

ATTACHMENT 5

Mission Bell Final EIR

Download from Website here:

<https://www.southpasadenaca.gov/government/departments/planning-and-building/planning-division/mission-bell-mixed-use-project-draft-eir>

ATTACHMENT 6
Appeal form & Comments



APPEAL FORM

City of South Pasadena

1414 Mission Street | South Pasadena | California 91030
Telephone (626) 403-7230 | Fax (626) 403-7211

CITY OF SOUTH PASADENA
FEB 26 2020
CITY CLERK'S DIVISION

4:07pm

NOTE TO APPLICANT:

You must submit the following by the deadline:

1. This completed Appeal Form
2. Filing Fee in the amount of \$860.00 – cash, credit card (Amex, Visa, MasterCard), or check payable to “City of South Pasadena”
3. One copy of a map depicting all the properties within a 300' radius of the project site and a certified list of the names and addresses of all current owners and occupants of these depicted properties, including all residential and non-residential properties (list of radius map services attached); same information in an Excel spreadsheet on a CD
4. One set of mailing labels for the City to mail information to property owners and occupants (The mailing labels must be accompanied by a notarized certification form – see attached)
5. Public Notice Fee in the amount of \$220.00 (cash, credit card, or check payable to “City of South Pasadena”)

APPELLANT INFORMATION:

(If more than one appellant, include a separate sheet replicating this section. Signatures are required from ALL appellants.)

Name: Southwest Regional Council of Carpenters c/o Mitchell M. Tsai, Attorney at Law

Mailing Address: 155 S. Molino Ave., Ste. 104, Pasadena, CA 91101

Home Phone: (626) 381-9248

Work Phone: (626) 381-9248

Cell Phone: (626) 381-9248

E-Mail Address: mitch@mitchtsailaw.com

Signature:  Mitchell Tsai

Date: February 26, 2020

TYPE OF APPEAL:

Appeal of Planning Commission Decision

Date of Decision: February 11, 2020

Appeal of Cultural Heritage Commission Decision

Date of Decision: _____

Appeal of Design Review Board Decision

Date of Decision: _____

Other, please specify: _____

Date of Decision: _____

PROJECT INFORMATION:

Property Address: 1101-1107 Mission Street, South Pasadena, CA 91030

Project Name: Mission Bell Mixed-Use Project

Reason for this Appeal (please attach additional pages as necessary): See Attachment for details. In addition, the City failed to notify the appellant of the February 11, 2020 Planning Commission hearing despite requesting notice of any and all Project related actions related to the Project, as requested in its August 27, 2019 comment letter. Appellant also did not receive any notice of the availability of the Final EIR. The City violated CEQA and the Planning and Zoning Laws in failing to notify the Appellant of these Project-related notices and hearing.

For Office Use only

- 1. Appeal Form
- 2. Filing Fee in the amount of \$860.00 (cash, credit card, or check payable to “City of South Pasadena”)
- 3. One copy of a 300' radius map; certified list
- 4. One set of envelope labels for the City to mail information to property owners and occupants & CD
- 5. Public Noticing Fee in the amount of \$220.00 (cash, credit card, or check payable to “City of South Pasadena”)

Received By: _____

Date: _____

**CITY OF SOUTH PASADENA
LIST OF RADIUS MAP SERVICES**



Disclaimer: The following services are provided for information only and are NOT endorsed or recommended by the City of South Pasadena. Other companies may exist that provide the same services.

<p><u>GC Mapping Service</u> 3055 West Valley Blvd. Alhambra, CA 91803 Wk. (626) 441-1080 Fax (626) 441-8850 gcmapping@radiusmaps.com</p>	<p><u>Susan W. Case, Inc.</u> 917 Glenneyre Street, Ste. 7 Laguna Beach, CA 92651 Wk. (949) 494-6105 Fax (949) 494-7418 orders@susancaseinc.com</p>
<p><u>JPL Zoning Services, Inc.</u> Robert B. Lemishaw 6257 Van Nuys Blvd, Ste. 101 Wk. (818) 781-0016 Fax (818) 781-0929 jplzoning@yahoo.com</p>	<p><u>Quality Mapping Service</u> Peter Elias 14549 Archwood Street #301 Van Nuys, CA 91405 Wk. (818) 997-7949 Fax (818) 997-0351 qmapping@qesqms.com</p>
<p><u>AM Mapping</u> Anna Smit 9785 Baseline Rd. #127 Rancho Cucamonga, CA 91730 Wk. (626) 403-1803 Fax (626) 403-2972 annamsmit@aol.com</p>	<p><u>Jess Esparza & Associates</u> Leo Esparza 6107 York Boulevard Los Angeles, CA 90042 Wk. (323) 256-8157 Fax (323) 256-4045 jessesparza@aol.com</p>
<p><u>T-Square Mapping Service</u> Anna Smit Wk. (626) 403-1803 Fax (626) 403-2972 annamsmit@aol.com</p>	<p><u>Ownership Listing Service</u> Catherine McDermott P.O. Box 89064 Temecula, CA 92589 Wk. (951) 699-80684 ownershiplistingservice@hotmail.com</p>

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Mitchell M. Tsai
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Suite 104
Pasadena, California 91101

VIA E-MAIL & U.S. MAIL

August 27, 2019

Mr. David Bergman, Interim Director
Planning and Building Dept.
City of South Pasadena
1414 Mission Street
South Pasadena, CA 91030

Email Delivery to: dbergman@southpasadenaca.gov

RE: Comments to Draft Environmental Impact Report (SCH No. 2019011007) for the Mission Bell Mixed-Use Project (Project No. 2034-CUP, DRX, COA, VTPM)

Dear Mr. Bergman,

On behalf of Southwest Regional Council of Carpenters (“**Commenter**” or “**Southwest Carpenters**”), my Office is submitting these comments on the City of Santa Ana’s (“**City**” or “**Lead Agency**”) Draft Environmental Impact Report (SCH NO. 2019011007) for the Mission Bell Mixed-Use Project (Project No. 2034-CUP, DRX, COA, VTPM), located at 1101, 1107, and 1115 Mission Street comprising of approximately 0.7 acres of land which is currently being used for commercial purposes and as a parking lot (“**Project**”). The Project site is generally bound by Mission Street to the north, commercial uses to the east and south, and Fairview Avenue to the west.

The Project Applicant, Mission Bell Properties LLC (“**Applicant**”), is proposing to construct a two- and three-story mixed-use development at 1101-1107 Mission Street, rehabilitate the existing historic building at 1115 Mission Street for adaptive reuse as missed use, demolish a portion of the historic building at 1115 Mission Street to construct a two-story residential building, and construct two levels of subterranean parking beneath the Project site. DEIR, 2.0-4.

The Southwest Carpenters is a labor union representing 50,000 union carpenters in six states, including in southern California, and has a strong interest in well ordered land use planning and addressing the environmental impacts of development projects.

Individual members of the Southwest Carpenters live, work, and recreate in the City of South Pasadena and surrounding communities and would be directly affected by the Project’s environmental impacts. Commenter expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

Commenter incorporates by reference all comments raising issues regarding the EIR submitted prior to certification of the EIR for the Project. *Citizens for Clean Energy v City of Woodland* (2014) 225 CA4th 173, 191 (finding that any party who has objected to the Project’s environmental documentation may assert any issue timely raised by other parties).

Moreover, Commenter requests that the Lead Agency provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act (“**CEQA**”), Cal Public Resources Code (“**PRC**”) § 21000 *et seq*, and the California Planning and Zoning Law (“**Planning and Zoning Law**”), Cal. Gov’t Code §§ 65000–65010. California Public Resources Code Sections 21092.2, and 21167(f) and Government Code Section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body.

I. THE PROJECT WOULD BE APPROVED IN VIOLATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

A. Background Concerning the California Environmental Quality Act

CEQA has two basic purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. 14 California Code of Regulations (“**CCR**” or “**CEQA Guidelines**”) § 15002(a)(1). “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’ [Citation.]” *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564. The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological

points of no return.” *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm’rs.* (2001) 91 Cal. App. 4th 1344, 1354 (“*Berkeley Jets*”); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures. CEQA Guidelines § 15002(a)(2) and (3). *See also, Berkeley Jets*, 91 Cal. App. 4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Ass’n v. Regents of the University of California* (1988) 47 Cal.3d 376, 400. The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to “identify ways that environmental damage can be avoided or significantly reduced.” CEQA Guidelines § 15002(a)(2). If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns” specified in CEQA section 21081. CEQA Guidelines § 15092(b)(2)(A–B).

While the courts review an EIR using an “abuse of discretion” standard, “the reviewing court is not to ‘uncritically rely on every study or analysis presented by a project proponent in support of its position.’ A ‘clearly inadequate or unsupported study is entitled to no judicial deference.’” *Berkeley Jets*, 91 Cal.App.4th 1344, 1355 (emphasis added) (quoting *Laurel Heights*, 47 Cal.3d at 391, 409 fn. 12). Drawing this line and determining whether the EIR complies with CEQA’s information disclosure requirements presents a question of law subject to independent review by the courts. (*Sierra Club v. Cnty. of Fresno* (2018) 6 Cal.5th 502, 515; *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th 48, 102, 131.) As the court stated in *Berkeley Jets*, 91 Cal. App. 4th at 1355:

A prejudicial abuse of discretion occurs “if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process.

The preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. The EIR’s function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been considered. For the EIR to serve these

goals it must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made. *Communities for a Better Environment v. Richmond* (2010) 184 Cal.App.4th 70, 80 (quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449–450)

B. CEQA Requires Revision and Recirculation of an Environmental Impact Report When Substantial Changes or New Information Comes to Light

Section 21092.1 of the California Public Resources Code requires that “[w]hen significant new information is added to an environmental impact report after notice has been given pursuant to Section 21092 ... but prior to certification, the public agency shall give notice again pursuant to Section 21092, and consult again pursuant to Sections 21104 and 21153 before certifying the environmental impact report” in order to give the public a chance to review and comment upon the information. CEQA Guidelines § 15088.5.

Significant new information includes “changes in the project or environmental setting as well as additional data or other information” that “deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative).” CEQA Guidelines § 15088.5(a). Examples of significant new information requiring recirculation include “new significant environmental impacts from the project or from a new mitigation measure,” “substantial increase in the severity of an environmental impact,” “feasible project alternative or mitigation measure considerably different from others previously analyzed” as well as when “the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.” *Id.*

An agency has an obligation to recirculate an environmental impact report for public notice and comment due to “significant new information” regardless of whether the agency opts to include it in a project’s environmental impact report. *Cadiz Land Co. v. Rail Cycle* (2000) 83 Cal.App.4th 74, 95 [finding that in light of a new expert report disclosing potentially significant impacts to groundwater supply “the EIR should have been revised and recirculated for purposes of informing the public and governmental agencies of the volume of groundwater at risk and to allow the public and governmental agencies to respond to such information.”]. If significant new

information was brought to the attention of an agency prior to certification, an agency is required to revise and recirculate that information as part of the environmental impact report.

C. The City Failed to Adequately Describe the Project

It is well-established that “[a]n accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR.” *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193. “A curtailed, enigmatic or unstable project description draws a red herring across the path of public input.” *Id.* at p. 198.

The Project proposes 36 residential units along with the commercial retail component. However, the DEIR does not specify whether the 36 residential units will be condominiums or apartment units. Moreover, the DEIR does not specify what the approximate rent and/or sale price for the residential units will be. In light of one of the Project Objectives to “[c]ontribute to meeting the City’s Regional Housing Needs Assessment (RHNA) goals through the construction of 36 new above moderate-income housing units,” it is important for the DEIR to adequately describe the Project in a way to ensure whether such objective and other objectives would indeed be met. DEIR, 2.0-1. Moreover, as discussed below, knowing whether the proposed residential units would be rentals or condominiums is crucial in determining whether the Project should incorporate affordable housing units to meet the General Plan goals.

Based on the inadequate project description set forth in the DEIR, it is impossible to determine whether Project Objectives and applicable General Plan goals and policies could be met here. The DEIR must be revised to provide an adequate project description.

D. The DEIR Inaccurately and Improperly Concluded that the Project Will Not Have Significant Impacts to Historical Resources

The DEIR admits that one of the buildings located on the Project Site is a historically protected resource. The Project Site encompasses addresses of 1101, 1107 and 1115 Mission Street. The Project Site is designated by the City’s General Plan as Mission Street Specific Plan (MSSP), and is zoned MSSP Core Area, District A. DEIR, 3.0-1

In particular, the two-story commercial and residential structure located at 1115 Mission Street (hereinafter referred to as “1115 Mission St.”) was built in 1921 that has been included in a list of historic structures in the 1996 Mission Street Specific

Plan, a 2003 reconnaissance level City-wide historic survey, and the 2015/16 City of South Pasadena Historic Resources Survey. DEIR, 4.2-23.

According to the City’s MSSP, Mission Street is South Pasadena’s historic core and without its historic resources, Mission Street could not retain its unique small town atmosphere and sense of identity. MSSP, p. 4. Therefore, the existing historical resources are critical to help maintain the City’s unique atmosphere and identity and must be protected.

Despite the recognized historical significance of 1115 Mission St., the Project proposes to make significant material alterations to the building by (1) “rehabilitating” the two-story commercial and residential portion (which accounts for one third of the entire building and (2) demolishing the rear two-thirds portion of the building the DEIR refers to as the “warehouse.” DEIR 4.2-23.

The DEIR admits that “[t]he proposed Project changes affect the appearance of the building façade and the footprint and massing of the building.” DEIR 4.2-24. The windows on the façade facing Mission Street will be replaced, windows will be added to the first story of the west façade, a solid door will replace a window and be added to the east façade, the south façade will be altered by the removal of the existing back building (and will be replaced with the construction of the new residential building). See *id.* Most critically, two-thirds of the building will be removed/demolished.

The DEIR inaccurately concludes that the Project is consistent with the Secretary of the Interior’s Standards (“the Standards”) and concludes that the Project’s direct impacts to historical resources would be less than significant. DEIR 4.2-24~25. In fact, the Project will cause a substantial adverse change in the significance of a historical resource pursuant to 15064.5 as a result of the direct impacts pursuant to the Standards. DEIR, 4.2-24, 25.

The problems with the DEIR’s consistency analysis for each of the relevant Standards will be provided in the table below:

	Standard’s Requirements	DEIR’s consistency analysis	Problems with DEIR’s consistency analysis
Standard 1	A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials,	Consistent. The property would be redeveloped as a commercial and residential use and would retain the commercial façade along Mission Street.	This is not a minimal change – the façade including massing will be affected (admitted by DEIR) and two-thirds of the building will be removed.

	<p>features, spaces, and spatial relationships.</p>		<p>The Applicant’s own consultant, ESA, recommended that the entire building be retained and to retain window openings on the eastern façade of the building. ESA concluded that the entire building including the warehouse is a primary character defining feature.</p> <p>Moreover, the 3-story building of the Project will alter the spatial relationships in the historic core of Mission Street.</p>
<p>Standard 2</p>	<p>The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.</p>	<p>Consistent. Although the property is not eligible for designation as a local landmark or inclusion in a historic district, the Project proposes to retain some of the building’s original features. These features include: the enameled brick of the main façade; the decorative brick course between the first and second stories; recessed sign area; the cornice; frieze; and angled window sills. The distinctive materials and features of the store front would be retained. A new structure would be attached at the rear which would be architecturally consistent with the character of the retained front of the building.</p>	<p>There is no question that this is a historically significant building.</p> <p>The Project will have significant, material change affecting the façade including massing will be affected (admitted by DEIR) and two-thirds of the building will be removed.</p> <p>The Applicant’s own consultant, ESA, recommended that the entire building be retained and to retain window openings on the eastern façade of the building. ESA concluded that the entire building including the warehouse is a primary character defining feature.</p>
<p>Standard 9</p>	<p>New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property, the new work shall be differentiated from the old and shall be compatible with the massing, size, scale,</p>	<p>Consistent. The proposed new construction would be differentiated from the existing portion of the building fronting Mission Street. The new building to be attached at the rear will be a two story residential building designed at a scale</p>	<p>The “rehabilitation” and partial demolition will “destroy historic materials” that are primary and contributing character defining features. The proposed partial demolition</p>

	and architectural features to protect the historic integrity of the property and its environment.	and mass similar to the existing being retained and renovated.	will also destroy the historic integrity of the building.
Standard 10	New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.	Consistent. The Project would remove the single-story warehouse from the rear façade and a new two-story residential structure would be constructed in its place. The new construction, if removed at some later time, would not impair the essential form and integrity of the retained portion of the building fronting Mission Street.	The “rehabilitation” and partial demolition of a historical resource and building a large 3-story modern structure in a historical core will alter the integrity of the historic property and its environment.

As shown in the Table above, the Project’s proposed rehabilitation and removal of two-thirds of the building at 1115 Mission St. are not consistent with the Standards.

Most suspiciously, the DEIR fails to reflect the Applicant’s own consultant’s (ESA) recommendations hidden in Appendix C and F that (1) the entire building including the warehouse portion of the building should be retained as it is a “primary” character defining feature of the building and (2) the replacement of two windows on the eastern façade should not be undertaken as the windows are “contributing” character defining features of the building. See Appendix F recommendations. The DEIR not only ignored its consultant’s recommendations and characterization of the historical features of the building but also cleverly hid these recommendations out of the main DEIR document.

According to Appendix C’s “Historical Resource Assessment” by ESA on p. 39:

Primary character-defining features are by definition the most important and should be considered for retention in order to preserve and protect the eligibility of the Subject Property. Alteration or removal of these features should be avoided.

Contributing character-defining features add to the character of a historic property and should be retained to the greatest extent feasible and rehabilitated as appropriate....

Consistent with the goal to preserve and protect primary and contributing character-defining features of the building and ESA’s recommendations, the entirety of 1115 Mission St. must be retained and its primary and contributing character-defining features must be preserved.

Moreover, 1115 Mission St.’s (Parcel No. 5315-008-043) parcel information shows that there is one continuous, connected building on the property. See DEIR Appendix C, Figure 2. Moreover, the entirety of the existing structure existed at least from 1927. See DEIR Appendix C, Figures 5, 6, 7, 8 (shown in 1927, 1930, 1951, 1971 respectively). Figures 9 and 10 show that there is no division between “front” and “back” buildings and that there is just one building. DEIR Appendix C, Figures 9 and 10.

The MSSP’s Table 9 of Historic Resources lists the entirety of 1115 Mission St., also referred to as “Luttrell’s Building,” as a historical resource. There is no indication that only a portion of that building is considered historically significant. Moreover, the DEIR does not provide any information indicating that 1115 Mission St.’s building is severable and that the historical significance is only applicable to a portion of the building. As such, it is amply established that the entirety of the structure at 1115 Mission St. is a historical resource that must be protected.

Finally, the proposed rehabilitation and demolition of the majority of 1115 Mission St. does not meet one of the Project Objectives to implement the MSSP, which includes “a. Preserve, renovate, and reuse the historic building located at 1115 Mission Street through rehabilitation of the building for new uses” since the Project proposes to remove primary character defining features of the building by demolishing two-thirds of it. See DEIR at ES-1.

In conclusion, the DEIR erroneously concluded that the proposed rehabilitation and partial demolition of 1115 Mission St. would have an insignificant impact to cultural resources.

II. THE PROJECT IS INCONSISTENT WITH THE GENERAL PLAN

The DEIR analyzes whether the Project is consistent with applicable land use plan, policy or regulation. However, the DEIR inaccurately analyzes the Project’s consistencies with the General Plan and also fails to analyze the Project’s consistency with the Housing Element Update of the General Plan.

A. The Project is Inconsistent with the Goals and Policies Pertaining to Preserving Historic Resources of the General Plan

Goal 7 of the General Plan requires the City “[t]o preserve South Pasadena’s historic character, scale, and ‘small town’ atmosphere.” Goal 9 of the General Plan requires the City “[t]o conserve and preserve the historic “built” environment of the city by identifying the architectural and cultural resources of the city, by encouraging their maintenance and/or adaptive reuse, and by developing guidelines for new and infill development assuring design compatibility.”

The DEIR erroneously concluded that the Project is consistent with Goal 7 and Goal 9 since demolishing a large portion of a historically significant building like 1115 Mission St. and changing important historical characteristics of such a building would run afoul of the goals of preserving historic character of the City. Especially based on the Applicant’s own consultant’s recommendation to retain the entire building at 1115 Mission St. and to not remove two windows from the eastern façade, the Project is inconsistent with Goals 7 and 9 of the General Plan.

B. The Project is Inconsistent with the Housing Element Update of the General Plan

One of the Project’s Objectives is to “[c]ontribute to meeting the City’s Regional Housing Needs Assessment (RHNA) goals through the construction of 36 new above moderate-income housing units.” DEIR 2.0-1. However, the DEIR does not explain how the City’s RHNA goals could be met. The DEIR does not describe whether the Project’s residential units will be rental apartments or condominiums and how much the rent or the sale price would be. Moreover, the DEIR completely ignores whether there indeed is a housing need for the above moderate income group that has not already been satisfied by recent mixed-use projects in the area. 2014 Housing Element Update, Table VI – 25, p. 33 (showing 25 new units needed for above moderate income group for years 2014-2021 as compared with 48 new units needed for very low income to moderate income groups). Therefore, the DEIR’s conclusion that the Project Objective relating to contributing to meeting the City’s RHNA’s goal is unsupported by any evidence.

Moreover, the DEIR fails to analyze the Project’s consistency with Goal 3, Policy 3.1 of the General Plan Housing Element Update. Goal 3 of the General Plan Housing Element Update requires the City to provide for adequate residential sites. More

specifically, Policy 3.1 requires the City to “[p]romote mixed-use developments by continuing to allow development of residential uses above commercial uses in the GC zoning district and the MSSP zoning district and encourage the development of affordable housing within the residential component of mixed use projects through the use of affordable housing incentives and planned development permits as provided for in the City’s Zoning Code. Conduct early consultations with developers of mixed-use projects to encourage the development of affordable housing units in these projects.”

The DEIR fails to analyze whether the City promoted that the Project’s inclusion of affordable housing in the residential component of the Project. As a result, the Project is not consistent with Goal 3 and Policy 3.1 of the General Plan Housing Element Update.

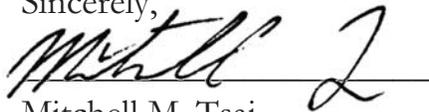
C. The Project’s Inconsistency with the General Plan Also Violates CEQA

Under the CEQA Guidelines, an environmental impact report (EIR) must discuss "any inconsistencies between the proposed project and applicable general plans, specific plans, and regional plans." CEQA Guidelines §15125(d). By failing to analyze the Project’s inconsistencies with the Housing Element of the General Plan, the Project also violates CEQA.

III. CONCLUSION

Commenters request that the City revise and recirculate the Project’s environmental impact report to address the aforementioned concerns. If the City has any questions or concerns, feel free to contact my Office.

Sincerely,



Mitchell M. Tsai

Attorneys for Southwest Regional Council of Carpenters

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VIA E-MAIL & U.S. MAIL

March 30, 2020

Ms. Kanika Kith, Planning Manager
Planning and Building Dept.
City of South Pasadena
1414 Mission Street
South Pasadena, CA 91030

Email Delivery to kkith@southpasadenaca.gov

RE: Comments on Final Environmental Impact Report (SCH No. 2019011007) for the Mission Bell Mixed-Use Project (Project No. 2034-CUP, DRX, COA, VTPM) and Appeal of Planning Commission's Approval to the City Council

Dear Ms. Kith,

On behalf of Southwest Regional Council of Carpenters ("**Commenter**" or "**Southwest Carpenters**"), my Office is submitting these comments on the City of South Pasadena's ("**City**" or "**Lead Agency**") Final Environmental Impact Report (SCH NO. 2019011007) for the Mission Bell Mixed-Use Project (Project No. 2034-CUP, DRX, COA, VTPM), located at 1101, 1107, and 1115 Mission Street comprising of approximately 0.7 acres of land which is currently being used for commercial purposes and as a parking lot ("**Project**"). This letter is being submitted in support of Commenter's appeal of the Planning Commission's February 11, 2020's approval of the Project to the City Council.

On or about August 27, 2019, Commenter submitted comments on the Project's Draft Environmental Impact Report ("Draft EIR" or "DEIR"). In the comment letter, Commenter provided reasons why the Project's violated CEQA and Planning and Zoning Law, among others. In addition, the comment letter requested that the City provide notices related to the Project pursuant to California Public Resources Code Sections 21092.2 and 21167(f) and Government Code Section 65092. However, in spite of having submitted comments on the Draft EIR and despite expressly requesting to be noticed regarding the Project, the City failed to send out notices

regarding (1) the availability of the Final EIR and (2) the Planning Commission hearing. Due to the City's failure to comply with the legal noticing requirements, Commenter could not submit any comments on the Final EIR and attend the February 11, 2020 Planning Commission hearing. As a result, the Commenter is only now able to comment on the Planning Commission's February 11, 2020 Project Approval and on the Final EIR.

The Project Applicant, Mission Bell Properties LLC ("**Applicant**"), is proposing to construct a two- and three-story mixed-use development at 1101-1107 Mission Street, rehabilitate the existing historic building at 1115 Mission Street for adaptive reuse as missed use, demolish a portion of the historic building at 1115 Mission Street to construct a two-story residential building, and construct two levels of subterranean parking beneath the Project site. DEIR, 2.0-4.

The Southwest Carpenters is a labor union representing 50,000 union carpenters in six states, including in southern California, and has a strong interest in well ordered land use planning and addressing the environmental impacts of development projects.

Individual members of the Southwest Carpenters live, work, and recreate in the City of South Pasadena and surrounding communities and would be directly affected by the Project's environmental impacts. Commenter expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

Commenter incorporates by reference all comments raising issues regarding the EIR submitted prior to certification of the EIR for the Project. *Citizens for Clean Energy v City of Woodland* (2014) 225 CA4th 173, 191 (finding that any party who has objected to the Project's environmental documentation may assert any issue timely raised by other parties).

Moreover, Commenter requests that the Lead Agency provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act ("**CEQA**"), Cal Public Resources Code ("**PRC**") § 21000 *et seq*, and the California Planning and Zoning Law ("**Planning and Zoning Law**"), Cal. Gov't Code §§ 65000–65010. California Public Resources Code Sections 21092.2, and 21167(f) and

Government Code Section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency's governing body.

I. THE PROJECT WOULD BE APPROVED IN VIOLATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

A. Background Concerning the California Environmental Quality Act

CEQA has two basic purposes. First, CEQA is designed to inform decision-makers and the public about the potential, significant environmental effects of a project. 14 California Code of Regulations ("**CCR**" or "**CEQA Guidelines**") § 15002(a)(1). "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR 'protects not only the environment but also informed self-government.' [Citation.]" *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564. The EIR has been described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs.* (2001) 91 Cal. App. 4th 1344, 1354 ("*Berkeley Jets*"); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures. CEQA Guidelines § 15002(a)(2) and (3). *See also, Berkeley Jets*, 91 Cal. App. 4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Ass'n v. Regents of the University of California* (1988) 47 Cal.3d 376, 400. The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to "identify ways that environmental damage can be avoided or significantly reduced." CEQA Guidelines § 15002(a)(2). If the Project has a significant effect on the environment, the agency may approve the Project only upon finding that it has "eliminated or substantially lessened all significant effects on the environment where feasible" and that any significant unavoidable effects on the environment are "acceptable due to overriding concerns" specified in CEQA section 21081. CEQA Guidelines § 15092(b)(2)(A–B).

While the courts review an EIR using an "abuse of discretion" standard, "the reviewing court is not to 'uncritically rely on every study or analysis presented by a project proponent in support of its position.' A 'clearly inadequate or unsupported study is

entitled to no judicial deference." *Berkeley Jets*, 91 Cal.App.4th 1344, 1355 (emphasis added) (quoting *Laurel Heights*, 47 Cal.3d at 391, 409 fn. 12). Drawing this line and determining whether the EIR complies with CEQA's information disclosure requirements presents a question of law subject to independent review by the courts. (*Sierra Club v. Cnty. of Fresno* (2018) 6 Cal.5th 502, 515; *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th 48, 102, 131.) As the court stated in *Berkeley Jets*, 91 Cal. App. 4th at 1355:

A prejudicial abuse of discretion occurs "if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process.

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

B. CEQA Requires Revision and Recirculation of an Environmental Impact Report When Substantial Changes or New Information Comes to Light

Section 21092.1 of the California Public Resources Code requires that "[w]hen significant new information is added to an environmental impact report after notice has been given pursuant to Section 21092 ... but prior to certification, the public agency shall give notice again pursuant to Section 21092 and consult again pursuant to Sections 21104 and 21153 before certifying the environmental impact report" to give the public a chance to review and comment upon the information. CEQA Guidelines § 15088.5.

Significant new information includes "changes in the project or environmental setting as well as additional data or other information" that "deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect

of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative)." CEQA Guidelines § 15088.5(a). Examples of significant new information requiring recirculation include "new significant environmental impacts from the project or a new mitigation measure," "substantial increase in the severity of an environmental impact," "feasible project alternative or mitigation measure considerably different from others previously analyzed" as well as when "the draft EIR was so fundamentally inadequate and conclusory in nature that meaningful public review and comment were precluded." *Id.*

An agency is obligated to recirculate an environmental impact report for public notice and comment due to "significant new information" regardless of whether the agency opts to include it in a project's environmental impact report. *Cadiz Land Co. v. Rail Cycle* (2000) 83 Cal.App.4th 74, 95 [finding that in light of a new expert report disclosing potentially significant impacts to groundwater supply "the EIR should have been revised and recirculated for purposes of informing the public and governmental agencies of the volume of groundwater at risk and to allow the public and governmental agencies to respond to such information."]. If significant new information was brought to the attention of an agency prior to certification, an agency is required to revise and recirculate that information as part of the environmental impact report.

As discussed in full below, Commenter requests that the City make requested revisions to the FEIR to be recirculated for public comment to adequately describe the Project and disclose the comprehensive analysis of all of the Project's potentially significant impacts.

C. The City Failed to Describe the Project Adequately

In their prior comments to the Draft EIR, Commenter pointed out how the Draft EIR failed to adequately describe the Project by failing to specify whether the residential component of the Project would comprise of condominiums or apartments and what the approximate sale price or rent would be. (8/27/19 Comment Letter, p. 5.) As a result of that failure, the DEIR fails to ensure whether the Project objectives would be met and whether the Project should incorporate affordable housing units to meet the City's General Plan Goals. (*Id.*)

The City responded in the Final EIR that CEQA does not require discussion of economic issues and that whether the units will be apartments or condos is not

connected to a physical change in the environment. (FEIR, P. 3.0-29.) The City also responded that the Project objectives specifically don't discuss whether the units will be rental or condominium and that the City will contribute to meeting the City's Regional Housing Needs Assessment (RHNA) goals by increasing housing supply in the City in general. (*Id.*)

However, the City misses Commenter's point entirely. The question here is not whether CEQA requires this information as an economic or physical change issue or whether the City does comply with the RHNA (which is further discussed down below), but whether the Draft EIR adequately describes the Project to comply with CEQA.

As previously provided, it is well-established that "[a]n accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR." *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193. "A curtailed, enigmatic, or unstable project description draws a red herring across the path of public input." *Id.* at p. 198.

The DEIR's failure to describe the type of residential development (apartment or condominium) as well as the price range for those residential units limit the DEIR's ability to adequately analyze whether (1) the Project meets all of the objectives outlined in the DEIR, including the one which requires the Project to "[c]ontribute to meeting the City's Regional Housing Needs Assessment (RHNA) goals through the construction of 36 new above moderate-income housing units (DEIR, 2.0-1)," and (2) whether the Project should incorporate affordable housing units to meet the General Plan goals.

The City failed to respond to Commenter's prior comments adequately and was unable to revise the DEIR as advised. As a result, the FEIR must be amended to provide an adequate project description.

D. The FEIR Inaccurately and Improperly Concluded that the Project Will Not Have Significant Impacts to Historical Resources

First and foremost, the City admits that the building located at 1115 Mission Street of the Project Site is included in a list of historic structures in the 1996 Mission Street Specific Plan, a 2003 reconnaissance level City-wide historical survey, and the 2015/16 City of South Pasadena Historic Resources Survey. (FEIR, p. 3.0-29; DEIR, 4.2-23.) There is no question that according to the City's MSSP, Mission Street is South

Pasadena's historic core, and without its historic resources, Mission Street could not retain its unique small-town atmosphere and sense of identity. (MSSP, p. 4.)

Therefore, the existing historical resources like 1115 Mission Street are critical to helping maintain the City's unique atmosphere and identity and must be protected.

In the FEIR, the City provides confusing and mixed responses that claim (1) the property is not eligible for a local listing but warrants special consideration in local planning yet (2) the proposed changes to the subject building won't cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines 15064.5 and (3) will not alter the historical context of the Mission West Historic Business District. (FEIR, p. 3.0-30.)

However, contrary to the City's analysis in the DEIR and its responses to comments in the FEIR, the Project's proposed "rehabilitation" of the two-story commercial and residential portion (front of the building) and the removal of the 2/3 of the warehouse portion of the building will not be consistent with the Secretary of the Interior's Standards ("the Standards").

The problems with the DEIR's consistency analysis, including the City's responses in the FEIR, for each of the relevant Standards, will be provided in the Table below:

	Standard's Requirements	DEIR's consistency analysis	Problems with DEIR's consistency analysis	City's Response in FEIR	Problem with City's Response in FEIR
Standard 1	A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.	Consistent. The property would be redeveloped as commercial and residential use and would retain the commercial façade along Mission Street.	This is not a minimal change – the façade, including massing, will be affected (admitted by DEIR), and two-thirds of the building will be removed. The Applicant's own consultant, ESA, recommended that the entire building be retained and to retain window openings on the eastern façade of the building. ESA	The City responds that the proposed changes to the street-facing exterior and the removal of the 2/3 of the warehouse portion will "be considered a minimal change" "[B]ecause the majority of the building's character will be preserved." (FEIR, p. 3.0-31.)	The City, while acknowledging that there will be drastic changes to the subject building, including rehabilitation of the façade of the front building as well as the removal of the majority of the warehouse portion, illogically concludes that such changes are minimal. The City also ignores Commenter's prior point that the Applicant's own consultant, ESA, recommended that the

			<p>concluded that the entire building, including the warehouse, is a primary character-defining feature.</p> <p>Moreover, the 3-story building of the Project will alter the spatial relationships in the historic core of Mission Street.</p>		<p>entire building be retained, including the window openings on the eastern façade of the building. (Appendix C of DEIR, p. 39; Appendix F.)</p> <p>Moreover, the City failed to explain how a three-story building in an otherwise mostly 1-2 story buildings in the historic core of Mission Street would not change the spatial relationships.</p>
Standard 2	<p>The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.</p>	<p>Consistent. Although the property is not eligible for designation as a local landmark or inclusion in a historic district, the Project proposes to retain some of the building's original features. These features include: the enameled brick of the main façade; the decorative brick course between the first and second stories; recessed sign area; the cornice; frieze; and angled window sills. The distinctive materials and features of the store front would be retained. A new structure would be attached at the rear which would be architecturally</p>	<p>There is no question that this is a historically significant building.</p> <p>The Project will have significant, material change affecting the façade including massing will be affected (admitted by DEIR) and two-thirds of the building will be removed.</p> <p>The Applicant's own consultant, ESA, recommended that the entire building be retained and to retain window openings on the eastern façade of the building. ESA concluded that the entire building including the warehouse is a primary character defining feature.</p>	<p>The City explains numerous changes will be made to the subject building, including providing underground parking access and admits that "historic spatial relationship to the street will be altered by entry from behind the warehouse into a landscaped courtyard and alley." The City then concludes these are minor changes that don't adversely affect the historic character of the subject property. (FEIR, pp. 3.0-31, 32.)</p>	<p>The City again fails to explain how the very changes that the City describes will be in line with retaining and preserving the historic character of the subject property.</p> <p>The City again ignores Commenter's prior point that the Applicant's own consultant, ESA, recommended that the entire building be retained, including the window openings on the eastern façade of the building. (Appendix C of DEIR, p. 39; Appendix F.)</p>

		consistent with the character of the retained front of the building.			
Standard 9	New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property, the new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.	Consistent. The proposed new construction would be differentiated from the existing portion of the building fronting Mission Street. The new building to be attached at the rear will be a two story residential building designed at a scale and mass similar to the existing being retained and renovated.	The "rehabilitation" and partial demolition will "destroy historic materials" that are primary and contributing character defining features. The proposed partial demolition will also destroy the historic integrity of the building.	The City failed to respond to the problems with the DEIR's analysis of Standard 9, instead analyzing Standard 3. (FEIR, 3.9-32.)	The proposed Project will demolish and remove the very historic character and materials that the Applicant's own consultant, ESA, recommended the City and Applicant retain, especially the warehouse portion of the subject building, including the window openings on the eastern façade of the building. (Appendix C of DEIR, p. 39; Appendix F.)
Standard 10	New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.	Consistent. The Project would remove the single-story warehouse from the rear façade, and a new two-story residential structure would be constructed in its place. The new construction, if removed at some later time, would not impair the essential form and integrity of the retained portion of the building fronting Mission Street.	The "rehabilitation" and partial demolition of a historical resource and building a large 3-story modern structure in a historical core will alter the integrity of the historic property and its environment.	The City responds that the essential form and integrity of 1115 Mission Street would be unchanged by the Project, despite the removal of the 2/3 of the warehouse portion of the building and the addition of new 3 story structures. (FEIR, p. 3.0-32.)	Both the removal and rehabilitation of the subject building, in addition to the addition of new 3-story buildings, will impair the integrity of the historic property and its environment. This is especially true as according to Applicant's own consultant, ESA, determined that the entirety of the warehouse portion of the subject building were primary character defining features that must be retained. (Appendix C of DEIR, P. 39; Appendix F.)

As shown in the Table above, the Project's proposed rehabilitation and removal of two-thirds of the building at 1115 Mission St. are not consistent with the Standards.

Most suspiciously, the City's responses in the FEIR and the DEIR fail to reflect the Applicant's own consultant's (ESA) recommendations hidden in Appendix C and F that (1) the entire building including the warehouse portion of the building should be retained as it is a "primary" character defining feature of the building and (2) the replacement of two windows on the eastern façade should not be undertaken as the windows are "contributing" character defining features of the building. See Appendix F recommendations; also see Appendix C¹. Despite these recommendations, the ESA provided a conflicting conclusion that the rehabilitation and removal of a portion of the subject building will not result in a significant historical impact. Thus, not only are the ESA's conclusions of no significant historical resources impact unsupported by its own recommendations, but the DEIR's conclusions relying on those ESA's unsupported conclusions are equally flawed.

The City responds in the FEIR that the EIR represents conclusions of the City and not the conclusions of the Applicant or its consultant. (FEIR, p. 3.0-32.) However, the City ignores the advice of a historical resource expert, ESA, and evidence in its own record in concluding no significant historical impact, without providing substantial evidence to explain why such evidence and advice from ESA did not warrant consideration. As a result, the City failed to sufficiently consider, analyze and disclose the Project's historical resources impacts in the EIR.

Consistent with the goal to preserve and protect primary and contributing character-defining features of the building and ESA's recommendations, the entirety of 1115 Mission St. must be retained and its primary and contributing character-defining features must be preserved.

¹ According to Appendix C's "Historical Resource Assessment" by ESA on p. 39:

Primary character-defining features are by definition the most important and should be considered for retention in order to preserve and protect the eligibility of the Subject Property. Alteration or removal of these features should be avoided.

Contributing character-defining features add to the character of a historic property and should be retained to the greatest extent feasible and rehabilitated as appropriate....

In conclusion, the EIR erroneously concluded that the proposed rehabilitation and partial demolition of 1115 Mission St. would have an insignificant impact to cultural resources.

II. THE PROJECT IS INCONSISTENT WITH THE GENERAL PLAN

The DEIR analyzes whether the Project is consistent with applicable land use plan, policy or regulation. However, the DEIR inaccurately analyzes the Project's consistencies with the General Plan and also fails to analyze the Project's consistency with the Housing Element Update of the General Plan. Moreover, the City's responses in the FEIR regarding these issues were wholly inadequate as explained below.

A. The Project is Inconsistent with the Goals and Policies Pertaining to Preserving Historic Resources of the General Plan

As previously stated, Goal 7 of the General Plan requires the City "[t]o preserve South Pasadena's historic character, scale, and 'small town' atmosphere." Goal 9 of the General Plan requires the City "[t]o conserve and preserve the historic "built" environment of the City by identifying the architectural and cultural resources of the City, by encouraging their maintenance and/or adaptive reuse, and by developing guidelines for new and infill development assuring design compatibility."

The DEIR erroneously concluded that the Project is consistent with Goal 7 and Goal 9 since demolishing a large portion of a historically significant building like 1115 Mission St. and changing important historical characteristics of such a building would run afoul of the goals of preserving historic character of the City. Especially based on the Applicant's own consultant's recommendation to retain the entire building at 1115 Mission St. and to not remove two windows from the eastern façade, the Project is inconsistent with Goals 7 and 9 of the General Plan.

The City's response in the FEIR relies on the evaluation of the historical resource consultant, ESA, to conclude that the portion of the 1115 Mission building could be removed without compromising the defining character of the building. (FEIR, p. 3.0-33.) However, the City also ignores the very same consultant's (ESA) recommendation that the entirety of 1115 Mission building be retained. (See Appendix F of DEIR.) With the rehabilitation of the subject building and demolition of 2/3 of the warehouse portion of the building, the Project is inconsistent with Goals 7 and 9 of the General Plan.

B. The Project is Inconsistent with the Housing Element Update of the General Plan

One of the Project's Objectives is to "[c]ontribute to meeting the City's Regional Housing Needs Assessment (RHNA) goals through the construction of 36 new above moderate-income housing units." DEIR 2.0-1. However, the DEIR does not explain how the City's RHNA goals could be met. The DEIR does not describe whether the Project's residential units will be rental apartments or condominiums and how much the rent or the sale price would be. Moreover, the DEIR completely ignores whether there indeed is a housing need for the above moderate income group that has not already been satisfied by recent mixed-use projects in the area. 2014 Housing Element Update, Table VI – 25, p. 33 (showing 25 new units needed for above moderate income group for years 2014-2021 as compared with 48 new units needed for very low income to moderate income groups). Therefore, the DEIR's conclusion that the Project Objective relating to contributing to meeting the City's RHNA's goal is unsupported by any evidence.

In the FEIR, the City responds that the objective of the Project is merely to "contribute" to the RHNA Goals, not meet the goals by the Project itself, and because the new cycle of RHNA goals are being developed, the new RHNA targets are unknown, although it is expected that additional above-moderate units would be needed. (FEIR, p. 3.0-33.) First, the City is required to determine whether the Project will contribute to meeting the City's RHNA goals. By the City's own admission, it doesn't even have evidence to conclude that the Project will help meet the City's RHNA goals. The City's blind "expectation" that additional above-moderate units would be needed simply do not constitute "substantial evidence" to support the City's conclusion the Project will meet its objectives and that the Project is consistent with the Housing Element Update of the General Plan, including the RHNA Goals.

Moreover, the DEIR fails to analyze the Project's consistency with Goal 3, Policy 3.1 of the General Plan Housing Element Update. Goal 3 of the General Plan Housing Element Update requires the City to provide for adequate residential sites. More specifically, Policy 3.1 requires the City to "[p]romote mixed-use developments by continuing to allow development of residential uses above commercial uses in the GC zoning district and the MSSP zoning district and encourage the development of affordable housing within the residential component of mixed use projects through the use of affordable housing incentives and planned development permits as

provided for in the City's Zoning Code. Conduct early consultations with developers of mixed-use projects to encourage the development of affordable housing units in these projects."

The City in the FEIR acknowledges these Goals and Policies but explains that while the City encourages the development of affordable housing through incentives, the Applicant chose not to utilize the incentives for affordable housing. (FEIR, p. 3.0-34.) However, the City fails to explain the type of incentives offered and the extent of consultation it conducted with Applicant to meet the Goals and Policies regarding affordable housing.

As a result, the EIR fails to analyze whether the City promoted that the Project's inclusion of affordable housing in the residential component of the Project. The Project is not consistent with Goal 3 and Policy 3.1 of the General Plan Housing Element Update.

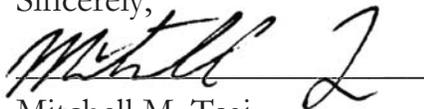
C. The Project's Inconsistency with the General Plan Also Violates CEQA

Under the CEQA Guidelines, an environmental impact report (EIR) must discuss "any inconsistencies between the proposed project and applicable general plans, specific plans, and regional plans." CEQA Guidelines §15125(d). By failing to analyze the Project's inconsistencies with the Housing Element of the General Plan, the Project also violates CEQA.

III. CONCLUSION

Commenters request that the City revise and recirculate the Project's environmental impact report to address the aforementioned concerns. If the City has any questions or concerns, feel free to contact my Office.

Sincerely,



Mitchell M. Tsai

Attorneys for Southwest Regional Council of Carpenters

ATTACHMENT 7
Response to Comments from the Appellant



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May 8, 2020

Kanika Kith, Planning Manager
Planning & Building Department
City of South Pasadena
1414 Mission Street
South Pasadena CA 91030

Re: Response to Comments from Mitchell M. Tsai on Mission Bell Mixed-Use Project Final Environmental Impact Report (FEIR)

Ms. Kith,

This letter provides responses to the comments on the FEIR for the Mission Bell Mixed-Use Project in the March 30, 2020 letter submitted to the City by Mitchell M. Tsai. Mr. Tsai's letter is 13 pages and is divided into three parts – an introductory section followed by two sections titled "The Project Would Be Approved In Violation Of The California Environmental Quality Act" and "The Project Is Inconsistent With The General Plan". The responses provided follow this organization.

The first eight paragraphs of the comment letter include introductory remarks that provide background, a restatement of the Project description, the basis for the standing of the party commenting, and a request to be notified of any and all notices referring or related to the Project. Mr. Tsai provided similar comment on the Draft EIR. The appeal process provides an additional opportunity for his claims to be heard. No further responses are necessary to this portion of the letter.

Under the heading "The Project Would Be Approved In Violation Of The California Environmental Quality Act", the letter provides discussion under four subheadings: "Background Concerning the California Environmental Quality Act"; "CEQA Requires Revision and Recirculation of an Environmental Impact Report When Substantial Changes or New Information Comes to Light"; "The City Failed to Describe the Project Adequately"; and "The FEIR Inaccurately and Improperly Concluded that the Project Will Not Have Significant Impacts to Historical Resources." The comments in each of these subsections are responded to below.

The first subsection provides background on the California Environmental Quality Act (CEQA) and summarizes court decisions. This subsection does not directly address the information or analysis in the FEIR and the information and no response is necessary for this reason. As indicated to the responses to

the other comments in this letter, the City's environmental review of this proposed project has been conducted in compliance with all applicable requirements of CEQA.

The second subsection includes the criteria for recirculation of an EIR. As indicated in the responses to the other comments in this letter, recirculation of the EIR is not required.

In the third subsection, a comment is made that the EIR failed to adequately describe the Project by not specifying whether the residential component of the Project would be condominiums or apartments and specifying what the approximate sale price or rent would be. Specifically, this comment states this information is necessary to determine if the Project as proposed meets the project objectives, which discuss the provision of housing to meet the City's Regional Housing Needs Allocation (RHNA). The City responded to this comment in the FEIR by stating that CEQA does not require discussion of economic impacts and whether the units will be condominiums or apartments does not affect whether the Project will result in physical changes to the environment that may be significant impacts.

The comment states the response in the FEIR is not adequate. However, CEQA Guidelines Section 15124 states that a project description "should not supply extensive detail beyond that needed for evaluation and review of the environmental impact". Furthermore, CEQA Guidelines Section 15064 states that the evaluation of impacts should consider "direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project" and "Economic and social changes resulting from a project shall not be treated as significant effects on the environment." Whether a residential unit is for rent or for sale is an economic and social characteristic and not a physical effect. As such whether the residential units would be for sale or for lease is "detail beyond that needed for evaluation and review of the environmental impact" and, therefore, need not be included to allow for an adequate assessment of environmental conditions.

The comments state that the marketing and pricing of the units determines whether these units would contribute to meeting the City's RHNA. The comments incorrectly reference the 2014-2021 Housing Element Update. The Project is not expected to be completed until 2022 and, for this reason, the housing provided will be considered as part of the next housing planning period. The City's RHNA for the 2021-2029 planning period have not yet been finalized, however it is known that the City's RHNA will include above moderate housing.¹ It should be noted that RHNA housing needs are divided into four income categories: very low, low, moderate, and above moderate. The provision of additional housing will, therefore, assist the City in meeting its RHNA regardless of the affordability of the units. Accordingly,

¹ In March 2020 SCAG released estimated RHNA Allocations which showed 578 above moderate income housing units for South Pasadena. See <http://www.scag.ca.gov/programs/Documents/RHNA/Staff-Recommended-RHNA-Estimated-Allocations-030520.pdf>

additional information on the rental or sales price of the units is not required to determine the ability of the Project or alternatives to the Project to meet this objective.

The comments also claim that the pricing of the units determines whether the Project is consistent with Policy 3.1 of the General Plan Housing Element Update. As stated in the FEIR, this policy addresses the City encouraging affordable housing through incentives and planned development permits, which the City does. As such, this policy addresses City practices and does not address the characteristics of this or other individual development projects.

In the fourth subsection, comments are provided on the potential impacts of the Project on the existing building at 1115 Mission Street. First, the question of whether the building is a historic resource under CEQA is addressed. The building was included in a list of historic structures in the 1996 Mission Street Specific Plan and was evaluated in a 2003 reconnaissance level City-wide historical survey, and the 2015/16 City of South Pasadena Historic Resources Survey. However, the building was identified in those surveys as not eligible for listing as a historic resource but warranting special consideration in planning. Section 21084.1 of the Public Resources Code defines a historic resource for the purposes of CEQA as “a resource listed in, or determined to be eligible for listing in, the California Register of Historical Resources”; “Historical resources included in a local register of historical resources” or otherwise determined to be a historical resource by a lead agency. As the building was determined by the City not to be eligible for listing as a historic resource, it does not fall within the definition of a historic resource as defined by CEQA. CEQA Guidelines Section 15064.5(b) states that a significant impact could occur if a project were to cause “substantial adverse change in the significance of an historical resource” and goes on to describe how this could occur if the resulting change impacted those characteristics that justify its inclusion or eligibility for listing as a historic resource. The primary conclusion of the EIR is that since the structure is not eligible for listing, the Project could not substantially change characteristics that justify its inclusion or eligibility for listing.

Nonetheless, the City has considered this building its planning efforts. As noted in the comments, Mission Street has been identified by the City as possessing a unique small-town atmosphere and sense of identity through the historic fabric of the structures along it. The Project retains the character of the structure as it relates to Mission Street, including the distinctive materials and features of the store front. For these reasons, the Project as proposed will not adversely affect the character of Mission Street.

Next, the comments discuss the consistency of the Project with the Secretary of the Interior’s Standards. The Standards are a set of guidelines to be applied when rehabilitating a historic building. CEQA Guidelines Section 15064.5b(3) states that a project that follows the Standards is generally considered as mitigated to a level of less than a significant impact on a historical resource. Though the structure at 1115 Mission

Street is not a historical resource and the Project would not have a significant impact on historical resources, the City discussed the Standards in the EIR to show that, even if it were a historical resource, it would comply with the Standards and any impacts would be mitigated to a less than significant level.

The comments include a table that presents Secretary of Interior Standards 1, 2, 9 and 10 and the City's analysis in the DEIR and FEIR along with prior comments submitted on this analysis. For presentation purposes, the information in this table has been reorganized into the text below.

Standard 1

- A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

This comment argues that the changes are not minimal and asserts the changes will be “drastic” and the City has acknowledged this. This is not correct. The DEIR pointed out that the subject property would be redeveloped for commercial and residential use and because the existing commercial façade and distinctive design features of the building at 1115 Mission Street along Mission Street would be retained, the property would be used as it was historically. Furthermore, modifications to the distinctive materials, features, spaces, and spatial relationships of the building would be minimal and would not result in significant impacts to the design character of the building on Mission Street. The removal of a portion of the rear of the building would not affect its design character as visible along Mission Street.

Standard 2

- The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

The DEIR pointed out that the Project will retain the primary character defining features of the building and would not remove distinctive features such as the enameled brick of the main façade; the decorative brick course between the first and second stories; recessed sign area; the cornice; frieze; and angled window sills. The comments allege “There is no question that this is a historically significant building”; however, in the surveys that have evaluated the building it is classified as not eligible for listing as a historic resource. The ESA report, and the GPA review of it, both acknowledge that the changes proposed retain the primary character defining features of the building.

Standard 9

- New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property, the new work shall be differentiated from the old and

shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

The Project would retain the distinctive features of the building including the enameled brick of the main façade; the decorative brick course between the first and second stories; recessed sign area; the cornice; frieze; and angled windowsills. As such, the historic materials that characterize the property would not be destroyed. The new addition to the rear of the building would be compatible in terms of massing, size, scale with the front portion of the building, and the other architectural features of the proposed addition to the building would not affect the feature on the commercial façade that contribute to the character of Mission Street.

Standard 10

- New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

As stated in the EIR, the Project includes a proposed addition to the rear of the existing building and a new building to the west separated by an alley and courtyard from the existing building. The new construction, if removed at some later time, would not impair the essential form and integrity of the retained portion of the building fronting Mission Street. The comments do not identify how removal of the new construction would impair the essential form or integrity of the existing building.

The comments repeatedly state that the City has ignored the recommendations in the ESA report that the entire building, including the warehouse portion of the building, should be retained and that the replacement of two windows on the eastern façade should not be undertaken. The Appendix table in the ESA report does include recommendations regarding the existing features of the building. However, these recommendations do not directly relate to the conclusions on the significance of the impacts of the proposed modifications to the building. In fact, the report specifically states on page 31 that “alterations to some contributing features may not adversely impact the Subject Property’s potential eligibility as a historical resource”. The ESA report concluded that the Project would not alter the classification of the structure as “6L CHR status code.” Accordingly, the Project would not cause a substantial adverse change in the historical significance of the structure. In addition, the City had retained its own expert consultant, GPA, to review and provide comment on the ESA report, which was prepared for the Project applicant. GPA agreed with the conclusion that the Project would not adversely change the features of the building that may contribute to historic significance of and the Project would meet the Secretary of the Interior’s Standards.

The final portion of the letter addresses the consistency of the Project with the General Plan. The first comments address Goals 7 and 9 of the General Plan which call for the City to "preserve South Pasadena's historic character, scale, and 'small town' atmosphere" and "conserve and preserve the historic "built" environment of the City by identifying the architectural and cultural resources of the City, encouraging their maintenance and/or adaptive reuse, and by developing guidelines for new and infill development assuring design compatibility." The comments do not explain how the Project would not preserve the character, scale, and atmosphere of the City. Removing a portion of the rear of the structure and making minor alterations to windows would not adversely compromise the historic character, scale, and 'small town' atmosphere of the City exhibited by the existing built environment on the portion of Mission Street containing the Project site. The City has identified the architectural and cultural resources of the City, including evaluating the historic significance of the building on the Project site. Furthermore, the City has encouraged the adaptive reuse of the building through the Project.

The final section of the letter repeats the points raised previously regarding the RHNA and Policy 3.1 of the Housing Element. These comments are addressed above.

Conclusion

Adequate response to the comments in this March 30 letter were provided in the City's FEIR, based on the substantial evidence in the DEIR and FEIR. The existing building on the Project Site has been evaluated and determined not to be a historic resource. Furthermore, the proposed modifications to the existing building and its site will not impact the character defining features of the front portion of the building on Mission Street. The Project will not result in significant historic resource impacts.

Sincerely,

A handwritten signature in blue ink that reads "Ned Baldwin". The signature is fluid and cursive, with the first name "Ned" being larger and more prominent than the last name "Baldwin".

Ned Baldwin
Senior Project Manager