

Channel Law Group, LLP

8383 Wilshire Blvd.
Suite 750
Beverly Hills, CA 90211

Phone: (310) 347-0050
Fax: (323) 723-3960
www.channellawgroup.com

JULIAN K. QUATTLEBAUM, III
JAMIE T. HALL *
CHARLES J. McLURKIN

Writer's Direct Line: (310) 982-1760
jamie.hall@channellawgroup.com

*ALSO Admitted in Texas

January 24, 2020

VIA ELECTRONIC MAIL

Leyla Campos, Legislative Assistant
Michelle Carter, Planner
c/o PLUM Committee Members
Los Angeles City Planning Department
200 N. Spring Street, Room 763
Los Angeles, CA 90012
michelle.carter@lacity.org
clerk.plumcommittee@lacity.org

RE: Revised SCPE Comments on La Brea Bliss Project (623-671 South La Brea Avenue); DCP Case Nos. ZA-2019-1744, VTT-82618, ENV-2019-1736; Council File No. 19-1533

Dear Honorable Planning Land Use Management Committee:

This Office respectfully writes on behalf of UNITE HERE Local 11 and its members (collectively "Local 11") to provide the City of Los Angeles ("City") the following revised comments¹ regarding the Sustainable Communities Project Exemption ("SCPE") for the eight-story, 201,123 square foot ("SF") mixed-use project including 121 residential units and 125 guest rooms ("Project") on a 12-lot site at 623-671 South La Brea Avenue ("Site") proposed by La Brea Bliss, LLC on behalf of CGI Strategies ("Applicant").

In short, Local 11 is concerned with the Project's compliance with the California Environmental Quality Act ("CEQA");² specifically the SCPE's lack of analysis demonstrating that the Project is genuinely consistent with the Southern California Association of Government's ("SCAG") 2016-2040 Regional Transportation Plan/Sustainable Communities Strategy ("2016 RTP/SCS"), or other requirements for projects seeking CEQA streamlining review. For example, the SCPE fails to provide any modeling of greenhouse gas emissions ("GHG")—a departure from the less-

¹ Please note that pages cited herein are either to the page's stated pagination (referenced herein as "p. ##") or the page's location in the referenced PDF document (referenced herein as "PDF p. ##").

² Inclusive of State CEQA Guidelines, 14 Cal. Code Regs. § 1500 et seq. ("CEQA Guidelines").

demanding review of Sustainable Communities Environmental Assessments (“SCEA(s)”) performed by the City.³ Nor does the SCPE confirm whether the Project will achieve the necessary per capita GHG emission reductions mandated under SB 375, which is fundamental to the 2016 RTP/SCS.

The comments contained in this comment letter supplement and incorporate by this reference Local 11’s previous written comments dated October 30, 2019 regarding the Applicant’s improper use of the City’s Transit Oriented Communities (“TOC”) incentives for this hotel Project (attached hereto as Exhibit A). As fully explained therein⁴, no hotel project has ever been approved using the TOC incentives, and the only other hotel project seeking to use TOC incentives (other than the Project here), has since been terminated.⁵

So too, Local 11 objects to the City’s consideration or possible approval of the Project’s CEQA environmental document under a SCPE now without also considering or acting on the Project’s requested entitlements, which are still pending a decision before the Zoning Administrator who held a public hearing on October 23, 2019 and still has not issued a Letter of Determination.⁶ It is well-established that you cannot approve a CEQA document for a project before you approve the project itself.⁷ Additionally, CEQA’s basic purpose of informing agency decision-makers can be served only if the environmental document is reviewed and considered by the persons responsible for determining whether to approve or disapprove the project.⁸

Local 11 respectfully urges the Planning Land Use Management (“PLUM”) Committee to stay all action on the SCPE until the issues discussed herein, as well as the land use and TOC issues raised in our previous written comment (*see* Exhibit A), are addressed in a CEQA-compliant SCPE. So too, Local 11 asks that the City consult with SCAG and request necessary written documentation relevant to the Project’s hotel component’s purported compliance with the 2016 RTP/SCS.

³ SCPEs and SCEAs must show the project is consistent with applicable policies and incorporate applicable performance standards/criteria under the applicable sustainable communities strategy. *See e.g.*, Pub. Res. Code §§ 21155(a), 21155.1(b)(5), 21155.4. So too, SCPEs are intended to be more demanding and rigorous than SCEAs.³ Hence, a project failing to satisfy SCEA requirements would equally fail SCPE requirements.

⁴ CEQA documents including a SCPE are supposed to identify and analyze land use inconsistencies. *See* CEQA Guidelines § 15125(d); *see also Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 378-379; *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903 (holding under CEQA that a significant impact exists where project conflicts with local land use policies). As set forth in our October 2019 letter, this Project is riddled with undisclosed land use inconsistencies that also improperly are not identified or analyzed in this SCPE document.

⁵ City (12/10/19) Termination Letter RE: ZA-2018-3409/EAF-2018-3410, <http://bit.ly/2QOBDa1>.

⁶ City (10/23/19) Hearing Notice for ZA-2019-1744, VTT-82618 (seeking approval of Vesting Tentative Tract Map, TOC Incentives, Master Conditional Use Permit, Conditional Use Permit, and Site Plan Approval [collectively “Entitlements”]), <http://bit.ly/2uE7LEK>.

⁷ *See Coalition for Clean Air v. City of Visalia* (2012) 209 Cal.App.4th 408, 423-425, fn. 18 (CEQA document cannot be approved and Notice of Exemption [“NOE”] filed before the underlying project actually is approved).

⁸ *See Citizens for the Restoration of L Street v. City of Fresno* (2014) 229 Cal.App.4th 340, 354; *see also POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4th 681, 731 (“... to serve CEQA’s basic purpose of informing governmental decision makers about environmental issues, to the text of the note that document must be reviewed and considered by the same person or group of persons who make the decision to approve or disapprove the project at issue.”); CEQA Guidelines § 15022(a)(9) (requires the City to adopt implementing procedures for “[r]eviewing and considering environmental documents by the person or decision making body who will approve or disapprove a project.”).

FAILURE TO ESTIMATE PROJECT'S GHG EMISSIONS OR PROVIDE CALEEMOD MODELING

Here, the SCPE fails to quantify the Project's GHG emissions or provide any modeling data from CalEEMod, which is contrary to all SCEAs performed by the City still posted online.^{9,10} Failure to do so not only conflicts with past City practices, but also likely may conflict with CEQA Guidelines § 1564.4(a) to make a good-faith effort to calculate or estimate the amount of GHG emissions resulting from a project.

To the extent the SCPE attempts to avoid consideration of project-specific GHG emission analysis by referring to Pub. Res. Code § 21159.28 – that section only provide that the analysis need not discuss “project specific or cumulative impacts from *cars and light-duty truck trips* generated by the project on global warming or the regional transportation network.” Emphasis added. As made clear, only GHG emissions from cars and light-duty trucks need not be considered. This does not eliminate the need to analyze GHG emissions from other sources (e.g., construction, area, energy, water, waste, stationary equipment) for this Project.

FAILURE TO COMPARE PROJECT AGAINST SCAG'S GHG PERFORMANCE-BASED GOALS UNDER SB 375

Here, the Project's SCPE fails to discuss whether or not the Project is genuinely consistent with SCAG's 2016 RTP/SCS regarding the reduction in GHG emissions from auto and light-duty vehicles. SB 375 was signed into law in September 2008 to enhance the state's ability to reach AB 32 goals by directing the California Air Resources Board (“CARB”) to develop regional GHG emission reduction targets to be achieved from passenger vehicles (i.e., autos and light-duty trucks) for 2020 and 2035. In September 2010, CARB adopted regional targets for reducing GHG emissions from 2005 levels by 2020 and 2035, assigning SCAG the targets of an eight percent reduction by 2020 and a 13 percent reduction by 2035.

This goal is reflected in SCAG's current 2016 RTP/SCS,¹¹ which the 2016 RTP/SCS Program EIR (“PEIR”) determined that the per capita emission in pounds per day (“lbs/day”) for each SCAG region resident was 23.8 lbs/day in 2005, and that the 2016 RTP/SCS plan would achieve a per capita emission of 21.4 lbs/day in 2020 (i.e., a reduction of eight percent from 2005 levels) and 19.5 lbs in 2035 (i.e., a reduction of 18 percent from 2005 levels) (*see* excerpt following page).¹²

⁹ See e.g., 3600 Wilshire Project (Dec. 2019) SCEA, p. B-96 – B-98, <http://bit.ly/2t59V01> and Appendix C (<http://bit.ly/36SGaOC>); 340 S. Hill St. Equity Residential Mixed-Use Project (Sep. 2019) SCEA, p. V-100 – V-106, <http://bit.ly/2tdOQ3m> and Appendix E (<http://bit.ly/35USXyN>); Thatcher Yard Project (Sep. 2019) SCEA, p. V-57 – V-58, <http://bit.ly/2tdnCdb> and Appendix D (<http://bit.ly/2TmvZ0C>).

¹⁰ Notwithstanding being listed on City website, multiple project SCEA hyperlinks do not open including the Soul Project, Olympic and Hill Projects, Weingart Projects, and Montecito II Senior Housing Project. *See* City (2020) SCEA, <http://bit.ly/387t9Rr>.

¹¹ SCAG (Apr. 2016) 2016 RTP/SCS, p. 8, 15, 153, 166, <http://bit.ly/2sG4VyH>.

¹² SCAG (11/24/15) 2016 RTP/SCS Draft PEIR, p. 3.8-37 – 3.8-38, <http://bit.ly/2FogAV1>.

**TABLE 3.8.4-3
SB 375 ANALYSIS**

	2005 (Baseline)	2020 (Plan)	2035 (Plan)	2040 (Plan)
Resident population (per 1,000)	17,161	19,060	21,475	22,116
CO ₂ emissions (per 1,000 tons)	204.0*	203.6**	206.0**	203.0**
Per capita emissions (pounds/day)	23.8	21.4	19.5	18.7
% difference from Plan (2020) to Baseline (2005)				-8%*
% difference from Plan (2035) to Baseline (2005)				-18%***
% difference from Plan (2040) to Baseline (2005)				-22%***

NOTE:

* Based on EMFAC2007

** Based on EMFAC2014

*** Included off-model adjustments for 2035 and 2040

SOURCE:

SCAG modeling, 2015

Southern California Association of Governments. 5 November 2015. *Item No. 1 Staff Report: 2016-2040 Regional Transportation Plan/Sustainable Communities Strategy (2016 RTP/SCS) – Proposed Major Components*. Available at: <http://www.scag.ca.gov/committees/CommitteeDocLibrary/jointRCPC110515fullagn.pdf>

However, in March 2018, CARB adopted updated targets requiring a 19 percent decrease in GHG emissions for the SCAG region by 2035. This goal is reflected in SCAG's Draft 2020 RTP/SCS per capita targets,¹³ which the 2020 RTP/SCS Draft PEIR updates to per capita emissions of 21.3 lbs/day in 2020 and 18.8 lbs/day in 2035 (*see excerpt below*).¹⁴

**Table 3.8-10
SB 375 Analysis**

	2005 (Baseline)	2020 (Plan)	2035 (Plan)
Resident population (per 1,000)	17,161	19,194	21,110
CO ₂ emissions (per 1,000 tons)	204.0*	204.5*	198.6/b/
Per capita emissions (pounds/day)	23.8	21.3	18.8
% difference from Plan (2020) to Baseline (2005)			-8%
% difference from Plan (2035) to Baseline (2005)			-19%*

Note:

/a/ Based on EMFAC2007

/b/ Based on EMFAC2014 and SCAG modeling, 2019.

/c/ Includes off-model adjustments for 2035 and 2045

Source: SCAG modeling, 2019.

<http://www.scag.ca.gov/committees/CommitteeDocLibrary/jointRCPC110515fullagn.pdf>

Here, the SCPE fails to discuss whether the Project will meet any of the targets identified in the 2016 or 2020 RTP/SCS targets, which is a fundamental requirement under SB 375 and the RTP/SCS.¹⁵ Instead, the SCPE provides an abbreviated consistency analysis of generic goals, policies, and principles listed in the 2016 RTP/SCS; such as: nine generic goals (three of which are admittedly inapplicable), eight generic guiding principles (admittedly none of which are applicable), nine generic land use principles (six of which are admittedly inapplicable), and four generic benefits (one which is admittedly inapplicable) (*see SCPE pp. 40-46*).

¹³ SCAG (11/7/19) Draft 2020 RTP/SCS, p. 9, 48, 138, <http://bit.ly/2ZTBewq>.

¹⁴ SCAG (Nov. 2019) 2020 RTP/SCS Draft PEIR, p. 3.8-73 – 3.8-74, <http://bit.ly/30OPctF>.

¹⁵ SCAG (Apr. 2016) 2016 RTP/SCS, pp. 8, 153 (“The Plan would result in an eight percent reduction in greenhouse gas emissions per capita by 2020, an 18 percent reduction by 2035 and a 21 percent reduction by 2040—compared with 2005 levels. This meets or exceeds the state’s mandated reductions, which are eight percent by 2020 and 13 percent by 2035.”), <http://bit.ly/2sG4VyH>.

In addition to the claim of exceeding Title 24 and water efficiency standards (which we question in the below section), the thrust of the SCPE's analysis is that the mixed-use project is infill and near transit and, thus, consistent with the RTP/SCS. Yet, the SCPE fails to compare the Project against any of the actual strategies that flush out and achieve the aforementioned generic goals/policies/principles under the RTP/SCS.¹⁶

For example, the Project is admittedly overparked by 43 spaces (*see* SCPE, p. 22), which is contrary to parking strategies embraced by SCAG's 2016 RTP/SCS,¹⁷ as well as strategies advanced by the City¹⁸ and California Air Pollution Control Officers Association ("CAPCOA").¹⁹

Moreover, the SCPE fails to consider whether the Project will meet the 2016 or 2020 RTP/SCS GHG emission reduction targets required under SB 375 discussed above. Nor does the SCPE show that the Project will achieve a 7.4 percent reduction in vehicles miles traveled ("VMT") per capita (regionally) as anticipated under the 2016 RTP/SCS, or consistent with the downward trajectory of VMT per capita (specific to Los Angeles County) anticipated to go from 21.5 VMT in 2012 to 18.4 VMT by 2040.²⁰ Nor does the SCPE compare the Project against any of the performance-based measures/outcomes also listed in the 2016 RTP/SCS (e.g., Location Efficiency, Mobility And Accessibility, Safety And Health, Environmental Quality, Environmental Justice, etc.).²¹

In sum, the 2016 RTP/SCS's generic goals principles, policies, and benefits are only effectuated via specific strategies achieving tangible performance-based goals/outcomes. Unfortunately, the SCPE's abbreviated consistency evaluation ignores these specific tangible strategies and performance-based standards.

FAILURE TO JUSTIFY WATER EFFICIENCY CALCULATIONS

To use a SCPE, a project must be 25 percent more water-efficient than the average household use in the region. *See* Pub. Res. Code § 21155.1(a)(8). Here, the SCPE claims the Project is 73 percent more water-efficient than the regional average (*see* SCPE, p. 37; *see also* Water Use Reduction Report ["H2O Report"],²² p. 9). First, however, the SCPE utilizes 2016 Plumbing Code assumptions rather than the 2019 Plumbing Code but fails to discuss why or if this may cause overestimation of water reductions.

Second, the H2O Report assumes only one daily use of dishwasher and clothes washer (*see* H2O Report, p. 4) without justification that it will not be higher. This assumption must correlate to other assumptions of the report, such as the data from the Metropolitan Water District ("MWD") or SCAG.

Third, the H2O Report generically describes the Project's proposed restaurant use as retail without any reference to its intended use as a restaurant, which has a distinctly different water

¹⁶ *Ibid.*, pp. 75-84 (such as combating gentrification and incorporating neighborhood electric vehicle).

¹⁷ *Ibid.*, pp. 25, 33, 58, 78, 86.

¹⁸ City (10/24/19) Recommendation Report, <http://bit.ly/2tRHYZA>.

¹⁹ CAPCOA (Aug. 2010) Quantifying Greenhouse Gas Mitigation Measures, pp. 61-62, 207-209, <http://bit.ly/2QN4R8i>.

²⁰ *Supra* fn. 12, pp. 153-155.

²¹ *Supra* fn. 12, pp. 156-174.

²² OED (Apr. 2019) Total Water use Reduction Report, <http://bit.ly/2RcEvwr>.

consumption characteristics than just generic retail (e.g., constant dishwashing). Yet, the report is silent if these unique restaurant-related water consumption operations were accounted for.

Fourth, the H2O Report uses a 130 gallons per day (“GPD”) per capita in 2017 based on MWD source (*id.*)²³ but does not explain why it did not use data from SCAG given this is a SCAG-related SCPE.

Fifth, the H2O Report utilizes occupancy rates that seem artificially high, which skews the Report’s baseline levels. The Report establishes a 210,340 GPD baseline by multiplying the 130 GPD to the purported Full-Time Equivalent (“FTE”) occupancy of 1,618 occupants (*see* SCPE, pp. 9-10). Yet, this occupancy level seems too high. For example, the H2O Report claims the 121 dwelling units and 125 hotel rooms will be occupied by 1,505 occupants, equivalent to 6.11 occupants per unit/room. This exceeds 2019 data from the Department of Finance (“DOF”) that shows the average person per household for Los Angeles is 2.83 persons per household, as well as exceeding the rates at nearby cities of Beverly Hills and West Hollywood (2.32 and 1.55 persons per household, respectively).²⁴ Similarly, the H2O Report’s 6.11 occupants per unit/room also exceeds the 1.5 persons per hotel room²⁵ and 80 percent hotel occupancy rate²⁶ used by the City and cited by other sources. Hence, the 121-dwelling units would reasonably accommodate 343 residents (based on 2.83 average people per household), and 150 FTE hotel patrons (based on 80 percent occupancy rate and 1.5 persons per room), for a total of 493 persons—roughly a third of the proposed 1,505 occupancy used in the H2O Report for the Project’s residential/hotel component. As a result, this error alone would reduce baseline levels by 131,560 GPD²⁷ to 78,780 GPD,²⁸ which means that the Project’s 56,686 GPD of purported water use (*see* H2O Report, p. 9) would be roughly only 28 percent more water-efficient (assuming no other errors in its analysis).

Sixth, the H2O Report claims the retail portion will have 822 visitors and 50 employees for a 13,037-SF restaurant/retail without any reference to a traffic study, LEED calculator, or other sources to justify these assumptions. Nor is it explain where the weighted factors come from or correctly applied. If improperly used, these occupancy levels and weighted factors can overestimate the Project’s FTE occupancy, which ultimately artificially inflates the baseline level (as demonstrated above).

²³ MWD (Feb. 2019) Achievements in Conservation, Recycling and Groundwater Recharge, p. 17, <http://bit.ly/3a5lBQJ>.

²⁴ DOF (May 2019) E-5 Population and Housing Estimates for Cities, Counties and the State — January 1, 2011-2019, <http://bit.ly/37xumBc>.

²⁵ *See e.g.*, Lizard Hotel Project (Jan. 2017) Draft EIR, PDF p. 24 (Tbl. IV.E-7, table note “b”), <http://bit.ly/2MWiErS>; Colorado Waterwise (undated) Water Savings Analysis for St. Regis Resort, pp. 2 (assuming “assume that the average occupancy is 1.5 guests per room and there is an occupancy rate of 80%”), <http://bit.ly/2ZTEZeW>; American Hotel & Lodging Association (2019) Green Guidelines: Water-Efficient Guest Bathrooms Webpage (showing water savings from example of “a typical 300-room hotel with an average 72% occupancy rate and average 1.5 guests per room.”), <http://bit.ly/2QuQ03j>.

²⁶ *See e.g.*, Atlas Hospitality Group (7/27/18) Does Southern California Need 472 More Hotels? (Vacancy rates in first five months of 2018 ranged from 78.5 to 81.8 percent for hotels in counties of Los Angeles and Orange, and Inland Empire), <http://bit.ly/2FpTyNY>; City of Los Angeles (2017) Hotel Market Study, p. 3, 7, <http://bit.ly/2QqneRj>; City of Los Angeles (2017) 2017 Annual Report, p. 6, <http://bit.ly/2Nfr9yD>; Visit Anaheim (Aug. 2017) Anaheim and Orange County Hotels, PDF p. 2 (Average occupancy rate for Orange County 80.60 percent), <http://bit.ly/35wF8Gd>.

²⁷ Calculated: [(1,505 purported occupants) – (493 reasonably expected residents and hotel patrons)] x (130 GPD).

²⁸ Calculated: (210,340 GPD purported baseline) – (131,560 GPD overestimated).

Seventh, the H20 Report overestimates baseline consumption by including 130 GPD for every retail and hotel occupant. Hotels patrons and retail occupants typical do not wash their clothes or dishes in hotels and restaurants like the Project here. Hence, the report overestimates the baseline levels that make the Project only appear to be more water-efficient.

In sum, the H20 Report overestimates the baseline consumption without justification and is not conducting an apples-to-apples analysis. These issues must be resolved to ensure the Project's claimed water efficiency is not overstated.

FAILURE TO JUSTIFY TITLE 24 CALCULATIONS

To use a SCPE, a project must be 15 percent more energy-efficient than required under Title 24. *See* Pub. Res. Code § 21155.1(a)(8). Here, the SCPE claims that the Project is 15.4 percent more efficient than otherwise required under Title 24 (*see* SCPE, p. 35; *see also* SCPE Title 24 Energy Performance Report ["T24 Report"],²⁹ p. 3). First, however, the SCPE uses old Title 24 (from 2016) as a baseline (*see* T24 Report, p. 4) and not the new Title 24 (from 2019). To the extent the new Title 24 (2019) is more energy-efficient than prior versions, the use of old Title 24 (2016) artificially inflates the baseline and, thus, overestimates the Project's energy efficiency.

Second, the "energy efficiency measures" cited appear to be fairly generic measures (*id.* at 9), and we question whether they are already included in Title 24 (2019). If these measures are already included in Title 24 (2019), the Project should not get credit for doing what is already required. Nor, should mandatory requirements be included as part of the necessary 15 percent reduction from Title 24.

Third, the T24 Report uses gross square footage that differs from the use square footage used in the SCPE (*compare id.* at p. 5 *with* SCPE, p. 9), and uses occupancy levels that seem artificially high (*see* T24 Report, p. 5). For example, the analysis assumes roughly 7.2 occupants for every residential unit, 5.03 occupants for every hotel room, and 14.9 SF for every retail patron, which is substantially higher compared to other rates, which can ultimately skew the baseline assumptions (as demonstrated in the above section).

In sum, these issues should be explained and justified to ensure the claimed 15-plus percent reduction from Title 24 required for the SCPE is not overestimated.

PROJECT MAY NOT QUALIFY FOR EXEMPTION OR STREAMLINE CEQA REVIEW

To use a SCPE, a project must be limited to no more than 200 residential units. *See* Pub. Res. Code § 21155.1(b)(2). Here, the Project contains 121 residential units and 125 hotel rooms for a total of 246 units. Given the residential nature of hotels, which have similar GHG inducing operations as dwelling units (e.g., mobile emissions, water use, building energy needs, etc.), the Project's hotel units could be considered residential units for SCPE purposes. For example, the SCPE's H20 Report calculates the purported 629 hotel occupants as residential (*see* H20 Report, pp. 2-3), which is further indicia that the hotel units should be considered residential for SCPE analysis purposes. This must be verified with SCAG to determine if SCAG's SCPE/SB 375 analysis accounted for hotels as a residential use or an entirely separate use category subject to different assumptions and performance standards. If SCAG considered hotels as separate and distinct from residential uses, then the City should request the specific data and performance

²⁹ OED (Apr. 2019) Title 24 Energy Performance Report, <http://bit.ly/2Rg09Qn>.

metrics applicable to hotels used by SCAG in its 2016 RTP/SCS. Otherwise, the 246-dwelling unit/hotel rooms for the entire Project may very well exceed this 200-unit threshold.

Finally, to use a SCPE, a project must be adequately served by existing utilities. *See* Pub. Res. Code § 21155.1(a)(1). Here, public comments have questioned whether there is adequate utility service given cumulative projects in the area.³⁰ This, too, should be clarified with substantial evidence.

CONCLUSION

As discussed above, the Project's SCPE is inadequate and does not meet the level of analysis provided in other less-demanding SCEA projects reviewed by the City. Local 11 respectfully urges the City to hold action on the SCPE until a CEQA-compliant SCPE is revised and circulated for public review. So too, Local 11 asks the City to request from SCAG the necessary written data and documentation to demonstrate that this hotel Project is consistent with assumptions and performance-based measures outlined in the 2016 RTP/SCS, as SCAG may do upon request.³¹

Sincerely,

A handwritten signature in black ink, appearing to read 'Jamie T. Hall', written in a cursive style.

Jamie T. Hall

Attachment:

Exhibit A: Local 11 Comments on La Brea Bliss Project Dated October 30, 2019

³⁰ Fix the City (1/3/20) Comment Letter, <http://bit.ly/2Tr3puW>.

³¹ SCAG (Apr. 2016) 2016 RTP/SCS, SCS Background Documentation, p. 59 (“SCAG staff may provide a *lead agency at the time of its request* readily available data and documentation to help support its finding upon request.” Emphasis added), <http://bit.ly/2RaLYfy>.

Exhibit A

Channel Law Group, LLP

8383 Wilshire Blvd.
Suite 750
Beverly Hills, CA 90211

Phone: (310) 347-0050
www.channellawgroup.com

JULIAN K. QUATTLEBAUM, III
JAMIE T. HALL *
CHARLES J. McLURKIN

Writer's Direct Line: (310) 982-1760
jamie.hall@channellawgroup.com

*ALSO Admitted in Texas

October 30, 2019

VIA ELECTRONIC MAIL

Michelle Carter
Los Angeles City Planning Department
200 N. Spring Street, Room 763
Los Angeles, CA 90012
michelle.carter@lacity.org

**Re: Comments on La Brea Bliss Project (623-671 South La Brea Avenue)
DCP Case Nos. ZA-2019-1744, VTT-82618, ENV-2019-1736
Zoning Administrator Hearing 10/23/19 at 9:30 a.m**

Dear Ms. Carter:

This Office respectfully writes on behalf of UNITE HERE Local 11 and its members (collectively "Local 11") to provide the City of Los Angeles ("City") the following comments¹ regarding the proposed eight-story, 201,123 square foot ("SF") mixed-use project including 121 residential units and 125 guest rooms ("Project") on a 12-lot site at 623-671 South La Brea Avenue ("Site") proposed by La Brea Bliss, LLC on behalf of CGI Strategies ("Applicant"). In short, Local 11 is concerned with the Project's compliance with the Los Angeles Municipal Code ("LAMC" or "Code") and the California Environmental Quality Act ("CEQA"),² and requests the City disapproves the Project's requested subdivision, land use entitlements, and environmental review under a Sustainable Communities Project CEQA Exemption ("SCPE") (collectively "Project Approvals").

Of great concern is this Project's unprecedented misuse of the City's Transit Oriented Communities ("TOC") incentives to provide hotel uses. Specifically, the Applicant improperly shuffles floor area ratios and densities between the residential and hotel uses at the Site, misusing the City's TOC density incentives to produce inadequate housing plans – while using the extra density to give itself a free hotel. This is a gross abuse of the TOC incentives and means that the Project apports more than one-third of its total allowed floor area to non-residential uses—at

¹ Please note that pages cited herein are either to the page's stated pagination (referenced herein as "p. ##") or the page's location in the referenced PDF document (referenced herein as "PDF p. ##").

² Inclusive of State CEQA Guidelines, 14 Cal. Code Regs. § 1500 et seq. ("CEQA Guidelines").

the expense of desperately needed housing. An extra 14 to 48 affordable units must be provided (depending on level of affordability). We have exhaustively researched this issue, as set forth below, and have found no approved or pending TOC incentive project in the City with an even remotely similar imbalance between the residential and non-residential uses. The City's TOC incentives are to be used to incentive housing, not boutique hotels! Quite simply, the tail (i.e., hotel) is wagging the dog (i.e., Project) here, which comes at the expense of housing (market-rate and affordable). This Project, if approved as requested, will set an awful precedent for misuse of the TOC incentives.

Non-residential uses are supposed to be a minor complement to TOC housing projects. Here, the hotel component is the main feature of the Project and the root cause of the Applicant's reverse engineering of the FAR numbers, which comes at the expense of producing housing. This is precisely the concern raised by Councilmember Ryu in the context of the Purple Line Transit Neighborhood Plan, where he cautioned the City Planning Director Bertoni of increase density not tied to affordable housing.³ Local 11 therefore respectfully urges the City to require the Applicant to assess the Project's on-site restricted affordable unit obligations to the Project's entire residential and hotel components (i.e., 246 apartments and guest rooms), thus, resulting in either 11 percent Extremely Low Income households (i.e., 28 units), or 15 percent Very Low Income households (i.e., 37 units), or 25 percent Lower Income households (i.e., 62 units). If not, the City should reject this Project altogether.

Moreover, the Applicant here has an extensive track record of taking residential projects/properties and converting them into extended stay hotels. Given this track record, and the entire TOC-derived planning for this Project, Local 11 urges the City to impose enforceable Conditions of Approval that restricts the Project's residential units from being converted, advertised, rented, or otherwise offered as a standard/short-term rental, hotel, or other hotel-like uses after receiving its Project Approvals and Certificate of Occupancy.

Finally, in violation of CEQA and the Brown Act the agenda for the October 23, 2019 Zoning Administrator hearing does not reference CEQA, and the City has published no CEQA compliance document for the Project. The Zoning Administrator, of course, cannot hear or approve the Project's discretionary subdivision and land use entitlements without first publishing the Project's proposed CEQA compliance document, adopting that CEQA document for the Project, and agendizing this all under CEQA. Yet, none of that happened here. This is a blatant CEQA and Brown Act violation.

I. STANDING OF LOCAL 11

Local 11 represents more than 25,000 workers employed in hotels, restaurants, airports, sports arenas, and convention centers throughout Southern California and Phoenix, Arizona. Members of Local 11, including hundreds who live or work in the City of Los Angeles at or near the Project Site, join together to fight for improved living standards and working conditions. Local 11's members have a direct interest in seeing that the City's land-use laws are being followed, that the City satisfies its affordable housing obligations, and complies with the State's environmental laws. So too unions have standing to litigate land use and environmental claims. See *Bakersfield Citizens v. Bakersfield* (2004) 124 Cal.App.4th 1184, 1198.

³ Hon. Councilmember Ryu (4/22/19) RE: Mr. Bertoni, p. 3 ("Residents are not opposed to increased density, provided the increased density is for affordable housing." Emphasis added), <http://bit.ly/2BA0uWM>.

II. PROJECT BACKGROUND

Based on the Project application materials (“Project Application”)⁴ and entitlement building plans (“Project Plans”),⁵ the Project Site includes 12 continuous, C2-1 zoned lots totaling 47,323-SF of lot area (used by Applicant to calculate FAR density) or 51,866 SF including half-width of adjacent alley (used by Applicant to calculate residential and hotel density). *See* Project Application, PDF pp. 10, 12; Project Plans, PDF p. 3, 6. The Project entails the construction of an eight-story, 201,123-SF mixed-use structure including 121 residential units (14 set aside for Extremely Low Income Households), a 125-room hotel (57,948 SF), and 13,037 SF of commercial/retail/restaurant uses, resulting in a development totaling 4.25:1 floor-area-ratio (“FAR”) and advertised by the Applicant as “luxury” residential.⁶ *See* Project Application, PDF pp. 12-14. The requested Project Approvals include:

- Vesting Tentative Tract Map for the merger of 12 lots and the creation of five (5) condominium lots (“VTT”),
- Tier 4 TOC incentives to allow an increase in density, FAR, and additional incentives (“TOC Incentives”),
- Master Conditional Use Permit to allow the sale and dispensing of alcoholic beverages on Site (“MCUP”),
- Conditional Use to permit a hotel within 500 feet of a residential zone (“CUP”), and
- Site Plan Review for a development project resulting in an increase of 50 or more residential units and/or guestrooms (“SPR”) (collectively “Entitlements”).

Below is a Project rendering (Fig. 1) and Project components and respective square footage (Fig. 2) from the Applicant’s March 2019 application. *See* Project Application, PDF p. 12; *see also* Project Plans, PDF pp. 2, 4.

FIGURE 1: PROJECT RENDERING

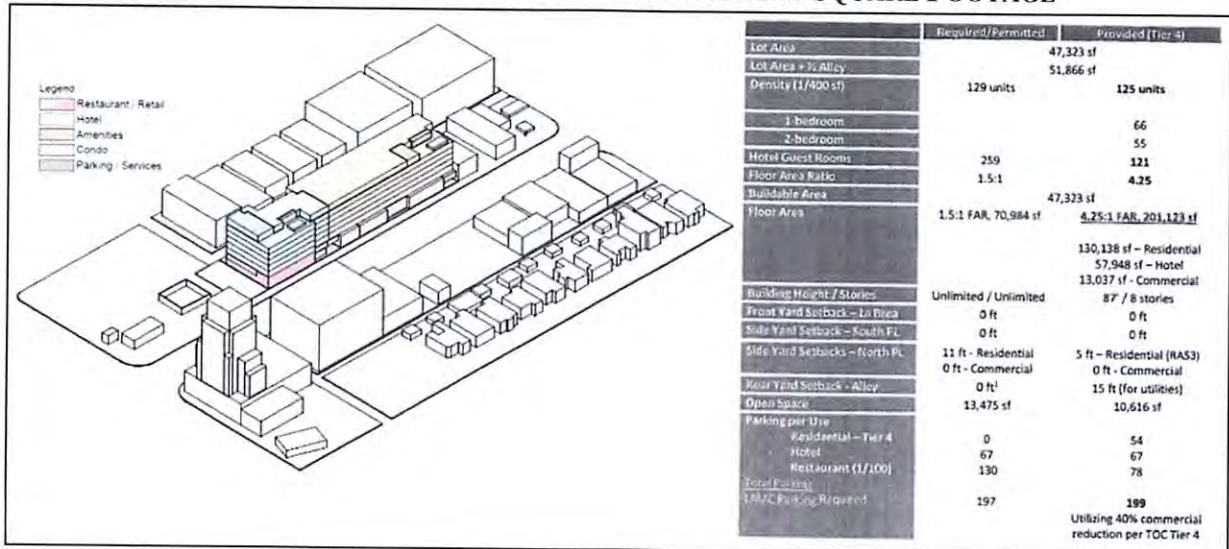


⁴ Project Application (250 pages dated March 2019, including Expedited Processing application, proposed findings, EAF application, TOC Referral form, VTT application, etc.), <http://bit.ly/32Eomo8>.

⁵ Project Plans (32 pages dated March 19, 2019), <http://bit.ly/35V3hbd>.

⁶ CGI Strategies (2019) La Brea Project Webpage, <https://cgistrategies.com/project/la-brea-project/>.

FIGURE 2: PROJECT COMPONENTS AND PROPOSED SQUARE FOOTAGE



III. APPLICANT'S DENSITY CALCULATIONS ARE UNTETHERED TO SITE CONDITIONS AND VIOLATE THE CODE

To reverse engineer the Applicant's ultimate goal of getting a free hotel, the Project calculates its hotel guest room and base housing density by utilizing arbitrary lot size values. Here, the Applicant calculates its base residential and hotel density by allocating different Site area (i.e., lot area plus half-width alley totaling 51,866 SF) to the Project's proposed residential and hotel uses. As depicted in the below figures, the Project Application allocates 26,866-SF of Site area for a base residential density of 68 (400 per dwelling unit, rounded up); and 25,000-SF of Site area for a base hotel density of 125 (200 SF per hotel room) (see Fig. 3 below). *See Project Application, PDF p. 92; Project Plans, PDF p. 3.*

However, when calculating its by-right non-residential FAR, the Applicant utilizes the entire Project Site (not including the half-width alley totaling 47,323 SF), for total of 70,985 SF or 1.5:1 FAR (see Fig. 4 on following page). *See Project Application, PDF p. 12; Project Plans, PDF p. 3.* As explained below, this shuffling of lot area and density/FAR calculations is neither tethered to the actual proposed building plans nor complies with the Code.

FIGURE 3: APPLICANT'S DENSITY CALCULATION

Other Notes on Units: Applicant proposes 125 guest-room hotel utilizing 25,000 sq. ft. of lot area for density calcs. Remaining 26,866 sq. ft. will be utilized for 121 residential units with Tier 4 80% increase (77% increase). (26,866 / 400 sq. ft = 67.165 units. Rounded up, 68 units x 80% increase = 122.4 units permitted)
Project fronts alley for density calculations. Bonus FAR utilized for Residential Units only

Hotel Density per LAMC (200 SF/Dwelling Unit)
Residential Density per LAMC (400 SF/Dwelling Unit)

FIGURE 4: APPLICANT'S NON-RESIDENTIAL FAR CALCULATION

Buildable Area		47,323 sf
Floor Area	1.5:1 FAR, 70,984 sf	<u>4.25:1 FAR, 201,123 sf</u>
		130,138 sf – Residential
		57,948 sf – Hotel
		13,037 sf - Commercial

Proposed Non-Residential FAR		1.5 : 1
Proposed Net Hotel Floor Area		57,948 SF
Proposed Net Commercial Floor Area		13,037 SF

A. BY-RIGHT FAR CALCULATIONS FOR NON-RESIDENTIAL USE VIOLATE THE CODE

Under the Code, “[n]o required lot which is provided for a dwelling unit, guest room, specific use or total floor area within a building shall be considered as providing the required lot area for any other dwelling unit, guest room, specific use or total floor area within a building.” LAMC § 12.21.C.1(j), emphasis added. As mentioned above, the Applicant allocated 26,866-SF and 25,000-SF of Site area for the Project’s base residential density and hotel density (respectively), or roughly 52 and 48 percent (respectively) of the Site’s lot area and half-alley square footage. Consistent with LAMC § 12.21.C.1(j), the Project’s hotel FAR component is tied to its allocated lot area, approximately 22,810-SF of lot area (i.e., equivalent to 48 percent of the Site’s total 47,323-SF lot area). As such, the Project’s non-residential floor area should be limited to 34,215-SF.⁷

Here, however, the Applicant disregards this unambiguous Code provision and utilizes the entire 47,323-SF Site area (including the area provided for residential dwelling units) to calculate its hotel floor area rights of 70,985 SF. As a result, the Applicant is getting a much bigger hotel than otherwise permitted.

B. LOT AREA ALLOCATIONS ARE UNTETHERED TO THE PROJECT’S SITE PLANS

As depicted in the below figures, the Project Plans show the entire mixed-use structure is 400 feet long (see Figs. 5 through 7 on following page), spanning ten of the contiguous lots (i.e., lots 38 through 47) (see Fig. 6), with the hotel component covering roughly one-third of the floor plan (i.e., lots 45-47, roughly 130’-9’’ along La Brea and 104’-11’’ deep) (see Fig. 7). See Project Plans, PDF pp. 3-6, 11. As such, the lot area allocated to the Project’s hotel component should be approximately 13,718-SF of lot area⁸ (not 25,000 SF), providing by-right floor area rights of 20,578 SF⁹ (not 70,985 SF), and hotel density of 69 guest rooms¹⁰ (not 125 rooms). Here, however, the Applicant is shuffling the lot area to maximize its hotel density untethered to its own Project Plans. As a result, the Applicant is getting a much bigger hotel than otherwise permitted.

⁷ Calculated: (22,810 lot area) x (1.5:1 FAR) = (34,215.33 SF).

⁸ Calculated: (130’-9’’) x (104’-11’’) = (13,717.8 SF of lot area).

⁹ Calculated: (13,717.8 SF of lot area) x (1.5:1 FAR) = (20,576.7 SF).

¹⁰ Calculated: (13,717.8 SF of lot area) / (200 SF per guest room) = (68.5 guest rooms).

FIGURE 5: PROPOSED MIXED USE STRUCTURE

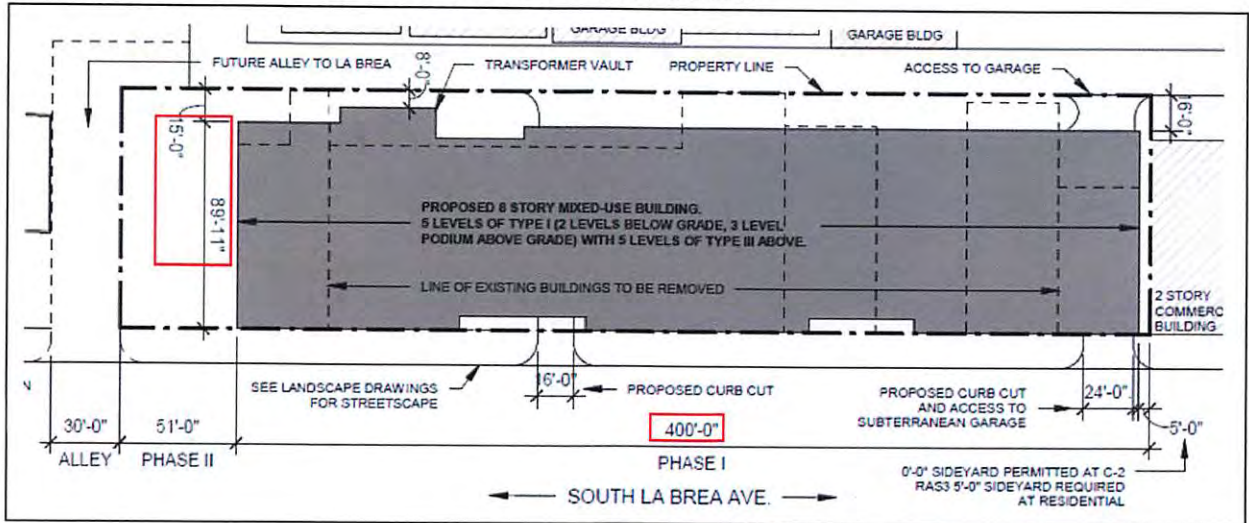


FIGURE 6: PROJECT LOT COVERAGE

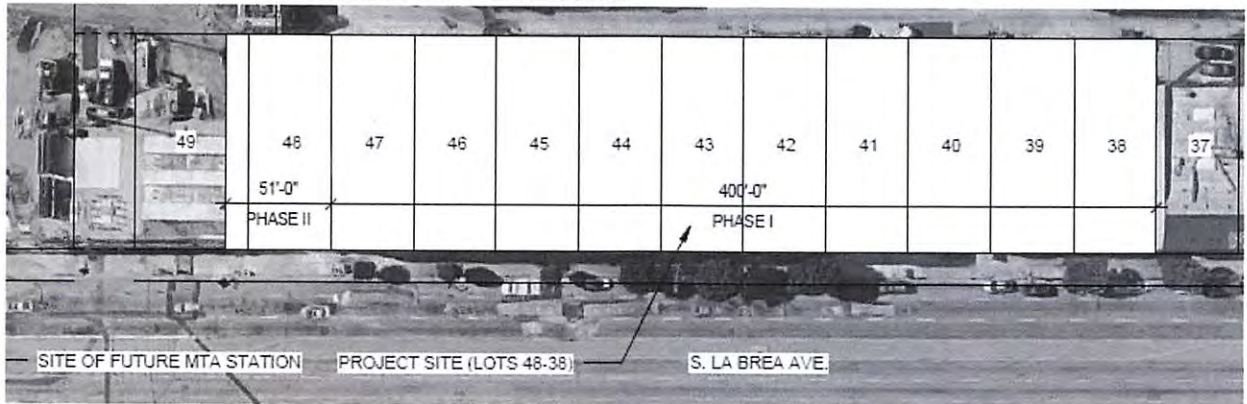
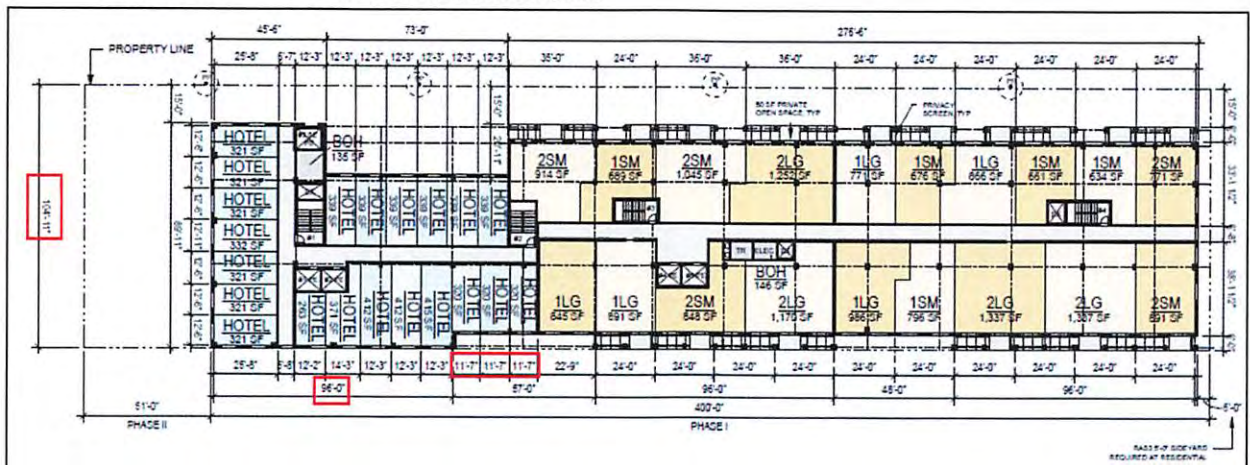


FIGURE 7: PROJECT FLOOR PLANS



C. SUMMARY

The Applicant's three-card-monte shuffling of the lot area is neither allowed under the Code, nor tethered to reality. It is an elaborate hustle to confuse the City in granting the Site additional density on the false narrative that the Project is just another TOC housing project, which as explained below, could not be further from the truth. As a result, the Applicant gets a bigger, free hotel by misusing the City's TOC incentives (as discussed in great detail below).

IV. THIS IS AN UNPRECEDENTED TOC PROJECT

In November 2016, City voters approved Measure JJJ by a nearly 30-point margin, which led to the adoption of the TOC incentive program in 2017 (codified at LAMC § 12.22.A.31 *et seq.*). Under the TOC Guidelines, residential projects within a one-half mile of a major transit stop could seek additional incentives, such as increased residential density and FAR from its base zoning if it met various affordable housing requirements.¹¹ According to the City's most recent housing report, the TOC Guidelines have resulted in the proposal of 3,863 affordable units since 2017.¹² The fundamental purpose of the TOC Guidelines and program is to provide density/FAR incentives to produce housing.

Here, however, the Applicant abuses the TOC Guidelines by utilizing the TOC incentives to produce inadequate housing while using the extra density to give itself a free hotel. This is an obvious and gross misuse of the TOC incentives. With by-right 1.5:1 FAR (70,985 SF), the Applicant allocates all of its by-right square footage to non-residential uses (i.e., 125-room hotel, commercial, retail, restaurant uses), tacks on 130,138-SF (2.75:1 FAR) of residential uses (i.e., 121-room apartment room) for a total of 4.25:1 FAR mixed-use project, in exchange for a meager 14 affordable units. This was not the purpose of the TOC program and Applicant's clever jiggering of the TOC incentives runs counter to every TOC project approved or pending City approval (as discussed below). This is an unprecedented misuse of the TOC incentives and means that the Project has substantially less housing (market-rate and affordable) than it is supposed to – an extra 14 to 48 affordable units must be provided (depending on level of affordability). The TOC incentives are to be used for housing, not boutique hotels!

A. TYPICAL TOC PROJECTS ARE EXCLUSIVELY RESIDENTIAL

Upon reviewing more than 300 TOC projects, it is clearly evident that TOC incentives are used for projects primarily serving residential purposes. For example, as listed in Table 1 on the following page, 240 TOC projects have been approved by the City (111 projects)¹³ or pending City approval (129 projects) that exclusively serve residential uses (e.g., market-rate housing, affordable housing, permanent-supportive housing). Here, a by-right project would allow for a 70,985-SF, 1.5:1 FAR (based on 47,323-SF lot area), and up to 129 residential units (based on 51,866-SF lot area plus half-alley). If this was a typical Tier 4 TOC project, the Project would be allowed 201,123-SF, 4.25:1 FAR (based on 47,323-SF lot area) used exclusively for residential

¹¹ See City (2/26/18) Technical Clarifications to the TOC Guidelines, <http://bit.ly/2BxvaYL>; see also TOC Guidelines FAQ (5/5/18), <http://bit.ly/2N8llps>.

¹² See City (Jun. 2019) Housing Progress Report, PDF p. 3 (noting 2,945 and 918 affordable units via discretionary cases and by-right permits, respectively, since October 2017), <http://bit.ly/2o4hRvI>.

¹³ Per DCP's description on the City's Case Summary & Documents website when searching individual projects. See <https://planning.lacity.org/pdiscaseinfo/search/encoded/>.

uses, and *permitting up to 233 residential units* with either 26 Extremely Low Income, 35 Very Low Income, or 59 Low Income units (based on 51,866-SF lot area plus half-alley). Here, however, this mixed-use Project is not providing an entirely residential project, provides only 125 apartment units, and because Applicant wants a hotel use, improperly forgoes as much as 108 residential units (much of which would be affordable).

TABLE 1: TYPICAL TOC PROJECTS INCLUDING EXCLUSIVELY RESIDENTIAL USES

111 TOC Projects Approved by the City				
DIR-2017-4421	DIR-2018-2736	DIR-2018-4296	DIR-2018-5919	DIR-2019-0761
DIR-2017-4551	DIR-2018-2808	DIR-2018-4319	DIR-2018-6162	DIR-2019-0764
DIR-2017-4561	DIR-2018-2831	DIR-2018-4336	DIR-2018-6186	DIR-2019-0840
DIR-2017-4807	DIR-2018-2887	DIR-2018-4508	DIR-2018-6218	DIR-2019-0855
DIR-2018-0894	DIR-2018-2918	DIR-2018-4525	DIR-2018-6244	DIR-2019-0883
DIR-2018-0901	DIR-2018-2943	DIR-2018-4649	DIR-2018-6497	DIR-2019-0898
DIR-2018-1122	DIR-2018-3005	DIR-2018-4655	DIR-2018-6560	DIR-2019-1008
DIR-2018-1257	DIR-2018-3038	DIR-2018-4682	DIR-2018-6630	DIR-2019-1021
DIR-2018-1277	DIR-2018-3069	DIR-2018-4752	DIR-2018-6671	DIR-2019-1053
DIR-2018-1393	DIR-2018-3110	DIR-2018-4793	DIR-2018-6719	DIR-2019-1157
DIR-2018-1581	DIR-2018-3274	DIR-2018-4928	DIR-2018-6866	DIR-2019-1445
DIR-2018-1603	DIR-2018-3378	DIR-2018-4954	DIR-2018-6904	DIR-2019-1517
DIR-2018-1626	DIR-2018-3411	DIR-2018-4983	DIR-2018-6956	DIR-2019-1675
DIR-2018-1656	DIR-2018-3460	DIR-2018-4999	DIR-2018-6996	DIR-2019-1753
DIR-2018-1677	DIR-2018-3471	DIR-2018-5175	DIR-2018-7067	DIR-2019-1855
DIR-2018-1868	DIR-2018-3524	DIR-2018-5204	DIR-2018-7575	DIR-2019-1971
DIR-2018-2029	DIR-2018-3645	DIR-2018-5208	DIR-2018-7647	DIR-2019-2356
DIR-2018-2234	DIR-2018-3691	DIR-2018-5473	DIR-2019-0038	DIR-2019-2947
DIR-2018-2503	DIR-2018-3839	DIR-2018-5480	DIR-2019-0091	DIR-2019-2966
DIR-2018-2589	DIR-2018-3888	DIR-2018-5510	DIR-2019-0366	
DIR-2018-2628	DIR-2018-3931	DIR-2018-5515	DIR-2019-0399	
DIR-2018-2653	DIR-2018-3952	DIR-2018-5647	DIR-2019-0575	
DIR-2018-2732	DIR-2018-4135	DIR-2018-5664	DIR-2019-0757	
129 TOC Projects Pending City Approval				
APCC-2019-2047	DIR-2018-7606	DIR-2019-2603	DIR-2019-3768	DIR-2019-5220
DIR-2018-2957	DIR-2019-1006	DIR-2019-2657	DIR-2019-3912	DIR-2019-5235
DIR-2018-3391	DIR-2019-1103	DIR-2019-2700	DIR-2019-4023	DIR-2019-5248
DIR-2018-3536	DIR-2019-1113	DIR-2019-2731	DIR-2019-4049	DIR-2019-5267
DIR-2018-3609	DIR-2019-1200	DIR-2019-0274	DIR-2019-4075	DIR-2019-0530
DIR-2018-4052	DIR-2019-1224	DIR-2019-0277	DIR-2019-0409	DIR-2019-5351
DIR-2018-4817	DIR-2019-1244	DIR-2019-2789	DIR-2019-4090	DIR-2019-5356
DIR-2018-5101	DIR-2019-1323	DIR-2019-2893	DIR-2019-4091	DIR-2019-5420
DIR-2018-5355	DIR-2019-1672	DIR-2019-2908	DIR-2019-4185	DIR-2019-5422
DIR-2018-5859	DIR-2019-1679	DIR-2019-2938	DIR-2019-4221	DIR-2019-5516
DIR-2018-5870	DIR-2019-1693	DIR-2019-0304	DIR-2019-4395	DIR-2019-0553
DIR-2018-5925	DIR-2019-1794	DIR-2019-3138	DIR-2019-4425	DIR-2019-5659
DIR-2018-6175	DIR-2019-1919	DIR-2019-3143	DIR-2019-4577	DIR-2019-5702
DIR-2018-6344	DIR-2019-1955	DIR-2019-3158	DIR-2019-4705	DIR-2019-5704
DIR-2018-6392	DIR-2019-2017	DIR-2019-3204	DIR-2019-4723	DIR-2019-5733
DIR-2018-6634	DIR-2019-2128	DIR-2019-3222	DIR-2019-4725	DIR-2019-5741

DIR-2018-6861	DIR-2019-2145	DIR-2019-0324	DIR-2019-4728	DIR-2019-5859
DIR-2018-6987	DIR-2019-2171	DIR-2019-3294	DIR-2019-4821	DIR-2019-5957
DIR-2018-7019	DIR-2019-2262	DIR-2019-3377	DIR-2019-4911	DIR-2019-0739
DIR-2018-7148	DIR-2019-2266	DIR-2019-3500	DIR-2019-4920	DIR-2019-0750
DIR-2018-7191	DIR-2019-2271	DIR-2019-3502	DIR-2019-5001	DIR-2019-0790
DIR-2018-7340	DIR-2019-2291	DIR-2019-3530	DIR-2019-5051	DIR-2019-0805
DIR-2018-7363	DIR-2019-2323	DIR-2019-3555	DIR-2019-5086	DIR-2019-0848
DIR-2018-7376	DIR-2019-2427	DIR-2019-3588	DIR-2019-5137	DIR-2019-0929
DIR-2018-7431	DIR-2019-2480	DIR-2019-3727	DIR-2019-5170	DIR-2019-0970
DIR-2018-7554	DIR-2019-2570	DIR-2019-3760	DIR-2019-5213	

B. UNLIKE HERE, THE FEW MIXED-USE TOC PROJECTS TYPICALLY HAVE EXTREMELY LIMITED NON-RESIDENTIAL USES

So too, the Project is an outlier for even the 57 mixed-use TOC projects approved by the City (28 projects)¹⁴ or pending City approval (29 projects).¹⁵ For example, based on City documents (e.g., Letters of Determination [“LOD”], Case Summary & Document website [“CS&D”], etc.), we were able to discern in 30 of the 57 mixed-use TOC projects the total floor area of the proposed projects including the portion allocated for non-residential uses (e.g., retail, commercial, restaurant, office, etc.). As shown in Table 2 below and the following pages, these rare mixed-use TOC projects on average allocate a mere 6.38 percent of the entire proposed project square footage to non-residential uses. *If this was a typical rare mixed-use TOC project, the Project would include only 6.38 percent of its proposed floor area to non-residential uses* (i.e., 12,832-SF of hotel/retail uses), with the remaining 188,291 SF allocated to residential uses *permitting up to approximately 181 apartment units*¹⁶ (i.e., 58,153 SF and 56 apartment units more than proposed). Here, however, this Project is allocating 35.29 of the entire proposed square footage to non-residential uses (hotel and commercial/retail)—more than five times the average rare mixed-use TOC project.

TABLE 2: MIXED-USE TOC PROJECTS NON-RESIDENTIAL SQUARE FOOTAGE

DCP Case Number	Lot Size (SF)	Total Project (SF)	Non-Residential		Source
			(SF)	Percent of Total SF	
DIR-2019-2593[a]	28,687*	107,012	1,089	1.02%	City (2019) CS&D, http://bit.ly/2MWPIEH .

¹⁴ *Supra* fn. 12, *see e.g.*, DIR-2018-1136; DIR-2018-1500; DIR-2018-3014; DIR-2018-3021; DIR-2018-4743; DIR-2018-4864; DIR-2018-4879; DIR-2018-5303; DIR-2018-5415; DIR-2018-5417; DIR-2018-5601; DIR-2018-5887; DIR-2018-5945; DIR-2018-6274; DIR-2018-6322; DIR-2018-6425; DIR-2018-6691; DIR-2018-7342; DIR-2018-7374; DIR-2018-7382; DIR-2018-7690; DIR-2019-104; DIR-2019-1101; DIR-2019-1394; DIR-2019-1957; DIR-2019-2453; DIR-2019-2593; DIR-2019-3287.

¹⁵ *Supra* fn. 12, *see e.g.*, DIR-2018-3172; DIR-2018-5014; DIR-2018-5079; DIR-2018-6684; DIR-2019-1133; DIR-2019-1254; DIR-2019-1321; DIR-2019-1558; DIR-2019-1663; DIR-2019-2051; DIR-2019-2131; DIR-2019-2431; DIR-2019-2482; DIR-2019-2727; DIR-2019-2765; DIR-2019-3146; DIR-2019-337; DIR-2019-3680; DIR-2019-3936; DIR-2019-3991; DIR-2019-4573; DIR-2019-5140; DIR-2019-5394; DIR-2019-5590; DIR-2019-5645; DIR-2019-6048; DIR-2019-647; DIR-2019-909; ZA-2018-3985.

¹⁶ Based on the Applicant’s average 1,042-SF apartment unit calculated based on the following: (130,138-SF residential uses) / (125 apartment units) = (1,041.1 SF/unit). *See* Project Application, PDF p. 12.

DIR-2019-3287[a]	46,009	117,106	1,700	1.45%	City (8/1/19) LOD, PDF pp. 2, 8, 11, http://bit.ly/32xArLT .
DIR-2018-6691[a]	7,500	28,071	426	1.52%	City (5/2/19) LOD, PDF pp. 2, 7-8, http://bit.ly/32uSWk8 .
DIR-2018-3021[a]	16,704	62,640	1,145	1.83%	City (12/17/18) LOD, PDF pp. 7-8, http://bit.ly/32wQBoR .
DIR-2018-1136[a]	51,303	180,334	3,600	2.00%	City (11/1/18) LOD, PDF p. 7, http://bit.ly/2oWREj6 .
DIR-2018-7374[a]	7,210	11,559	240	2.08%	City (5/21/19) LOD, PDF pp. 6-7, http://bit.ly/33NyJ9c .
DIR-2018-1500[a]	41,440	110,558	2,346	2.12%	City (7/23/18) LOD, PDF pp. 2, 7, http://bit.ly/2Mxzw8I .
DIR-2018-3014[a]	7,350	27,501	645	2.35%	City (12/12/18) LOD, PDF p. 5, http://bit.ly/33LGXP7 ; see also Floor Plan, PDF p. 1, http://bit.ly/2pG2wSp .
DIR-2018-6274[a]	10,733	28,333	671	2.37%	City (4/29/19) LOD, PDF pp. 3, 7, 11, http://bit.ly/2BpxYqZ .
DIR-2018-4743[a]	20,913	95,260	2,499	2.62%	City (5/9/19) LOD, PDF p. 6, http://bit.ly/32xkRzR .
DIR-2018-6322[a]	36,371	136,189	3,600	2.64%	City (1/23/19) LOD, PDF p. 6, http://bit.ly/2o1tsf1 .
DIR-2018-5014[b]	21,274*	93,467	2,500	2.67%	City (9/18/19) Hearing Notice, PDF p. 1, http://bit.ly/2BunfLK .
DIR-2018-5945[a]	53,504	200,640	7,843	3.91%	City (2/27/19) LOD, PDF p. 6, http://bit.ly/31yHeDw .
DIR-2018-5417[a]	11,708	23,455	1,000	4.26%	City (1/9/19) LOD, PDF p. 5, http://bit.ly/2qqJksh .
DIR-2018-5601[a]	16,940	55,055	2,395	4.35%	City (12/10/18) LOD, PDF p. 6, http://bit.ly/2Bva79m .
DIR-2019-1394[a]	22,824	51,623	2,491	4.83%	City (7/5/19) LOD, PDF pp. 7, 11, http://bit.ly/2PeBvR9 .
DIR-2018-6425[a]	45,792*	171,634	8,561	4.99%	City (2/1/19) Notice of Exemption, PDF p. 1, http://bit.ly/35PD6Td .
DIR-2018-7342[a]	14,863	50,985	2,640	5.18%	City (4/10/19) LOD, PDF p. 7, http://bit.ly/2pG3Lkx .
DIR-2019-2727[b]	21,547*	65,140	3,640	5.59%	City (2019) CS&D, http://bit.ly/2VWZ2Ho ; see also Office of Historic Resources (10/2/19) Updated Agenda, PDF p. 2, http://bit.ly/35R6hFl .
DIR-2018-4864[a]	60,810	209,157	12,175	5.82%	City (4/19/19) LOD, PDF pp. 2, 7-8, 19, http://bit.ly/2VXcb3e .
DIR-2018-5415[a]	24,357	51,630	3,175	6.15%	City (1/9/19) LOD, PDF p. 5, http://bit.ly/2Myb6vE ; see also City (2019) CS&D, http://bit.ly/35SqESI .

ZA-2018-3985[b]	51,236	222,944	15,307	6.87%	City (5/15/19) SCEA, PDF p. 1, 6-7, http://bit.ly/32zLcNQ .
DIR-2018-7690[a]	36,423	137,951	10,114	7.33%	City (7/25/19) LOD, PDF p. 7, http://bit.ly/2pFu6Q4 .
DIR-2019-0104[a]	16,379*	60,940	5,689	9.34%	City (2019) CS&D, http://bit.ly/2BtAhJr .
DIR-2019-2453[a]	22,379	62,678	6,500	10.37%	City (6/27/19) LOD, PDF p. 8, http://bit.ly/2W45Djl .
DIR-2019-1957[a]	27,496	75,571	9,048	11.97%	City (8/14/19) LOD, PDF p. 8, http://bit.ly/31vqYDm .
DIR-2019-1663[b]	11,634*	44,566	5,861	13.15%	City (2019) CS&D, http://bit.ly/2P4aK1v .
DIR-2018-7382[a]	12,867	44,116	6,479	14.69%	City (8/1/19) LOD, PDF pp. 7, 13-14, http://bit.ly/31svBhr .
DIR-2018-4879[a]	12,000	22,566	5,325	23.60%	City (3/5/19) LOD, PDF p. 6, http://bit.ly/33SJo2J .
DIR-2018-5303[a]	12,544	44,081	10,774	24.44%	City (5/16/16) LOD, PDF pp. 7, 13, http://bit.ly/32y0lPA .
Average				6.38%	
Project	47,323	201,123	70,985	35.29%	
Notes: *: Lot area determined via ZIMAS for all lots listing case number. [a]: Approved by the City. [b]: Pending City Approval.					

C. OUTLIER MIXED-USE TOC PROJECTS NEVER MAX OUT THEIR BY-RIGHT FAR ON NON-RESIDENTIAL USES, WHICH THE PROJECT PROPOSES HERE

As the above table demonstrates, the vast majority of the above-listed projects allocate less than ten percent of the entire proposed project square footage to non-residential uses. Even in outlier cases (six in total) where a rare mixed-use TOC project allocates 10 percent or more to non-residential uses, those projects allocate only a small portion of their by-right FAR to non-residential uses. As shown in Table 3 on the following page, those six mixed-use TOC projects included relatively small lot sizes (average 16,487 SF) with relatively small by-right floor area rights (average 27,369 SF), and where applicants proposed only a small fraction to be used for non-residential uses—amounting to less than 30 percent of their respective by-right floor area rights (on average). *If this was a typical outlier case of a rare mixed-use TOC project, the Project would include only 30 percent of its by-right floor area rights to non-residential uses* (i.e., 21,296 -SF of hotel/retail uses), with the remaining 179,827 SF allocated to residential uses *permitting up to approximately 173 apartment units*¹⁷ (i.e., 49,689 SF and 48 apartment units more than proposed). Here, however, this Project includes a substantially larger lot area (2.8 times larger than average) and allocates 100 percent of its by-right floor area rights for non-residential uses—more than three times the average for outliers in rare mixed-use TOC projects.

¹⁷ *Ibid.*

TABLE 3: OUTLIER, MIXED-USE TOC PROJECTS USE OF BY-RIGHT FAR

DCP Case Number	Lot		By Right		Proposed Non-Res	
	Size (SF)	Zoning	FAR[c]	SF	SF	Percentage of By-Right
DIR-2019-2453[a][d]	22,379	Mix	1.93:1	43,132	6,500	15%
DIR-2019-1957[a][e]	27,496	[Q]C2-1VL	1.5:1	41,244	9,048	22%
DIR-2019-1663[b][f]	11,634*	C2-1	1.5:1	17,451	5,861	34%
DIR-2018-7382[a][g]	12,867	C2-1VL	1.5:1	19,300	6,479	34%
DIR-2018-4879[a][h]	12,000	C4-1XL	1.5:1	18,000	5,325	30%
DIR-2018-5303[a][i]	12,544	[Q]C2-1-O	2.0:1	25,088	10,774	43%
Average	16,487					29%
Project	47,323	C2-1	1.5:1	70,985	70,985	100%

Notes:

- *: Lot area determined via ZIMAS for all lots listing case number.
- [a]: Approved by the City.
- [b]: Pending City Approval.
- [c]: See 2013-2021 Housing Element, Appendix E, Generalized Summary of Zoning Regulations, p. E-6 (Height Districts), <http://bit.ly/2W0y1TG>.
- [d]: According to ZIMAS, project comprised of three lots including: two lots totaling 16,004.5 SF, zoned C2-1, permitted 1.5:1 FAR by right; and one, 6,375-SF lot zoned RD2-1 permitted 3:1 FAR by right. See also City (6/27/19) LOD, PDF pp. 8, 13-14, <http://bit.ly/2W45DjI>.
- [e]: See City (8/14/19) LOD, PDF pp. 8, 10, 16, 20, <http://bit.ly/31vqYDm>.
- [f]: See City (2019) CS&D, <http://bit.ly/2P4aK1v>.
- [g]: See City (8/1/19) LOD, PDF pp. 7-8, 13-14, <http://bit.ly/31svBhr>.
- [h]: See City (3/5/19) LOD, PDF pp. 2, 6, <http://bit.ly/33SJo2J>.
- [i]: See City (5/16/16) LOD, PDF pp. 7, 13, <http://bit.ly/32y0IPA>.

D. MIXED-USE TOC PROJECTS PRODUCE WAY MORE RESIDENTIAL UNITS PER NON-RESIDENTIAL SQUARE FOOTAGE THAN THIS PROJECT

As previously mentioned, City documents disclosed proposed floor area for only 30 of the 57 rare mixed-use TOC projects approved and/or pending City approval. However, City documents disclose proposed total residential units for 17 other rare mixed-use TOC projects (mostly pending City approval). As shown in Table 4 on the following page, on average, these rare mixed-use TOC projects allocate approximately 74.2 SF of non-residential uses for every residential unit proposed. *If this was a typical rare mixed-use TOC project, the Project would produce one residential unit for every 74.2 SF of non-residential uses* (i.e., 9,275 SF of hotel/retail uses), with the remaining 191,848 SF allocated to the 125 apartment units, *resulting in substantially larger units (i.e., appx. 1,535 SF on average) capable of providing more beds to house larger families*. Here, however, this Project is proposing much smaller apartment units (i.e., 1,042 SF on average)¹⁸ because it produces one apartment unit for every 587 SF of non-residential uses—more than seven times the average for these rare mixed-use TOC projects.

¹⁸ *Ibid.*

TABLE 4: MIXED-USE TOC PROJECTS HOUSING UNITS V. NON-RESIDENTIAL SQUARE FOOTAGE

DCP Case Number	Total Res. Units (Units Affordable)	Non-Res (SF)	Non-Res SF per Res Unit (SF/unit)	Source
DIR-2019-1558[b]	119 (11)	2,000	16.8	City (2019) CS&D, http://bit.ly/2o8P4Gw .
DIR-2019-3680[b]	99 (TBD)	2,000	20.2	City (2019) CS&D, http://bit.ly/2MYymCa .
DIR-2019-2482[b]	64 (6)	1,395	21.8	City (2019) CS&D, http://bit.ly/2o4TWwl .
DIR-2019-1101[a]	57 (TBD)	1,600	28.1	City (2019) CS&D, http://bit.ly/35UBffW .
DIR-2019-337[b]	177 (TBD)	5,500	31.1	City (2019) CS&D, http://bit.ly/31yG771 .
DIR-2019-6048[b]	486 (66)	16,395	33.7	City (2019) CS&D, http://bit.ly/2P6c2Ju .
DIR-2019-2051[b]	119 (TBD)	4,800	40.3	City (2019) CS&D, http://bit.ly/2W1S97y .
DIR-2019-3936[b]	371 (56)	15,726	42.4	City (2019) CS&D, http://bit.ly/2NcDUcr .
DIR-2018-3172[b]	80 (8)	4,117	51.5	City (2019) CS&D, http://bit.ly/33RVbOq .
DIR-2019-0909[b]	58 (TBD)	3,245	55.9	City (2019) CS&D, http://bit.ly/32A2qKS .
DIR-2018-6684[b]	130 (13)	10,053	77.3	City (2019) CS&D, http://bit.ly/2qxuh09 .
DIR-2018-5079[b]	73 (16)	6,481	88.8	City (2019) CS&D, http://bit.ly/35V2tmo .
DIR-2019-5394[b]	60 (6)	5,900	98.3	City (2019) CS&D, http://bit.ly/35XHoYT .
DIR-2019-2765[b]	67 (7)	8,450	126.1	City (2019) CS&D, http://bit.ly/2MCkH4N .
DIR-2019-1321[b]	55 (6)	7,379	134.2	City (2019) CS&D, http://bit.ly/2VYyYvs .
DIR-2019-0647[b]	33 (3)	4,895	148.3	City (2019) CS&D, http://bit.ly/2JaJqLh .
DIR-2019-4573[b]	67 (7)	16,500	246.3	City (2019) CS&D, http://bit.ly/31vi20N .
Average			74.2	
Project	121 (14)	70,985	586.7	
Notes: [a]: Approved by the City. [b]: Pending City Approval.				

E. HOTEL TOC PROJECTS ARE UNCHARTERED TERRITORY THAT MUST UNDERGO THE STRICTEST SCRUTINY

Upon the review of more than 300 TOC projects, we were able to identify only two TOC projects pending City approval that include hotel uses, this Project and a ten-story, 108,625-SF mixed-use TOC project including 110-guest room, 45-residential units, and 6,212-SF ground floor commercial/restaurant uses located at 6075 W. Pico Boulevard (DCP Case No. ZA-2018-3409) (“Pico Hotel”). Based on their respective DCP applications, both of these projects are linked to the same expediter (i.e., Three6ity), play the same three-card-monte shuffling of lot area to calculate hotel/residential density, and max-out (or nearly max-out) the project site’s by-right floor area on non-residential uses like the hotel (see Tbl. 5 on following page). Please stop this practice now in its tracks.

/ / /

TABLE 5: HOTEL TOC PROJECTS

La Brea Bliss Project[a]		Pico Hotel Project[b]																																																																																		
Expediter Agent/Representative name <u>Dana Sayles, AICP</u> Company/Firm <u>ThreeSixty</u> Address <u>11287 W. Washington Boulevard</u> Unit/Space Number _____ City <u>Culver City</u> State <u>CA</u> Zip <u>90230</u> Telephone <u>(310) 204-3500</u> E-mail <u>Dana@EKA360.net</u>		Expediter Agent/Representative name <u>Dana Sayles, AICP</u> Company/Firm <u>threeSixty</u> Address <u>4309 Overland Ave</u> Unit/Space Number _____ City <u>Culver City</u> State <u>CA</u> Zip <u>90230</u> Telephone <u>(310) 204-3500</u> E-mail <u>dana@threeSixty.net / olivia@threeSixty.net</u>																																																																																		
Lot Area Density Calculations Other Notes on Units: Applicant proposes 125 guest-room hotel utilizing 25,000 sq. ft. of lot area for density calc. Remaining 26,866 sq. ft. will be utilized for 121 residential units with Tier 4 80% increase (77% increase). (26,866 / 400 sq. ft. = 67.165 units. Rounded up. 68 units x 80% increase = 122.4 units permitted) Project fronts alley for density calculations. Bonus FAR utilized for Residential Units only.																																																																																				
Non-Residential Floor Area[c] Housing Component Information Number of Residential Units: Existing <u>0</u> - Demolish(ed) <u>0</u> + Adding <u>121</u> = Total <u>121</u> Number of Affordable Units: Existing <u>0</u> - Demolish(ed) <u>0</u> + Adding <u>14</u> = Total <u>14</u> Number of Market Rate Units: Existing <u>0</u> - Demolish(ed) <u>0</u> + Adding <u>107</u> = Total <u>107</u> Mixed Use Projects, Amount of Non-Residential Floor Area: <u>125 hotel rooms, 13,026 commercial square feet</u>																																																																																				
Zoning Statistics Summary <table border="1"> <thead> <tr> <th></th> <th>Required/Permitted</th> <th>Provided (Tier 4)</th> </tr> </thead> <tbody> <tr> <td>Lot Area</td> <td></td> <td><u>47,323 sf</u></td> </tr> <tr> <td>Lot Area + 1/2 Alley</td> <td></td> <td><u>51,866 sf</u></td> </tr> <tr> <td>Density (1/400 sf)</td> <td>129 units</td> <td>125 units</td> </tr> <tr> <td>1-bedroom</td> <td></td> <td>66</td> </tr> <tr> <td>2-bedroom</td> <td></td> <td>55</td> </tr> <tr> <td>Hotel Guest Rooms</td> <td>259</td> <td>121</td> </tr> <tr> <td>Floor Area Ratio</td> <td>1.5:1</td> <td>4.25</td> </tr> <tr> <td>Buildable Area</td> <td></td> <td><u>47,323 sf</u></td> </tr> <tr> <td>Floor Area</td> <td><u>1.5:1 FAR, 70,984 sf</u></td> <td><u>4.25:1 FAR, 201,123 sf</u></td> </tr> <tr> <td></td> <td></td> <td><u>130,138 sf - Residential</u></td> </tr> <tr> <td></td> <td></td> <td><u>57,948 sf - Hotel</u></td> </tr> <tr> <td></td> <td></td> <td><u>13,037 sf - Commercial</u></td> </tr> <tr> <td>Building Height / Stories</td> <td>Unlimited / Unlimited</td> <td>87 / 8 stories</td> </tr> <tr> <td>Front Yard Setback - La Brea</td> <td>0 ft</td> <td>0 ft</td> </tr> <tr> <td>Side Yard Setback - South PL</td> <td>0 ft</td> <td>0 ft</td> </tr> <tr> <td>Side Yard Setbacks - North PL</td> <td>11 ft - Residential</td> <td>5 ft - Residential (RAS3)</td> </tr> <tr> <td></td> <td>0 ft - Commercial</td> <td>0 ft - Commercial</td> </tr> <tr> <td>Rear Yard Setback - Alley</td> <td>0 ft</td> <td>15 ft (for utilities)</td> </tr> <tr> <td>Open Space</td> <td>13,475 sf</td> <td>10,616 sf</td> </tr> <tr> <td>Parking per Use</td> <td></td> <td></td> </tr> <tr> <td>Residential - Tier 4</td> <td>0</td> <td>54</td> </tr> <tr> <td>Hotel</td> <td>67</td> <td>67</td> </tr> <tr> <td>Restaurant (1/100)</td> <td>130</td> <td>78</td> </tr> <tr> <td>Total Parking</td> <td></td> <td></td> </tr> <tr> <td>LAMC Parking Required</td> <td>197</td> <td>199</td> </tr> <tr> <td></td> <td></td> <td>Utilizing 40% commercial reduction per TOC Tier 4</td> </tr> </tbody> </table>					Required/Permitted	Provided (Tier 4)	Lot Area		<u>47,323 sf</u>	Lot Area + 1/2 Alley		<u>51,866 sf</u>	Density (1/400 sf)	129 units	125 units	1-bedroom		66	2-bedroom		55	Hotel Guest Rooms	259	121	Floor Area Ratio	1.5:1	4.25	Buildable Area		<u>47,323 sf</u>	Floor Area	<u>1.5:1 FAR, 70,984 sf</u>	<u>4.25:1 FAR, 201,123 sf</u>			<u>130,138 sf - Residential</u>			<u>57,948 sf - Hotel</u>			<u>13,037 sf - Commercial</u>	Building Height / Stories	Unlimited / Unlimited	87 / 8 stories	Front Yard Setback - La Brea	0 ft	0 ft	Side Yard Setback - South PL	0 ft	0 ft	Side Yard Setbacks - North PL	11 ft - Residential	5 ft - Residential (RAS3)		0 ft - Commercial	0 ft - Commercial	Rear Yard Setback - Alley	0 ft	15 ft (for utilities)	Open Space	13,475 sf	10,616 sf	Parking per Use			Residential - Tier 4	0	54	Hotel	67	67	Restaurant (1/100)	130	78	Total Parking			LAMC Parking Required	197	199			Utilizing 40% commercial reduction per TOC Tier 4
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Notes: [a]: Project Application Materials, PDF pp. 4, 12, 92, 109 [b]: Pico Hotel Application materials, PDF pp. 2, 4, 18, 45, [c]: Based on its 47,323-SF, 1.5:1 FAR Site, the Project's existing by-right floor area is 70,984.5 SF, which the Project uses 100 percent for non-residential uses (e.g., hotel, commercial, restaurant, retail). Based on its 29,511-SF, 1.5:1 FAR site, the Pico Hotel project's existing by-right floor area is 44,266.5 SF, which the project uses more than 95 percent for non-residential uses (e.g., hotel, commercial, restaurant).																																																																																				

Both of these cases set a dangerous precedent that departs from all the TOC projects and the intent of the TOC incentives. Unlike the above-mentioned 240 of 300 TOC projects (80 percent) that produce exclusively residential units, here these projects are rare mixed-use projects (discussed *supra* section IV.A). As shown in Table 6 below, these projects also depart from the above-mentioned 57 few mixed-use projects (19 percent of the 300 TOC projects reviewed). Unlike the 30 mixed-use projects that allocate an average 6.38 percent of its total proposed development on non-residential uses (discussed *supra* section IV.B), these projects allocate 35 to 39 percent of its total proposed development on non-residential uses. Unlike the six outlier mixed-use projects (allocating more than 10 percent to non-residential uses) that utilize an average 29 percent of its by-right floor area rights to non-residential uses (discussed *supra* section IV.C), these projects allocate 95 to 100 percent of its by-right floor area rights to non-residential uses. Unlike the 17 mixed-use projects that on average produce one residential unit for every 74.2-SF of non-residential uses (on average) (discussed *supra* section IV.D), here these projects produce one residential unit for every 587 to 938-SF of non-residential uses.

TABLE 6: HOTEL TOC PROJECT DEPARTURE FROM EVEN RARE, MIXED-USE TOC PROJECTS

	La Brea Bliss Project	Pico Hotel	Average
Rare Mixed-Use TOC Projects (Allocating < 10 % to Non-Res. Uses)			
<i>Total Proposed Project (SF)</i>	201,123	110,625	
<i>Non-Res. Portion of Project (SF)</i>	70,985	42,211	
<i>Non-Res. Percent of Total Proposed SF</i>	35.29%	38.16%	6.38%
Outlier, Rare Mixed-Use TOC Projects (Allocating ≥ 10 % to Non-Res. Uses)			
<i>Lot Size</i>	47,323	29,511	
<i>By Right (SF)</i>	70,985	44,267	
<i>Non-Res (SF)</i>	70,985	42,211	
<i>Non-Res. Percent of By Right SF</i>	100%	95.36%	29.00%
Rare Mixed-Use TOC Projects			
<i>Total Res. Units (Units Affordable)</i>	121 (14)	45 (5)	
<i>Non-Res. (SF)</i>	70,985	42,211	
<i>Non-Res SF per Res. Unit (SF/unit)</i>	586.7	938.0	74.2

Quite simply, the tail (i.e., hotel) is wagging the dog (i.e., Project) here, which comes at the expense of housing (market-rate and affordable). As previously discussed (*supra* section III), the Applicant seeks to build 70,985-SF hotel/commercial/restaurant space essentially concentrated on one-third of the Project Site (i.e., approximately 13,718 SF), resulting in 5.17:1 FAR that exceeds the Site's by-right 1.5:1 FAR. Even if you use the Applicant's own 25,000 lot area plus half-alley, the Project's non-residential uses would be 2.83:1 FAR, which also exceeds the Site's 1.5:1 by-right FAR. The only way the Applicant can build this hotel component is to spread the non-residential uses across the entire 12 lots, or seek a Zone Change and General Plan Amendment (subject to Measure JJJ). Instead, the Applicant seeks a TOC FAR bonus under the guise of being a housing project—it is not. As discussed above, non-residential uses are supposed to be a minor complement to TOC housing projects. Here, the hotel component is the main feature of the Project and the root cause of Applicant's reverse engineering of the FAR numbers, which comes at the expense of producing housing.

F. STAFF REPORT INCONSISTENCIES MUST BE RESOLVED

The Project's inconsistencies with the applicable TOC Guidelines we set forth above are premised on the information disclosed in the Project's Application. However, the Staff Report references several significant changes and/or discrepancies. For example, the Staff Report (p. 3) references a "15-foot public alley," while the Project Plans (PDF p. 7) show a 20-foot alley (see Fig. 8 below). Additionally, the Staff Report (pp. 1-3, 17, 19) references a request for 13,641-SF of retail/commercial uses, while the Project Application (p. 108) shows a request for 13,037-SF of commercial/retail uses (see Fig. 9 below). Also, the Project Plans repeatedly references a "phase 2" of the Project (PDF pp. 3, 5-6, 8-14; see e.g., Fig. 10 below), but the Project Application and Staff Report makes no reference to any other phases. Finally, the Staff Report (p. 6) references a "Remainder Parcel" to be included in the entire subdivision, while the Project Plans make's no references to any "remainder" parcel.

FIGURE 8: PUBLIC ALLEY

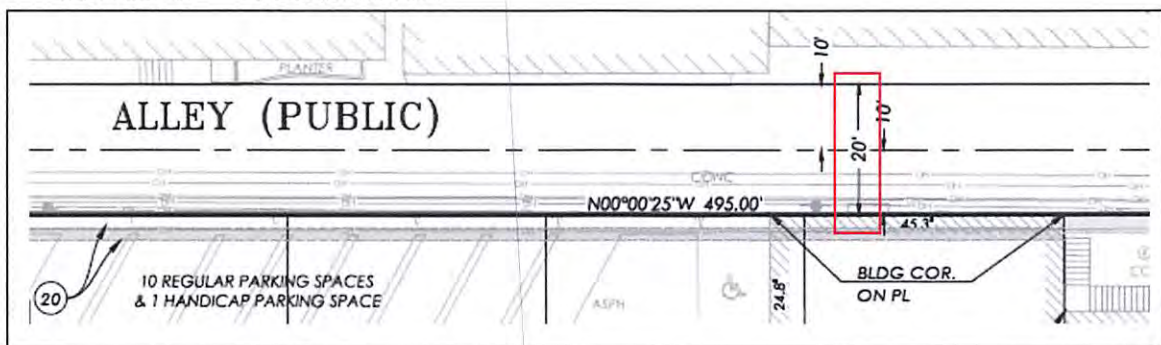
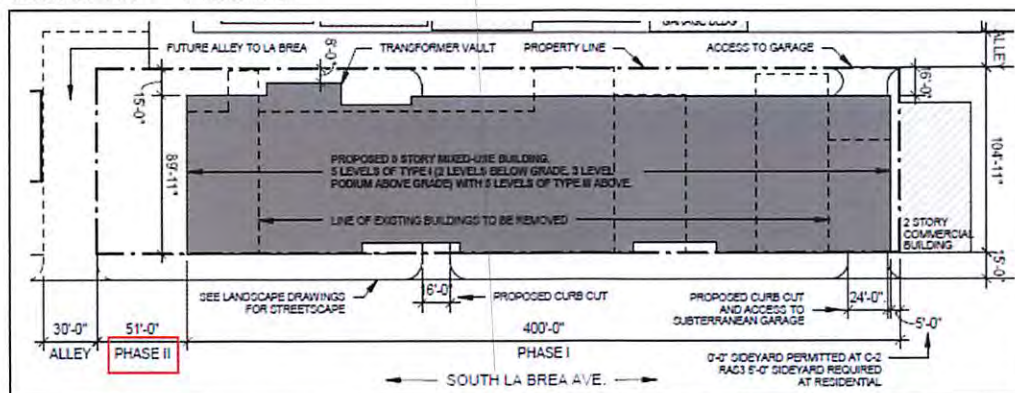


FIGURE 9: PROPOSED COMMERCIAL SQUARE FOOTAGE

2. PROJECT DESCRIPTION	
Present Use	Commercial
Proposed Use	Mixed-Use
Project Name (if applicable)	La Brea
Describe in detail the characteristics, scope and/or operation of the proposed project	
TOC Tier 4 mixed-use project with 121 residential units, 125 guest-rooms, 13,037 sq. ft. of commercial space, 199 parking spaces in two sub.	
levels. Total project square footage of 201,123 sq. ft. with 4.25:1 FAR.	

FIGURE 10: PHASE II



All of these inconsistencies directly affect the Project's residential and non-residential unit/FAR density calculations, which must be resolved in light of the issues raised above. For instance, the Project's density calculations could be worse if the alley square footage is less than anticipated by the Applicant, if the increase commercial square footage comes at the expense of residential square footage, if Phase II includes additional floor area, or if the remainder parcel is not appropriately accounted for in the density/FAR calculations. These inconsistencies must be confronted and resolved.

G. SUMMARY ON THE PROJECT'S PROPOSED TOC MISUSE

No matter how the Applicant and its representatives wish to spin the narrative or jigger the numbers, the Project is not your typically TOC project. It seeks increased density not genuinely tied to creating housing, much less affordable housing. This is precisely the concern raised by Councilmember Ryu in the context of the Purple Line Transit Neighborhood Plan, where he cautioned the City Planning Director Bertoni of increase density not tied to affordable housing.¹⁹

For these reasons, Local 11 urges the City to require the Applicant to assess the Project's on-site restricted affordable unit obligations to the Project's entire residential and hotel components (i.e., 246 apartments and guest rooms), thus, resulting in either 11 percent Extremely Low Income households (i.e., 28 units), or 15 percent Very Low Income households (i.e., 37 units), or 25 percent Lower Income households (i.e., 62 units).²⁰

V. PROJECT IS INCONSISTENT WITH APPLICABLE LAND USE POLICIES

Here, the proposed eight-story, 4.25:1 FAR Project exceeds the Sites 1.5:1 FAR limitation under the General Plan land use designation. So too, the eight-story Project is incompatible with the adjacent properties ranging from two- to five-story tall, as raised by the public (see Staff Report, p. 2). So too, the Project exceeds the General Plan Framework Elements' Mixed Boulevard density and heights (i.e., 1.5:1 to 4.0:1, and three- six-story).²¹ The inconsistency with the General Plan and Framework is the subject of a recently filed lawsuit²² and should give the City further pause before approving this pseudo-TOC Project. Furthermore, notwithstanding the paltry 14 affordable units proposed by the Applicant, the Project's abuse of the TOC program resulting in the loss potential for desperately needed market-rate and affordable housing units conflicts with numerous affordable housing goals, policies, and objectives (see Tbl. 7 on following page).

¹⁹ Hon. Councilmember Ryu (4/22/19) RE: Mr. Bertoni, p. 3 ("Residents are not opposed to increased density, provided the increased density is for affordable housing." Emphasis added), <http://bit.ly/2BA0uWM>.

²⁰ See TOC Guidelines, *supra* fn 10, p. 7.

²¹ General Plan Framework, PDF p. 40 (identifying the Site as a Mixed Use Boulevard), <http://bit.ly/2Pa4zch>.

²² *Fix the City, Inc. v. City of Los Angeles, et al.* (LASC Case No. 19STCP03740), pp. 2, (alleging, inter alia, the TOC Guidelines provides density bonus via non-legislative actions and circumvents Measure JJJ requirements), <http://bit.ly/2qDkl1X>.

TABLE 7: INCONSISTENCIES WITH APPLICABLE LAND USE PLANS**City Housing Element 2013-2021 Goals and Policies²³**

Goal 1: A City where housing production and preservation result in an adequate supply of ownership and rental housing that is safe, healthy and affordable to people of all income levels, ages, and suitable for their various needs.

Policy 1.1.1: Expand affordable homeownership opportunities and support current homeowners maintaining their homeowner status.

Policy 1.1.2: Expand affordable rental housing for all income groups that need assistance.

Policy Objective 2.5: Promote a more equitable distribution of affordable housing opportunities throughout the City.

Policy Objective 2.5.1: Target housing resources, policies and incentives to include affordable housing in residential development, particularly in mixed-use development, Transit Oriented Districts and designated Centers.

Policy Objective 2.5.2: Foster the development of new affordable housing units Citywide and within each planning area.

General Plan Framework Element**Chapter 4: Housing²⁴**

Policy 4.2.1 states the City should “offer incentives to include housing for very low- and low-income households in mixed-use developments[.]”

Chapter 7: Economic Development²⁵

Objective 7.9 states the City should seek to “[e]nsure that the available range of housing opportunities is sufficient, in terms of location, concentration, type, size, price/rent range[.]” and

Policy 7.9.1 states that the City should promote “the provision of affordable housing through means which require minimal subsidy levels and which, therefore, are less detrimental to the City's fiscal structure”²⁶

Wilshire Community Plan²⁷**Residential Issues**

Need to preserve the existing character of residential neighborhoods while accommodating more affordable housing and child care facilities

Commercial Issues

New commercial development needs to be compatible with existing buildings in terms of architectural design, bulk and building heights.

Purpose of Plan

Enhancing the positive characteristics of residential neighborhoods while providing a variety of housing opportunities.

Objectives & Policies

Objective 1-3: To foster residential development which can accommodate a full range of incomes.

Policy 9-1.1: Preserve the existing affordable housing stock through rehabilitation and develop new affordable housing options.

²³ https://planning.lacity.org/HousingInitiatives/HousingElement/Text/HousingElement_20140321_HR.pdf.

²⁴ General Plan Framework, Ch. 4, Housing, <https://planning.lacity.org/cwd/frmwk/chapters/04/04.htm>.

²⁵ General Plan Framework, Ch. 7, Economic Development, <http://bit.ly/2N2aZrb>.

²⁶ See also e.g., General Plan Framework Element Goals 4a, 7G, Objective 4.1, Policies 4.1.2, 4.1.6, and Implementation Policy P29; General Plan Housing Element Goal 1, Objectives 1.1, 2.5, and Policies 1.1.1, 1.1.2, 1.1.3, 1.1.7, 1.2.5, 2.5.1; General Plan Health and Wellness Element Policies 1.2, 1.3, 1.6, 1.7, and Guiding Principal 22; Central City Community Plan Objectives 1-3.

²⁷ Wilshire Community Plan, <http://bit.ly/2N4FDA9>.

VI. WHERE IS THE LINKAGE FEE?

Here, the Staff Report makes no mention of the Project's compliance with the City's Affordable Housing Linkage Fee ("AHLF").²⁸ The Project case was filed on March 22, 2019. In accordance with the AHLF Ordinance, the Project is subject to two-thirds of its AHLF fee.²⁹ Here, according to ZIMAS, the Site is located in the High Non-Residential Market Area and Medium-High Residential Market Area.³⁰ Thus, the Project's 70,985-SF non-residential uses (i.e., hotel, commercial, retail, restaurant) is subject to the High Non-Residential Market Area rate of \$5 per SF (\$354,925 full fee), reduced to two-thirds of the full fee (\$236,616.66).³¹ Because this Project is not entirely a multi-family project and forgoes Measure JJJ-compliant Zone Change/General Plan Amendment, the Project's residential component does not fall within the AHLF fee exemption.³² Due to Applicant's abuse of the TOC program previously discussed, the City should forego any of the *discretionary*³³ deductions and/or credits provided under the AHLF, with the exception of exempting approximately 14,588 SF of residential floor area of restricted affordable housing units (based on the Project's proposed 14 restricted affordable housing at an average units size of 1,042 SF). Thus, the remaining 115,550-SF of residential floor area is subject to the Medium-High Residential Market Area rate of \$12 per SF (\$1,386,600 full fee), reduced to two-thirds of the full fee (\$924,400).³⁴

Subject to adjustment for inflation (which begins July 1, 2019),³⁵ the Project appears to be subject to a total AHLF fee of approximately \$1.161 million. However, the Staff Report makes no mention of the Project's compliance with its AHLF fee obligations or any exemptions, deductions, or credits proposed.

VII. APPLICANT'S RECORD OF CONVERTING RESIDENTIAL PROPERTIES/PROJECTS INTO DE FACTO HOTELS MUST BE ADDRESSED WITH ENFORCEABLE CONDITIONS

Here, the Applicant La Brea Bliss, LLC is proposing the Project on behalf of Gidi Cohen (Project Application, PDF p. 4), who is the founder and CEO of CGI Strategies.³⁶ CGI Strategies has an extensive track record of taking residential projects/properties and converting them into extended stay hotels. For example, CGI Strategies originally proposed to converting the rent-stabilized Villa Carlotta into a standard hotel, when Councilmember Ryu made it clear it would not support the conversion,³⁷ CGI Strategies turned the property into an extended stay hotel allowing stays as short as 31 days.³⁸ Similarly, CGI Strategies purchased a rent-stabilized building in Westwood (888 Hilgard Ave.) and did the same thing—renting out units for as short as 31 days.³⁹ So too, at its Koreatown Kodo project, which was approved by the City as a "60-

²⁸ City (7/16/18) RE: AHLF Implementation Memo, <http://bit.ly/2W5CRyE>.

²⁹ *Ibid.*, p. 2 (plans submitted on or after December 20, 2018 are subject to two-thirds of full fee amount).

³⁰ See also *Ibid.*, PDF pp. 5-6.

³¹ *Ibid.*, p. 2 (\$5 per SF fee includes "hotels").

³² *Ibid.*, p. 3.

³³ *Ibid.*, p. 3 (AHLF guidance states projects "*may* be eligible" for some deductions/credits. Emphasis added).

³⁴ *Ibid.*, p. 2 (\$12 per SF fee for residential uses including multifamily with six or more units).

³⁵ *Ibid.*, p. 3.

³⁶ <https://cgistrategies.com/about-us/our-team/>.

³⁷ http://davidryu.lacity.org/statement_villa_carlotta.

³⁸ <https://la.curbed.com/2018/6/1/17362856/villa-carlotta-hollywood-hotel-rent-control>.

³⁹ <https://cgistrategies.com/project/888hilgard/>.

unit multi-family” “residential building” project to serve the Wilshire Community Plan’s “need to provide a diverse mix of housing,”⁴⁰ is marketed by CGI Strategies as offering “boutique hotel-style” amenities and also offer short/long term stays.⁴¹ In each case, CGI Strategies either removed housing or promised housing, but delivered de facto hotel uses.

Given CGI Strategies’ track record, Local 11 urges the City to impose enforceable Conditions of Approval (“COA”) that restricts the Project’s residential units from being converted, advertised, rented, or otherwise offered as a standard/short-term rental, hotel, or other hotel-like uses after receiving its Project Approvals and Certificate of Occupancy. Similar restrictions have been incorporated into other projects approved by the City, which run with the land.⁴² So too, the COA should prevent the Applicant from offering any initial lease for less than one year, nor allow tenants to sublet or assign their units or any portion thereof for less than 30 days, and ensure residential units are leased only to actual individuals and families (rather than corporations or other business entities) to ensure this housing remains for long-term residents—not tourists or short-term corporate visitors. Other cities have taken and/or considered these safeguards to ensure project’s approved as residential housing, are actually used for genuine housing purposes.⁴³

VIII. BROWN ACT AND CEQA VIOLATIONS

Here, the agenda for the Zoning Administrator hearing⁴⁴ indicates the City is considering the discretionary approvals for the Project’s subdivision and land use entitlements, which is admittedly contingent on the City’s approval of the Project’s) and the legislative approval of the Projects environmental review under the requested SCPE (Staff Report, pp. 17-20). In fact, the Staff Report states (pp. 4, 16) that City Planning has already “determined that the project is exempt from CEQA as a Sustainable Communities Project (“SCP”) pursuant to [Pub. Res. Code § 21155.1].”

CEQA is necessary here to ensure that the City address the concerns raised herein, as well as ensure the Project does not pose any significant CEQA impacts (e.g., noise impacts to adjacent neighbors due rooftop lounge/pool deck with alcohol service that may or may not include live entertainment with amplified music; hazard impacts due to the Site being within a methane zone, or how the Project will achieve equivalent LEED-Certified to avoid GHG impacts).

⁴⁰ See LOD (8/19/14) DCP Case No. DIR-2014-0601-SPR, pp. 1, 10, <http://bit.ly/2PgGTTT>.

⁴¹ <https://www.mhlnews.com/post/cgi-strategies-debuts-la-short-and-long-term-housing/>; see also

⁴² See LOD (4/5/18) DCP Case No. CPC-2015-4611, p. Q1 (“The use and development of the 231 multi-family units shall not be permitted to operate as a Transit Occupancy Residential Structure (TORS). To enable the TORS apartment/hotel hybrid use, the applicant is required to request a Conditional Use Permit.”), <http://bit.ly/32Bld8w>; see also LOD (2/27/98) DCP Case No. ZA-97-0945-CUZ-ZAI, p. 3 (restriction on conversions “shall run with the land and shall be binding on any subsequent owners, heirs or assigns.”)

⁴³ See e.g., City of Santa Monica (8/9/18) Rent Control Board Memo, p. 2 (discussing potential steps for the City of Santa Monica to address “a new threat to the rental housing supply ... as an increasing number of landlords have begun to rent to corporate entities who use rent-controlled units for other than the provision of long-term, permanent housing, or themselves rent units to short-term visitors ... Although these practices effect less of a wholesale loss of units than does the demolition of an entire apartment building, the loss is nonetheless real.”), <http://bit.ly/31zjrUg>; see also City of West Hollywood (10/21/19) Item 3A Staff Report, p. (proposing zoning text amendment that would require all dwelling units to have an initial lease term of one year, including apartments units rented), <http://bit.ly/2W6740U>.

⁴⁴ Project Hearing Notice, <http://bit.ly/2oVv0b8>.

However, in violation of CEQA and the Brown Act, the agenda does not reference CEQA and the City has not published any SCPE documentation showing the Project's consistency with various criteria and policies under the 2016-2040 RTP/SCS and implementation of all feasible mitigation measures. The Zoning Administrator, of course, cannot hear or approve the Project's discretionary subdivision and land use entitlements without first publishing the Project's proposed SCPE and staff report concerning the Project's land use entitlements, adopting that CEQA compliance for the Project, and agendizing this all under CEQA. *Azusa Land Reclamation v. Main San Gabriel Watermaster* (1997) 52 Cal.App.4th 1165, 1190 (land use approvals are discretionary action that must include CEQA compliance); *San Joaquin Raptor Rescue Center v. County of Merced* (2013) 216 Cal.App.4th 1167 (Brown Act requires that agenda must identify CEQA). Yet, none of that happened here. This is a blatant CEQA and Brown Act violation.

IX. CITY CANNOT MAKE CODE-REQUIRED LAND USE FINDINGS

The Project requests approval of various land use entitlements and the environmental clearances which the City must make numerous discretionary land use and CEQA findings, including but not limited to those listed below:

- That the project is in substantial conformance with the purposes, intent and provisions of the General Plan, applicable community plan, and any applicable specific plan;
- That the project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, that is or will be compatible with existing and future development on adjacent properties and neighboring properties; and
- That any residential project provides recreational and service amenities to improve habitability for its residents and minimize impacts on neighboring properties.
- That the project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city, or region;
- That the project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety; and
- That the proposed use will not adversely affect the welfare of the pertinent community. *See* LAMC §§ 12.24.E, 12.24.W.1(a), 16.05.F.

Because the City fails to provide a staff report regarding the Project's entitlements (much less a staff report that addresses the issues raised herein), or any documentation showing the Project is properly exempt from CEQA, the City cannot make to above-listed, Code-required land use findings. Absent substantial evidence addressing the substantial issues with this Project, particularly its inconsistency with the City's TOC program, Local 11 respectfully requests that the City decline any action on the Project Approvals.

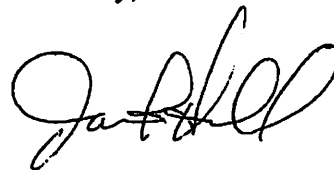
X. CONCLUSION

In summary, Local 11 appreciates the opportunity to comment on the Project's Approvals. However, as proposed, the Project is inconsistent with the City's TOC incentive program and must include more affordable housing units—such as applying the on-site restricted affordable housing unit percentage to the Project's entire hotel and residential components. Otherwise, the City should reject the discretionary land use approvals requested by the Applicant.

The City's TOC incentives are to be used to incentivize housing, not boutique hotels! Quite simply, the tail (i.e., hotel) is wagging the dog (i.e., Project) here, which comes at the expense of housing (market-rate and affordable). Non-residential uses are supposed to be a minor complement to TOC housing projects. Here, the hotel component is the main feature of the Project and the root cause of Applicant's reverse engineering of the FAR numbers, which comes at the expense of producing housing. This Project, if approved as requested, will set an awful precedent for misuse of the TOC incentives.

The issues raised herein constitute substantial evidence that the Project is not consistent with applicable land use plans, policies, and other zoning regulations. Again, this is not a by-right project; you have the discretion to reject the Project and demand more for the residents of Council District 4. You have the discretion, so please use it.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jamie T. Hall', written in a cursive style.

Jamie T. Hall

On behalf of the Hollywood United Neighborhood Council, we write to express our opposition to the proposed Sustainable Communities Project Exemption (SCPE) and associated entitlements for the proposed hotel/condo project at 639 S. La Brea Ave.

We are concerned that this project will set a negative precedent for both environmental review that utilizes SB 375 and SCPEs and for misuse of the Transit-Oriented Communities (TOC) incentives, intended to create housing with an affordable component, for a project that creates more hotel rooms than housing.

Among other requirements, SB 375 requires that projects utilizing a SCPE are consistent with the Regional Transportation Plan/Sustainable Communities Strategy set by the local metropolitan planning organization. The proposed SCPE does not include any analysis of how the project will help meet the greenhouse gas reduction goals set by SCAG in 2016 RTP/SCS. Additionally, the SCPE does not adequately justify the required water efficiency and energy efficiency required to qualify for an SCPE. We need real data and documentation to ensure it is consistent with the requirements set by SB 375.

Secondly, regarding the use of the TOC incentives, the Code makes clear that hotel rooms and dwelling units must be tied to its lot area (see LAMC § 12.21.C.1(j)). The project is using the TOC incentives to build more hotel rooms at the expense of housing, double counts lot area already designated for housing, and allocates lot area entirely untethered to the project's site plans. It is important to get this right. This is the first TOC case to include a hotel or more than minor amounts of non-residential space.

Thank you very much for your attention to this issue.