *Laurel Heights I*, 47 Cal. 3d 376, 398 (emphasis added); see also *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 449-50.

⁹ 2022 California Building Standards Code (Cal. Code Regs., Title 24) was published July 1, 2022, with an effective date of January 1, 2023; 2020 Los Angeles Fire Code; 2020 Los Angeles Building Code (this Code replicates the section numbers and language of the state building code).

¹⁰ See Los Angeles Fire Code, Section 914.3.

¹¹ Los Angeles Fire Code, Chapter 2 – Definitions; Los Angeles Building Code, Chapter 2 – Definitions.

¹² SCEA, Project Description, Figure II-4.

¹³ *Id.*



Section 2702.2.11 of the California Building Standards Code states that “[e]mergency and standby power shall be provided in high-rise buildings.” Section 403.4.8, which is applicable to high-rise buildings pursuant to Section 403.1, states that “[a] standby power system complying with Section 2702 and Section 3003 shall be provided for the standby power loads specified in Section 403.4.8.3,” and “[a]n emergency power system complying with Section 2702 shall be provided for the emergency power loads specified in Section 403.4.8.4.”¹⁴ Standby power loads specified in Section 403.4.8.3 include ventilation and automatic fire detection equipment and elevators. Emergency power loads specified in Section 403.4.8.4 include exit signs, lighting, emergency communications systems, fire detection systems, fire alarm systems, electrically powered fire pumps, and power and light for the fire command center.

In sum, the California Building Standards Code requires the Project to provide standby and emergency power for the features listed above. The Los Angeles Fire Code also states that these requirements are applicable to the Project: “[s]tandby power and emergency power shall be provided for high-rise buildings and

¹⁴ See also California Building Standards Code, Section 2702.2.11 (“Emergency and standby power shall be provided in high-rise buildings [...]”).

Group I-2 occupancies having occupied floors located more than 75 feet above the lowest level of fire department access as required in Section 403 of the California Building Code.”¹⁵

Additionally, Section 2702.2 of the Building Standards Code provides that emergency and standby power systems shall be provided for Elevators and Platform Lifts;¹⁶ Emergency Responder Communication Coverage Systems;¹⁷ Emergency Voice/Alarm Communication Systems;¹⁸ Exhaust Systems;¹⁹ Exit Signs;²⁰ Gas Detection System;²¹ High-Rise Buildings and Group I-2 Occupancies Having Occupied Floors Located More Than 75 Feet Above the Lowest Level of Fire Department Vehicle Access.²² The Los Angeles Fire Code similarly states that emergency and standby power systems are required for these systems.²³ The Building Standards Code provides that these systems are generally required for high-rise buildings such as the Project, and the Project description includes two elevator pits.²⁴ Thus, the Project will need to provide backup power for these systems.

In sum, the California Building Standards Code and Los Angeles Fire Code require high-rise buildings such as the Project to include emergency and standby power systems.²⁵ Diesel generators are typically used to power the standby and emergency power systems for large projects such as the instant Project.²⁶ Therefore,

¹⁵ Los Angeles Fire Code, Section 1203.2.10.

¹⁶ California Building Standards Code, Section 2702.2.2

¹⁷ *Id.*, Section 2702.2.3

¹⁸ *Id.*, Section 2702.2.4

¹⁹ *Id.*, Section 2702.2.5

²⁰ *Id.*, Section 2702.2.6

²¹ *Id.*, Section 2702.2.7

²² *Id.*, Section 2702.2.11

²³ Los Angeles Fire Code, Section 1203.2.

²⁴ California Building Standards Code, Section 403.2 (“The construction of high-rise buildings shall comply with the provisions of Sections 403.2.1 through 403.2.3.”); Section 403.2 (“The detection, alarm and emergency systems of high-rise buildings shall comply with Sections 403.4.1 through 403.4.8.”); Section 1009.2.1 (“In buildings where a required accessible floor is four or more stories above or below a level of exit discharge, not less than one required accessible means of egress shall be an elevator complying with Section 1009.4”); SCEA, Project Description, pg. II-1.

²⁵ California Building Standards Code, Section 2702.2.11.

²⁶ SCAQMD, Fact Sheet on Emergency Back-up Generators,

<http://www.aqmd.gov/home/permits/emergency-generators> (“Most of the existing emergency back-up generators use diesel as fuel”); California Air Resources Board, Emission Impact: Additional Generator Usage Associated with Power Outage (January 30, 2020), available at <https://ww2.arb.ca.gov/resources/documents/emissions-impact-generator-usage-during-psps> (showing that generators commonly rely on gasoline or diesel, and that use of generators during power

installation of a diesel back-up generator is a reasonably foreseeable consequence of the Project.

II. An SCEIR Must be Prepared

The back-up generator's contribution to the Project's potentially significant air quality, GHG, and health risk impacts is not addressed by mitigation measures in the 2020-2045 RTP/SCS. The 2020-2045 RTP/SCS's Program EIR does not analyze impacts specifically caused by stationary back-up generators, and does not include mitigation measures requiring stationary back-up generators used in high-rise buildings to use clean fuel sources. The City therefore lacks substantial evidence to conclude that the Project's impacts would be less than significant based on compliance with the mitigation measures and criteria of the 2020-2045 RTP/SCS. The Project instead meets the requirements of Public Resources Code Section 21155.2(c)(2) to prepare an SCEIR²⁷ to address these impacts.

III. Conclusion

CREED LA urges the City not to approve the Project before the City prepares and circulates an SCEIR which discloses all of the Project's potentially significant impacts and requires all feasible mitigation measures to reduce the Project's significant environmental and public health impacts.

Sincerely,



Aidan P. Marshall

APM:acp

outages results in excess emissions); NFPA, Chapter 5, Section 5.1.1, available at <https://up.codes/viewer/california/nfpa-110-2019/chapter/5/emergency-power-supply-eps-energy-sources-converters-and-accessories#5.1>.

²⁷ Pub. Res. Code § 21155.2(c)(2).