

City Responses to SAFER Letter

On the day of the September 27 Planning Board hearing date, City staff received a letter from the Law Firm Lozeau Drury on behalf of Supporters Alliance for Environmental Responsibility (SAFER). (See Attachment 20.) In the document provided (Attachment 20), the commenter makes claims against the Project. Specifically, commenter states that: 1) the SCEA fails to incorporate all feasible mitigation measures from prior environmental impact reports; (2) the SCEA's conclusions about the Project's impacts to air quality are not supported by substantial evidence; and (3) the Project's requested waiver to accommodate first-floor commercial uses is not proper under the State Density Bonus Law.

Feasible Mitigation Measures

The commenter states that the Project fails to incorporate all feasible mitigation measures contained in Southern California Association of Governments (SCAG) 2016-2040 RTP/SCS and SCAG's Connect SoCal 2020-2045 RTP/SCS. City disagrees with this comment. First, Chapter 3, *SCEA Criteria and TPP Consistency Analysis*, contains a discussion of the Project's consistency with the policies and goals of SCAG's 2016-2040 RTP/SCS and the 2020-2045 RTP/SCS. In addition, Chapter 4, Mitigation Measures from Prior EIRs, contains a discussion of the Project's consistency with the applicable mitigation measures contained in SCAG's 2016–2040 RTP/SCS Program Environmental Impact Report (PEIR) and the 2020-2045 RTP/SCS PEIR. Thus, the Project meets the requirements of a SCEA by including a discussion of consistency with the RTP/SCS goals and policies and mitigation measures.

The commenter's letter maintains that the SCEA should have adopted verbatim every mitigation measure from the Program EIRs for the 2016 RTP/SCS and 2020 RTP/SCS. SCAG, which prepared and certified these EIRs, does not require implementation of all these mitigation measures, but rather give the City, as lead agency, the discretion to require these measures. Chapter 4 of the SCEA discusses whether the mitigation measures apply to the Project and the applicable regulations that supersede the mitigation measures, and, where there is a potential project impact, identifies mitigation that would apply. While the SCEA's mitigation measures may not be the exact mitigation measures identified in the SCAG EIRs, the SCEA incorporates elements of these measures where applicable and feasible and otherwise requires Project-specific measures to reduce potential impacts to less than significant. Per CEQA Guidelines Section 15126.4(a)(3), mitigation measures are not required for impacts that are not significant. Therefore, the SCEA did not require mitigation measures from the Program EIRs that are not needed to avoid a significant impact.

The comment specifically mentions use of Tier 4 construction equipment. The SCAG mitigation measures only require use of Tier 4 if there would otherwise be a significant impact. Additionally, as stated on page 5-23 of the SCEA, the Project would comply with CARB's In-Use Off-Road Diesel Fueled Fleets regulation that reduces emissions by the installation of diesel soot filters and encouraging the retirement, replacement, or repower

of older, dirtier engines with newer emission-controlled models (13 CCR, Section 2449). Under the In-Use Off-Road Diesel Vehicle Regulation, construction equipment fleet operators are required to replace higher emitting models with lower emitting models based on a phased-in schedule with full compliance by 2023 for large and medium fleets (construction equipment fleet operators with greater than 5,000 total equipment horsepower or with 2,501 to 5,000 horsepower, respectively). Therefore, since the Project would not result in a significant air quality impact without the use of Tier 4 and because the Project would comply with existing regulations set to be implemented by 2023 (which require Tier 4 for large and medium-sized construction equipment), the use of Tier 4 is not required. Please refer also to the responses to the letters from Mitchell Tsai dated August 9, 2021 and October 11, 2021, respectively. (See Attachment 4)

Air Quality Concerns

The commenter claims that the Project will have a significant health risk from its indoor air quality. City staff disagrees with this assertion. The Project will comply with the existing codes and regulations that will adequately address potential impacts risks from building materials and ensure healthy indoor air, including the Title 24: Building Energy Efficiency Standards; Section 4.5, Environmental Quality, of the CALGreen Code; and CARB Airborne Toxic Control Measure to Reduce Formaldehyde Emissions from Composite Wood Products.

In addition, the commenter's analysis is based on a series of inaccurate assumptions, including that the Project's construction materials would not be compliant with the applicable regulations to reduce formaldehyde exposure; formaldehyde daily emissions from construction materials would be constant for over 70 years; residents would live in their units for 70 years; and employees would work at the Project Site for 8 hours/day, 5 days/week, 50 weeks/year for 45 years.

In fact, construction materials would comply with all such applicable regulations; the amount of formaldehyde off-gassing from construction materials decreases over time; per the U.S.EPA, lifetime risk values for residents should be based on an exposure duration of 30 years, not 70; and based on the U.S. Bureau of Labor Statistics, the median number of years workers remain in a job is 4.2 years, not 45. Therefore, the letter significantly overstates impacts and presents no credible evidence of a significant indoor air quality impact.

The comment letter claims that the SCEA cannot be relied upon to determine the significance of the Project's air quality impacts because the SCEA's air model underestimated the Project's emissions. The commenter maintains that the air quality modeling was flawed because certain default inputs were modified.

The default values that were changed in the model were justified in the CalEEMod worksheets. The CalEEMod User's Guide expressly calls for use of project-specific data when available, as they are more accurate than the default inputs based on general data collected across California.

Specifically, the commenter claims that the SCEA's air quality analysis made unsubstantiated changes to the CO2 Intensity Factor. However, the analysis properly used the CO2 intensity factor from Burbank Water and Power's 2019 Integrated Resources Plan, which BWP adopted to meet State mandates for renewable energy.

The commenter also claims that the air quality analysis included an unsubstantiated reduction in gas fireplaces. However, the analysis did not model emissions from gas fireplaces in units for the simple reason that the Project units will not have fireplaces.

The commenter claims that the CalEEMod model underestimated net vehicle trips. The SCEA did not use CalEEMod to determine the vehicle trips or vehicle miles traveled. Rather, the SCEA used daily trip generation estimates from the Project's Transportation Study to estimate mobile emissions. CalEEMod was only used to provide the trip distances for the Project's land uses. Therefore, the Project's vehicle trips, and associated emissions, were not understated.

The commenter also claims that the air quality analysis improperly applied operational mitigation measures. The term "Mitigation" in CEQA has a different meaning than "Mitigation Measures" in the CalEEMod program. "Mitigation Measures" under CEQA and in the SCEA are utilized when a potential significant impact has been identified to reduce or avoid the impact. The "mitigation" applied in CalEEMod are regulatory requirements or Project design features. The air quality modeling does not improperly apply mitigation measures, as the term is used in CEQA.

Air Quality and Health Risk Assessment

The commenter claims that the SCEA inadequately analyzed the Project's impact on human health from emissions of diesel particulate matter (DPM). The letter maintains that the City should prepare a health risk assessment, or HRA, to determine the health risks from Project construction and operation due to diesel particulate emissions, or DPM. The City follows the guidance of the South Coast Air Quality Management District (SCAQMD), which does not recommend analysis of toxic air contaminants (TACs) from short-term construction activities.

According to SCAQMD methodology, health effects from DPM are based on continuous exposure over a 70-year lifetime. Given the short-term construction schedule of 41 months, the Project would not result in a long-term source of TAC emissions. Therefore, a HRA for construction emissions is not warranted. Nonetheless, a construction HRA was conducted and determined impacts would be less than significant.

The commenter claims that an HRA assessing the combined TAC impacts from Project construction and operation should be prepared taking into account age sensitivity factors from the Office of Environmental Health Hazard Assessment (OEHHA) Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments (Guidance Manual). OEHHA developed the Guidance Manual in conjunction with CARB for use in implementing the Air Toxics "Hot Spots" Program (Health and Safety Code Section 44360 et. seq.). The Air Toxics "Hot Spots" Program requires stationary sources to report the

types and quantities of certain substances routinely released into the air. The goals of the Air Toxics “Hot Spots” Act are to collect emission data, to identify facilities having localized impacts, to ascertain health risks, to notify nearby residents of significant risks, and to reduce those significant risks to acceptable levels.

The Guidance Manual provides recommendations related to cancer risk evaluation of certain short-term projects. As discussed in Section 8.2.10 of the Guidance Manual, “The local air pollution control districts sometimes use the risk assessment guidelines for the Hot Spots program in permitting decisions for short-term projects such as construction or waste site remediation.” Short-term projects that would require a permitting decision by South Coast Air Quality Management District (SCAQMD) typically would be limited to site remediation (e.g., stationary soil vapor extractors) and would not be applicable to the proposed Project. The new Guidance Manual does not provide specific recommendations for evaluation of short-term use of mobile sources (e.g., heavy-duty diesel construction equipment).

Additionally, comments presented to the SCAQMD Governing Board (Meeting Date: June 5, 2015, Agenda No. 28), relating to toxic air contaminant exposures under Rules 1401, 1401.1, 1402 and 212 revisions, specifically addressed the use of the OEHHA guidelines for projects subject to CEQA:

The Proposed Amended Rules are separate from the CEQA significance thresholds. The Response to Comments Staff Report PAR 1401, 1401.1, 1402, and 212 A - 8 June 2015 SCAQMD staff is currently evaluating how to implement the Revised OEHHA Guidelines under CEQA. The SCAQMD staff will evaluate a variety of options on how to evaluate health risks under the Revised OEHHA Guidelines under CEQA. The SCAQMD staff will conduct public workshops to gather input before bringing recommendations to the Governing Board. In the interim, staff will continue to use the previous guidelines for CEQA determinations.

To date, the SCAQMD, as a commenting agency, has not conducted public workshops nor developed policy relating to the application of age sensitivity factors utilizing OEHHA guidance for projects prepared by other public/lead agencies subject to CEQA.

SCAQMD recommends that HRAs be conducted only for substantial sources of DPM, such as truck stops and warehouse distribution facilities that generate more than 100 trucks per day or more than 40 trucks with operating transport refrigeration units. Based on this guidance, a HRA is not required as the residential mixed-use Project would not generate substantial amounts of DPM during operation. As set forth in the following response, the analysis prepared by SWAPE includes errors that vastly overstates the amount of DPM during Project operation and overstates the impact by several orders of magnitude.

The commentor’s letter includes a screening level health risk assessment using the AERSCREEN model that purports to show that diesel particulate emissions, or DPM, from project construction and operation would cause significant health risks. This analysis is

not credible. Among other things, the screening level health risk assessment overstates the Project's mobile DPM emissions during operation by over 11,000 percent. Additionally, the AERSCREEN model assumes calm wind conditions at all times and a stable atmosphere (i.e., no atmospheric mixing) and does not have the capability to incorporate locally measured wind speed and wind direction data. Thus, AERSCREEN does not account for the dispersion of pollutants that occurs from wind. This is a significant limitation of the AERSCREEN model because wind directed away from sensitive receptor locations relative to a source of emissions would disperse pollutants away from sensitive receptors and thereby reduce the impact of TAC emissions on those receptors. Because the AERSCREEN model does not account for local wind speed and wind direction, its application results in artificially elevated pollutant concentrations at sensitive receptors and, therefore, artificially elevated health risk levels.

AERSCREEN also does not have the capability to model the geographic distribution of sources of emissions. AERSCREEN is only capable of modeling emissions occurring at a single geographic location. This is another particularly important consideration for mobile sources of emissions because, by their very nature, mobile sources do not generate emissions at a single location but rather along the entire vehicle trip, which would disperse the emissions along regional roadways and not concentrate the emissions at a single location. When conducting health risk assessments, dispersion of pollutants is a critical and important consideration because health risk impacts are a direct result of TAC concentrations. In contrast, the SCEA utilized AERMOD in a detailed health risk assessment. AERMOD accounts for locally measured wind speed and wind direction data. The SCAQMD provides meteorological data representative of the Project Site. These SCAQMD-approved meteorological data were used in the Project's AERMOD analysis. AERMOD also accounts for the geographic distribution of emissions. AERMOD is capable of modeling emission sources on a project site and along roadways from which vehicles travel upon. Thus, AERMOD is capable of accounting for pollutant dispersion from meteorological conditions (i.e., SCAQMD-provided wind speed and wind direction data) and from the geographic distribution of emission sources, in particular mobile sources traveling to and from the Project Site on roadways. Based on the detailed AERMOD analysis in the SCEA, the Project would not generate substantial amounts of DPM during operation. Therefore, health impacts would be less than significant.

Greenhouse Gas Concerns

The commentor asserts that the SCEA's analysis of the Projects greenhouse gas (GHG) impacts is inadequate. The commentor claims that the SCEA's GHG analysis is flawed because, it asserts, the air quality modeling is flawed. For the reasons previously stated, this modeling is not flawed. The commentor also claims that the Project would result in a significant GHG impacts by using a draft numeric threshold proposed by SCAQMD Staff in 2010 but never adopted. CEQA Guidelines Section 15064.4(a) provides that the City, as lead agency, has the discretion to determine whether to use a quantitative GHG emissions threshold or a qualitative or performance-based one. In the absence of any applicable adopted numeric threshold, the SCEA assessed the Project's GHG impacts by considering whether the Project complies CARB's 2017 Climate Change Scoping Plan,

SCAG's 2020–2045 RTP/SCS, the City's Green Building Code, and the City's GGRP. The SCEA demonstrates that the Project is consistent with the applicable provisions of these plans. Therefore, the SCEA properly concluded that the Project's GHG impacts would be less than significant.

Finally, the letter claims that the Project is not consistent with the City's Greenhouse Gas Reduction Plan, or GGRP, because there are no formal mitigation measures to ensure that the Project will provide bicycle parking, EV charging, and trees. The bicycle parking is required by City Code and the EV chargers by Title 24 California Building Standards Code, and the trees are shown on the approved plans, which the project must be consistent with per the conditions of approval. As the project's GHG impacts would be less than significant, no mitigation measures are necessary.

State Density Bonus Law Compliance

The comment letter asserts that State Density Bonus Law prohibits the City from granting a waiver to allow ground floor residential uses. Government Code Section 65915(e)(1) provides that an applicant may seek a waiver of development standards that will have the effect of physically precluding the construction of the project at the densities or with the concessions or incentives permitted under Density Bonus Law. In this case, locating commercial uses in all ground floor space would occupy a considerable amount of the building envelope and displace proposed residential units. This would physically preclude the construction of the Project at the density allowed under State Density Bonus law. Therefore, the waiver is appropriate

Responses to Mitchell M. Tsai Letter

The City received an appeal (Attachment 12) that was provided by Mitchell M. Tsai Attorney at Law who is representing the Southwest Regional Council of Carpenters. The

appeal provided by the applicant noted the following: 1) the SCEA and Response to Comments fails to consider adoption of community benefits to mitigate significant environmental impacts; 2) due to the COVID-19 crisis, the City must adopt a Mandatory Finding of Significance that the Project may cause a substantial adverse effect on human beings and mitigate COVID-19 impacts; 3) the Project does not meet the criteria for the use of a SCEA and describes that CEQA requires an analysis of any inconsistencies between the Project and the relevant Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) plan; 4) the Project fails to incorporate all feasible mitigation measures contained in SCAG's 2016-2040 RTP/SCS and Connect SoCal; 5) the SCEA should have incorporated mitigation measures for impacts that are less than significant; 6) the SCEA's mitigation measure consistency discussion is not a substitute for a feasibility discussion and requests that the SCEA be revised to incorporate such a discussion; 7) the Project fails to demonstrate consistency with SCAG's RTP/SCS Plans because the Project's consistency with the RTP/SCS Plans relies on the public transit-oriented nature of the project, which the commenter claims is undercut by the amount of parking provided by the Project; 8) the SCEA fails to support its findings with substantial evidence; 9) that the SCEA fails to support its findings on population and housing and air quality impacts with substantial evidence; 10) the SCEA lacks analysis of the Project's cumulative impacts on population and air quality; 11) they did not receive adequate notice of the Planning Board meeting.

Community Benefits vs. Objective Development Standards

The commenter states that the SCEA and Response to Comments fails to consider adoption of community benefits to mitigate significant environmental impacts. The comment also summarizes the benefits of local workforces, including a reduction in the length of vendor trips, reduction of greenhouse gas (GHG) emissions, providing local economic benefits, air pollutant reductions, reduces VMT, and gives examples of cities that are adopting this practice. However, this comment fails to acknowledge that the SCEA did not identify any significant environmental impacts for air quality, GHG emissions, or VMT that need to be mitigated. As discussed in CEQA Guidelines Section 15126.4(a)(3), CEQA does not require mitigation measures for effects determined to be less than significant. Given that no significant impacts were identified for these topics, no further mitigation measures are warranted. Furthermore, the requested community benefit is not part of the objective zoning standards, objective general plan standards, and/or objective subdivision standards that were in effect at the time of the Project's preliminary application submittal under SB 330 so there it is not applicable.

Effects of the Environment vs. Project Impacts

This commenter claims that due to the COVID-19 crisis, the City must adopt a Mandatory Finding of Significance that the Project may cause a substantial adverse effect on human beings and mitigate COVID-19 impacts and that the Response to Comments and Board's dismissal of this issue is an error. The comment includes a list of SWRCC recommended mitigation measures and suggests that all construction workers undergo COVID-19 Training and Certification before being allowed to conduct construction activities on the Project Site.

Effects of the environment on a project are not subject to CEQA review (Public Resources Code Sections 21065 and 21068). CEQA is generally not concerned with the effect the existing environment might have on proposed projects, and such effects are not treated as changes in the physical environment. *See, e.g., California Bldg. Indus. Assn. v. Bay Area Air Quality Mgmt. Dist.*, 62 Cal. 4th 369, 378 (2015) (CEQA does not require analysis of impact that existing environmental conditions might have on project, its residents, or its users, except when required by specific statutory exception). Therefore, the City does not have to analyze the impact of COVID-19, an existing condition, on the Project. Moreover, in the absence of any applicable methodology, such an analysis would be speculative. Therefore, none of the proposed measures are warranted.

Nonetheless, the City recognizes the unprecedented nature of COVID-19 and the potential public health impacts associated with it. Any projects being constructed during this time would be required to adhere to the Center for Disease Control and Prevention's (CDC) workplace guidelines for construction workers, including the Construction COVID-19 Checklist for Employers and Employees. Adherence to these measures would ensure that potential health impacts are minimized during construction. Furthermore, any projects being developed are required to adhere to the City of Burbank and County of Los Angeles workplace guidelines at the time of groundbreaking. Adherence to the CDC, the City of Burbank, and the County of Los Angeles workplace guidelines is considered sufficient to reduce exposure and transmission risk of COVID and further measures to reduce such risk is considered unnecessary. This comment is noted and will be presented to the decision makers for their review and consideration.

SCEA Consistency with Regional RTP/SCS Plans

This commenter stated that the Project does not meet the criteria for the use of a SCEA and describes that CEQA requires an analysis of any inconsistencies between the Project and the relevant Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) plan. The comment goes on to summarize the approval of the Southern California Association of Governments (SCAG) 2016-2040 RTP/SCS and SCAG's Connect SoCal 2020-2045 RTP/SCS.

Chapter 3, *SCEA Criteria and TPP Consistency Analysis*, contains a discussion of the Project's consistency with the policies and goals of SCAG's 2016-2040 RTP/SCS and the 2020-2045 RTP/SCS. In addition, Chapter 4, *Mitigation Measures from Prior EIRs*, contains a discussion of the Project's consistency with the applicable mitigation measures contained in SCAG's 2016-2040 RTP/SCS Program Environmental Impact Report (PEIR) and the 2020-2045 RTP/SCS PEIR. Thus, the Project meets the requirements of a SCEA by including a discussion of consistency with the RTP/SCS goals and policies and mitigation measures.

The commenter also states that the Project fails to incorporate all feasible mitigation measures contained in SCAG's 2016-2040 RTP/SCS and Connect SoCal and identifies specific mitigation measures from both documents that could be incorporated. As noted

in the Response to Comments document, Chapter 4, *Mitigation Measures from Prior EIRs*, of the SCEA, contains a discussion of the Project's consistency with the applicable mitigation measures contained in SCAG's 2016–2040 RTP/SCS PEIR, the 2020-2045 RTP/SCS PEIR, and the Burbank2035 General Plan EIR in Tables 4-1, 4-2, and 4-3, respectively. As stated therein, SCAG determined that a lead agency can and should consider these mitigation measures, as applicable and feasible, where the lead agency has identified that a project has the potential for significant effects.

SCAG does not require implementation of all feasible mitigation measures as the commenter suggests, but rather leaves the decision of inclusion of these measures at the discretion of the lead agency. Nevertheless, the tables included in Chapter 4 include a discussion of the mitigation measures applicability to the Project, identifies regulations that applies that supersede the identified mitigation measure, and, where there is a potential project impact, identifies mitigation that would apply. While these mitigation measures may not be the exact mitigation measure identified in the SCAG PEIRs, they do incorporate elements of these measures where applicable and feasible and otherwise offer Project-specific recommendations to reduce potential impacts to less than significant.

Mitigation Measures

The commenter claims that the SCEA should have incorporated mitigation measures for impacts that are less than significant. This claim is contrary to CEQA, as noted above under Response to Comment B-3 and per CEQA Guidelines Section 15126.4(a)(3), CEQA does not require mitigation measures for effects determined to be less than significant. Thus, for topics where no significant impacts were identified, no mitigation measures were warranted. Feasible mitigation is only implemented when there is a significant impact that needs to be reduced to a level of insignificance. Furthermore, the 2016-2040 RTP/SCS and Connect SoCal are programmatic documents that conduct a region-wide assessment of potential significant environmental effects at a program level and, as such, not all mitigation measures from the Program EIRs would be applicable or feasible at a project level. As noted above, SCAG determined that a lead agency can and should consider these mitigation measures, as applicable and feasible, where the lead agency has identified that a project has the potential for significant effects. Where there is a potential impact, the SCEA has identified feasible mitigation, consistent with CEQA and PRC Section 21155.2(a). Furthermore, while PRC Section 21155.2(a) states that a SCEA may be utilized for environmental review if a "transit priority project that has incorporated all feasible mitigation measures, performance standards, or criteria set forth in the prior applicable environmental impact reports," it does not state that a lead agency must implement mitigation measures for impacts that are not significant. Thus, contrary to what the commenter claims the SCEA is not inconsistent with PRC Section 21155.2(a).

The commenter claims that the SCEA's mitigation measure consistency discussion is not a substitute for a feasibility discussion and requests that the SCEA be revised to incorporate such a discussion. The tables included in Chapter 4 include a discussion of the mitigation measures' applicability to the Project, identifies applicable regulations that

supersede the identified mitigation measure, and, where there is a potential project impact, identifies mitigation that would apply. While these mitigation measures may not be the exact mitigation measure identified in the SCAG PEIRs, they do incorporate elements of these measures where feasible and would reduce potential Project impacts to less than significant. Additionally, while a SCAG PEIR mitigation measure may be feasible, if it is consistent and applicable, it is in essence being implemented. Thus, the discussion of consistency is warranted and a valid approach to discussing implementation of “all feasible mitigation measures, performance standards, or criteria set forth in the prior applicable environmental impact reports” as required by PRC Section 21155.2(a).

Required Parking

The commenter claims that the Project fails to demonstrate consistency with SCAG’s RTP/SCS Plans because the Project’s consistency with the RTP/SCS Plans relies on the public transit-oriented nature of the project, which the commenter claims is undercut by the amount of parking provided by the Project. The commenter’s claim that the amount of parking supplied as a part of the Project would undercut the increase in the use of public transit is unsupported. Assembly Bill (AB) 2345 provides that certain density bonus projects may elect to provide reduced parking; however, it does not mandate such projects to do so. Moreover, the definition of a TPP does not specify a maximum parking requirement. Nor is there any requirement that, in order to use a SCEA, a project must even qualify for a density bonus, much less take advantage of the maximum allowed density bonus parking reduction. In any event, as noted by the commenter, the amount of Project parking would be significantly less than required under the Burbank Municipal Code.

In addition to residential units, the Project would develop 151,800 square feet of office uses and 9,700 square feet of commercial uses, including restaurant and retail uses, both of which would provide employment opportunities. This would enable workers in these buildings to live in the Project’s residential component and walk to work. As discussed in Chapter 5, *Initial Study and Environmental Analysis*, Section VIII, *Greenhouse Gas Emissions*, of the SCEA, the Project would include pedestrian improvements, including widened and new sidewalks and pedestrian paseos, that would encourage pedestrian trips to and from the Project Site and would improve access to public transit. Additionally, given its location within a TPA, the Project is not only served by the Metrolink, but by Los Angeles County Metro, Burbank bus lines, and the Burbank Hollywood Airport. As detailed in Section XVII., *Transportation*, of the SCEA, the Project would generate at least 15 percent lower VMT per capita than the Los Angeles County average given its location near public transit opportunities. Additionally, the Project will provide several design features including new Class II bicycle lanes and would provide for on-site bicycle parking for residents and office employees. This would encourage the use of non-automobile modes to and from the Project by giving residents and employees the option to use bicycles to travel to and from the Project Site; therefore, reducing vehicle trips and VMT. Given these improvements and the Project Site’s location within a TPA and access to public transit, the Project would reduce VMT, consistent with the goals of the SCAG’s RTP/SCS plans.

The commenter also claims that the SCEA process should not be used to avoid larger environmental review simply by virtue of proximity to a rail stop. Public Resources Code Section 21155.2 allows for the review of transit priority projects through a SCEA. Public Resources Code Section 21555 sets forth the criteria for qualification as a transit priority project, and proximity to transit is only one of them. As set forth in Chapter 3 of the SCEA, the Project meets all the criteria. Moreover, all Project impacts are less than significant with mitigation. Therefore, it is appropriate for the Project to be reviewed through the SCEA rather than an EIR.

Substantial Evidence

The commenter claims that the SCEA fails to support its findings with substantial evidence. The comment states several CEQA sections and case law but does not identify a specific environmental issue or information addressed or contained in SCEA. As such, no further response is warranted.

Greenhouse Gas Emissions

The commenter states that the SCEA relies on regulatory compliance to conclude the Project would have no significant impacts on GHG emissions instead of using a 3,000 MTCO₂e threshold that the comment claims has been recommended by SCAQMD since 2009. However, as stated in Response to Comment 6-17, the 3,000 MTCO₂e/year threshold for mixed use projects was a draft threshold from a working group by the South Coast Air Quality Management District (SCAQMD) in 2008 and was never adopted, and the SCAQMD has not specifically recommended that threshold for mixed-use projects since 2009.¹ Further, as referenced in CEQA Guidelines Section 15064.4 and described in Chapter 5, *Initial Study and Environmental Analysis*, Section VIII, *Greenhouse Gas Emissions*, page 5-64 of the SCEA, the Lead Agency shall have the discretion to rely on qualitative analysis or performance based standards. The analysis within the SCEA does not contain bare conclusions or opinions but rather demonstrates consistency with CARB's 2017 Climate Change Scoping Plan, SCAG 2020–2045 RTP/SCS, the City's Green Building Code (which adopts the 2019 California Green Building Standards Code, or CALGreen), and the City's Greenhouse Gas Reduction Plan to establish significance (pages 5-69 to 5-72 of the SCEA). Furthermore, the Project would adhere to applicable rules and regulations from SCAQMD, CARB, and the State of California to reduce air quality, GHG emissions, and cumulative impacts. As such no additional analysis or mitigation measures are required.

Population, Housing and Air Quality

The commenter states that the SCEA fails to support its findings on population and housing and air quality impacts with substantial evidence. As discussed in Chapter 5, *Initial Study and Environmental Analysis*, Section XIV, *Population and Housing*, of the SCEA, the Project would result in an estimated addition of approximately 2,121 residents, which is within the overall projected growth of 8,606 persons for the City between 2021

¹ South Coast Air Quality Management District. *Draft Guidance Document – Interim CEQA Greenhouse Gas (GHG) Significance Threshold*. October 2008. Available at: [http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-\(ghg\)-ceqa-significance-thresholds/ghgattachmente.pdf](http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/ghgattachmente.pdf).

and 2045 per SCAG's 2020–2045 RTP/SCS projections. Since the Project is anticipated to be completed in 2026, a prorated projected growth for the next five years would be approximately 2,066 individuals, which is within 3 percent of the Project's approximately 2,121 individuals. Therefore, it would be fair to assess that this Project would not induce unplanned substantial population growth as it would also provide an additional 862 dwelling units and 249 net new jobs in an urban infill location near existing transportation and utility infrastructure.

The commenter suggests that the Project may have cumulatively considerable impacts with other housing projects in the City. However, other cumulative projects include the Media Studios North Expanded Entitlement, Avion, Aloft Hotels & Residence Inn, and Hollywood Burbank Airport Terminal Replacement Project, which would not provide any additional housing. These projects would create additional office space, an industrial park, recreational (hotel and travel) opportunities, and retail and restaurant spaces, which would increase the number of jobs in the City. Additionally, it is speculative to assume that other possible future projects in the area would include housing.

The commenter states the SCEA lacks analysis of the Project's cumulative impacts on population and air quality. However, as stated in Response to Comment 6-18, the 2016 AQMP emissions forecasts are based upon economic and demographic growth projections in SCAG's 2016–2040 RTP/SCS. As described on Chapter 5, *Initial Study and Environmental Analysis*, Section III, *Air Quality*, page 5-26 of the SCEA, the Project would comprise approximately 13.7 percent of SCAG's total population increase, 14.6 percent of the household's increase, and 0.65 percent of the employment increase for the City between 2012 and 2040 per SCAG's 2016–2040 RTP/SCS. Development of the Project would help the City meet its Regional Housing Needs Assessment (RHNA) goals of 2,684 total dwelling units per SCAG's 5th Cycle Final RHNA Allocation Plan (October 2013 through October 2021 planning period) and 8,772 total dwelling units per SCAG's 6th Cycle Final RHNA Allocation Plan (October 2021 through October 2029 planning period) by providing both market rate and affordable housing. Additionally, the projected dwelling units from the Project will be factored into the future regional growth forecasts. As such, the SCEA does include a discussion of the City's projected population growth. Therefore, the Project would not conflict with the demographic and economic assumptions upon which the 2016 AQMP is based. Additionally, the Project would implement control strategies and requirements for construction and operation that would reduce emissions (pages 5-23 to 5-26 of the SCEA).

Additionally, as stated in Response to Comment 6-18 in the SCEA Response to Comments, CEQA does not require a SCEA to address if a Project would result in growth inducing impacts.² Furthermore, as stated in our responses above, the Project qualifies as a SCEA for the reasons outlined above, and the commenter has not provided any credible evidence to the contrary.

² Public Resources Code §21159.28(a)

Public Notification

Appellant (Mitchell M. Tsai on behalf of the Southwest Carpenters Union) contends that they did not receive adequate notice of the Planning Board meeting. Notice of this hearing was provided by mail notice, newspaper notice and notice(s) on the property. In addition, notice was emailed to the appellants' attorney, Mitchell Tsai. Numerous union members testified regarding the Project at the hearing, and Mr. Tsai submitted a 55-page letter to the Board on the day of the hearing. Therefore, the appellants had actual and adequate notice of the hearing.