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## **STATEMENT OF REASONS FOR APPEAL;**

**Case No. ZA-1989-17683**

**ENV-2020-1328-CE**

On behalf of Neighbors for A Safe Environment (NASE), a California nonprofit corporation seeking to protect neighborhoods from the impacts of oil drilling and production, we provide this summary of our reasons for appeal of the Plan Approval determination for 9101 West Pico Boulevard. Additional details regarding these legal violations and proposals to address those violations are included in the referenced attachments to this statement of reasons.

The overarching failing of the June 2, 2021 Zoning Administrator (ZA) Determination is that, while it recognizes some of the many legal violations on the site and says at one point that “the current conditions...may not be completely adequate to preserve the health, safety and general welfare of the nearby residential neighborhood,” it fails to impose or revise any conditions to ensure these violations and impacts are rectified. Indeed, the headline of the ZA Determination and the effective part of the ruling is a statement that the site is and has been “substantially” in compliance – a statement that the rest of the ZA Determination undermines. The ZA Determination also fails to address many of the most serious violations at 9101 and 9151 West Pico Boulevard. The continuing lack of oversight, investigation, and any consequences for years of illegal activity allowed by the ZA Determination is a green light for all oil companies to ignore City law and CEQA at all drill sites in the City. That endangers not just the public living around the West Pico Drill Site, but also sets precedent that will endanger all communities living around oil drill sites throughout the City.

### **A. Violation of Conditions of Approval**

The June 2, 2021 ZA Determination acknowledges that the operator is in violation of a number of conditions of approval for the site, including Conditions 36, 39, 49 and 72. In addition, there are also violations of Conditions 46, 47, 53, 57, 61 and 78 due to the odor impacts experienced by the community, documented improper waste disposal, noncompliance with fire safety requirements, and lack of timely conditions review which has led to many of the impacts identified herein. (See Attachment 1, August 24, 2020 NASE Letter to ZA.)

The ZA Determination identifies a number of these violations, but then reverses itself and makes the overarching finding that there is substantial compliance with conditions of approval. This fails to “bridge the analytic gap between the raw evidence and ultimate decision,” requiring the determination to be set aside as unsupported. (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.)

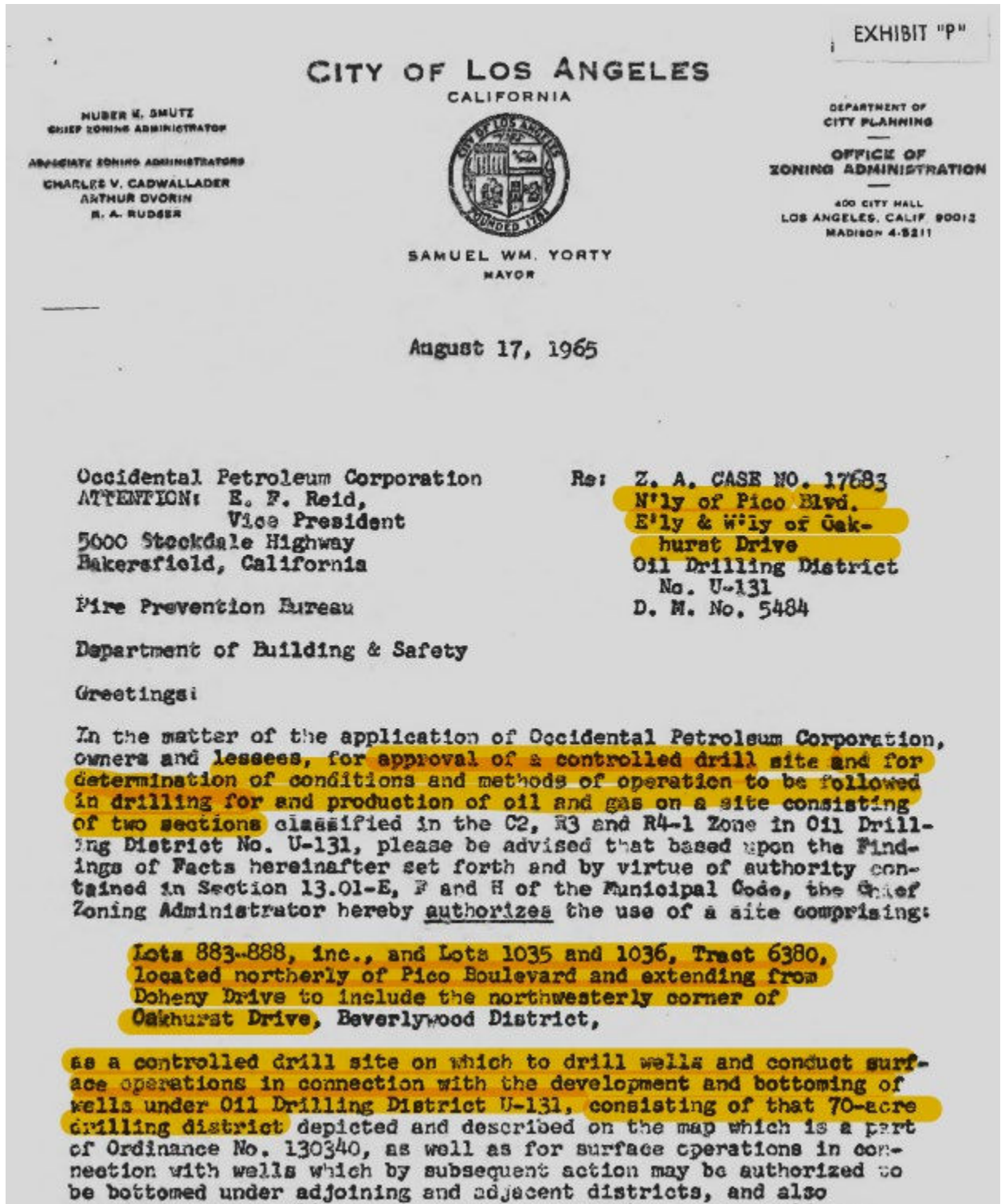
This failure to ensure compliance with conditions of approval is also a violation of the California Environmental Quality Act (CEQA). “Mitigating conditions are not mere expressions of hope.” (*Lincoln Place Tenants Ass'n v. City of Los Angeles* (2005) 130 Cal.App.4th 1491, 1508.) CEQA requires mitigation measures to be concrete and enforceable. (Pub. Resources Code § 21081.6(b).)

## **B. Los Angeles Municipal Code Violations**

In correspondence with the ZA’s office, NASE identified several ways in which actions at the site violate plain requirements and prohibitions for oil drilling and production contained in the City’s Municipal Code. (Attachment 1.) The ZA Determination includes factual conclusions that concur with several of the Municipal Code violations identified by NASE, but does not require any corrective actions, instead allowing them to continue without any consequences.

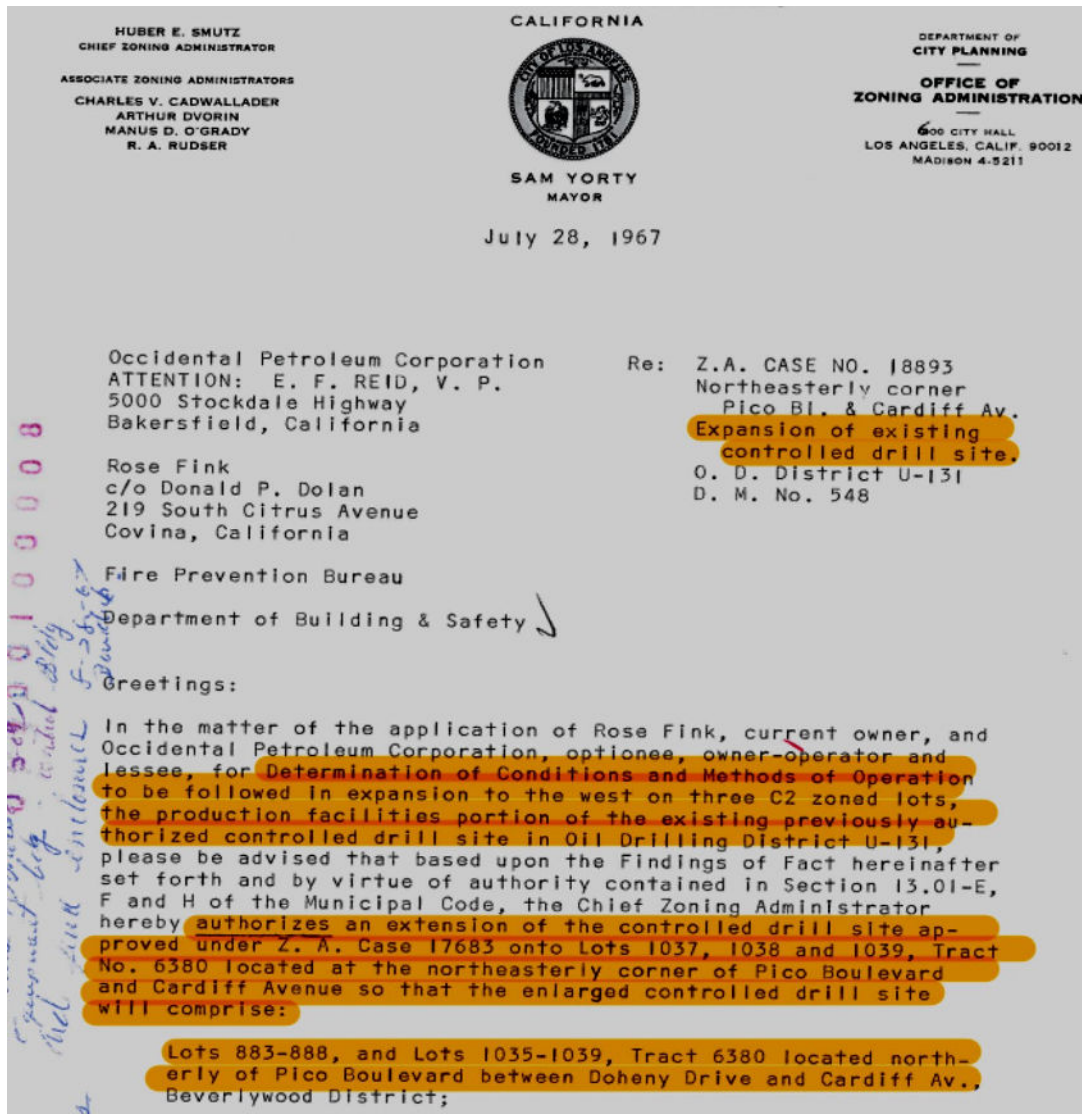
As identified by NASE, the Zoning Administrator and the operator have been in violation of Los Angeles Municipal Code (LAMC) § 13.01.E.2.b since the 2000 approval in ZA-1989-17683-PAD because only one Controlled Drill Site can exist in Oil Drilling District U-131. The current ZA Determination in ZA-1989-17683-PA2 continues to insist there are two sites, despite having been shown the pertinent code and the record of ZA determinations from the opening of a single Controlled Drill Site in 1965 until the error of the ZA-1989-17683-PAD in 2000 purporting to see two distinct sites.

The Controlled Drill Site was established by Case No. ZA-17683 in 1965 and defined as a single site spanning lots on both sides of Oakhurst Drive. The Controlled Drill Site was established on two City blocks from the outset, and established as a single integrated Controlled Drill Site as per LAMC 13.01. Here is the legal description and identification of the two-block Controlled Drill Site authorized by Case No. ZA-17683 in 1965:



That drill site was then extended to include the street front on Pico Boulevard from Oakhurst to Cardiff in 1967 pursuant to Case No. ZA-18893 to form one larger site.

The 2000 ZA approval in ZA-1989-17683-PA2 incorrectly asserts that Case No. ZA-18893 created two separate sites. Not only is the existence of two sites in District U-131 forbidden by LAMC 13.01.E.2.b, but the header and opening paragraph of Case No. ZA-18893 from 1967 also make it clear that there was only one drill site:



Thus, the drill site was not split until the 2000 ZA approval. The terms of LAMC § 13.01.E.2.b have been in effect continuously since February 1945. An approved Controlled Drill Site is the only kind of land use entitlement that allows for oil production activity in areas Zoned “O.” Only one Controlled Drill Site is allowed per 40 acres of Oil Drilling District and the subject district, U-131, has only 70 acres. Two sites are not allowed by code and ZA-1989-17683-PAD created two sites in violation of the LAMC. Approvals, such as ZA-1989-17683-PAD, that are issued in violation of the LAMC “shall be void” as per LAMC § 11.02. Thus, the

split was illegal when it occurred, remains illegal, and the ZA Determination in ZA-1989-17683-PA2 is fatally flawed by this and other errors. (See Attachment 1.)

The operator is also in violation of LAMC § 13.01.F.26 due to the installation of micro-turbines at 9151 West Pico Boulevard. The ZA Determination acknowledges this violation, but does not impose any remedial conditions or required environmental review. Instead, the “Staff Review” section of the determination suggests an application for the micro-turbines is required to be submitted, proposing segmented or piecemealed cases to possibly take the place of a single larger review that could view the entirety of violations, deficient conditions, and at least 25 projects executed illegally. Splitting this up into smaller bites obscures the totality of environmental impacts and violates CEQA’s requirement that the whole of a project—“all phases of project planning, implementation, and operation”—are to be considered when assessing environmental review for a project. (CEQA Guidelines §15063, subd. (a)(1).)

Further, Condition 72 is in direct contradiction with LAMC §§ 13.01.H and 13.01.I because it allows redrilling of wells without a full discretionary review by the ZA, which has been expressly required by Code since at least 1955. The ZA Determination acknowledges this contradiction but fails to require any revision to the condition and compounds the error further in its unsupported interpretation of this condition. Condition 72 speaks only of “redrilling”; it does not mention drilling of new wells or conversion of wells between Class A and Class B (i.e., production and injection). The ZA Determination nevertheless stretches the already illegal Condition 72 to cover new wells and converted wells. Since 2000, the site operator has drilled 2 new wells, redrilled 12 existing wells, and converted 10 wells between Classes A and B, all without application to the ZA. The site operator admitted this to the ZA in writing on June 19, 2020. LAMC 13.01.H and 13.01.I plainly require full application to the ZA for review and approval of all of these activities. Since at least 2000, it has been standard practice for ZA’s to hold public hearings on all such applications. Since 2016, ZA Memo 133 has explicitly required that public hearings be held, and has forbidden projects to drill, redrill, or convert wells from receiving a categorical exemption from environmental review.

Despite these clear requirements, the ZA Determination claims that all illegal well projects, including even new wells and well conversions, should be handled by the inadequate and illegal procedure set out in Condition 72. No corrective conditions, review of oil well projects, or any type of enforcement is proposed. Instead, the ZA Determination requires only that all filings to the California Department of Oil, Gas and Geothermal Resources be submitted to the ZA Office. This not only fails to address the 24 unapproved oil well projects on the West Pico Drill Site executed since 2000, it compounds and expands the illegality of the 2000 approval. It endangers all communities living near all oil drill sites in City by setting a precedent to ignore the scant legal protections that they have had.

Additionally, because the 2000 ZA approval for the site was issued in violation of these Municipal Code provisions, the 2000 approval, and all subsequent approvals and City permits that rely upon it, should be deemed void pursuant to LAMC § 11.02. (See Attachment 2, March 23, 2021 NASE Letter.)

### **C. Violation of 2001 Settlement Agreement**

The ZA Determination acknowledges the City's and operator's violation of the 2001 settlement agreement with NASE due to the failure to conduct the required five-year reviews for the site. The only reason the current review was commenced was based on a demand from NASE for the City to do so. While the ZA Determination states that the City will continue with the required reviews going forward, this fails to address the impacts to NASE and others in the surrounding community that resulted from the many years the reviews were not conducted and there were numerous violations as the site. Moreover, the current Plan Approval review fails to meet the requirements of the 2001 settlement agreement because there are no corrective conditions imposed or modification of existing conditions to address the ongoing issues at the site. The Zoning Administrator stated at public hearings for this Plan Approval review that the adequacy of conditions would not be evaluated, which violates the Settlement Agreement use of Condition 78 to set the scope and process for 5 Year "Reviews of Conditions" that "evaluate the efficacy of mitigation measures" and change them if warranted. This Plan Approval review did not even consider writing the Settlement Agreement's requirement of cyclical 5 Year Reviews of Conditions into a new a condition, despite an acknowledgment by the ZA Determination and in statements at public hearings that the ZA office had failed to hold these required reviews.

### **D. California Environmental Quality Act Violations**

The ZA Determination improperly relies on Class 1 and Class 21 categorical exemptions to avoid environmental review under CEQA. The interpretation of the language of the guidelines implementing CEQA or the scope of a particular CEQA exemption presents "a question of law, subject to de novo review" by a court. (*Fairbank v. City of Mill Valley* (1999) 75 Cal.App.4th 1243, 1252; *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1192.) "[A categorical] exemption can be relied on only if a factual evaluation of the agency's proposed activity reveals that it applies." (*Muzzy Ranch Co. v. Solano County Airport Land Use Com.* (2007) 41 Cal.4th 372, 386.) "[T]he agency invoking the [categorical] exemption has the burden of demonstrating" that substantial evidence supports its factual finding that the project fell within the exemption. (*Ibid.*) The City has not met this burden.

First, the ZA Determination is essentially using a Class 1 exemption to legitimize years of illegal actions, which this exemption is not intended to do. Reliance on this categorical exemption and the ZA's willful blindness to noncompliance with requirements to apply to the ZA for discretionary approval of oil well projects incentivizes all oil companies operating in the City to evade application and review for projects in the future. Exempting these unapproved oil well projects from environmental review based on ongoing illegal activities piles illegality on top of illegality. Moreover, it deprives the public and decision makers of information necessary to assess the Project's impacts.

A Class 21 exemption exempts enforcement actions from environmental review. The ZA Determination fails to acknowledge the significant irony in relying on this exemption after identifying noncompliance but imposing no corrective enforcement actions.

Moreover, to the extent this Plan Approval reviewed any of the illegal drilling, redrilling, and converting of wells that has been conducted at the site since 2000, the City is prohibited from relying on a categorical exemption by its own CEQA guidelines in ZA Memo 133. (Attachment 3, ZA Memo 133.)

Exceptions to reliance on a categorical exemption also apply. CEQA prohibits use of a categorical exemption when there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." (CEQA Guidelines § 15300.2, subd. (c).) The ongoing legal violations on the site are unusual circumstances and those unusual circumstances have led to and will continue to lead to adverse air quality, odor, noise and other impacts on the surrounding community.

For all of these reasons, and those to be presented in more detail before the West Los Angeles Area Planning Commission, this appeal seeks to overturn this Plan Approval until: all illegal projects executed at the site are reviewed in accordance with City and State law; the efficacy of mitigation measures and all conditions are properly reviewed in accordance with the Settlement Agreement, Condition 72, and CEQA; and mitigation measures have been imposed to address ongoing impacts and the site is in legal compliance. NASE also reserves the right to provide supplemental evidence and analysis regarding the basis of this appeal.

**Attachments:**

Attachment 1, August 24, 2020 NASE Letter to ZA

Attachment 2, March 23, 2021 NASE Letter

Attachment 3, ZA Memo 133

# ATTACHMENT 1





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August 24, 2020

*Via U.S. Mail and Email ([dylan.sittig@lacity.org](mailto:dylan.sittig@lacity.org), [theodore.iring@lacity.org](mailto:theodore.iring@lacity.org) )*

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c/o Dylan Sittig, City Planning Associate  
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Los Angeles, CA 90012

Re: ZA-1989-17683-PA2; Need for Comprehensive Review of Conditions at the West Pico Drill Site (9101 & 9151 W Pico Blvd, Los Angeles, CA 90035) to Address Numerous Legal Violations and Community Impacts

Dear Mr. Irving,

On behalf of Neighbors for A Safe Environment (NASE), a California nonprofit corporation, we seek to address ongoing and emerging legal violations at the West Pico Drill Site (9101 & 9151 West Pico Blvd, Council District 5) that have led to a failure to provide necessary protections to the community surrounding this drill site. NASE has extensively communicated with the Zoning Administrator (ZA) and documented the bases of its concerns. NASE has also cooperated with the operator of the West Pico Drill Site, the Pacific Coast Energy Company (PCEC), and together with PCEC presented a set of practical solutions to the ZA. We urge the City to implement the reasonable and viable remedies we have previously presented and which are outlined below.

Unfortunately, thus far, the City has failed to act on the remedies NASE has proposed, including NASE's request for a Review of Conditions as per the procedures required by the 2001 Settlement Agreement between NASE, the City and the West Pico Drill Site operator and Condition 78 of the 2000 approval in ZA-1989-17683-PAD. Additionally, despite clear requirements in the City's Municipal Code and ZA Memo 133 for discretionary approval supported by environmental review for any oil well drilling, redrilling or conversion project, the City persists in relying on inapplicable categorical exemptions from the California Environmental Quality Act (CEQA) for approvals. Thus far, the City has also refused to impose

necessary modification of conditions to correct a great many ongoing violations of CEQA and City law by the City, as well as by the current and prior site operators.

NASE has retained our firm to make another effort to convince the City to bring its own practices of land use regulation and petroleum administration into compliance with the 2001 Settlement Agreement, CEQA, and City law. This letter outlines the remedies that would achieve those simple goals and provide necessary protection for the surrounding community. It also gives the City notice that if persistent violations are not rectified, NASE is prepared to seek legal remedies to require compliance with the Settlement Agreement and enforce CEQA and City law. We hope that the City will prefer to open discussion about a reasonable set of remedies.

**A. NASE Urges the City to Adopt Remedies to Address Legal Violations and Impacts to the Community.**

From its initial communication with the Chief ZA in November 2019 up until now, NASE has asked for only modest and eminently viable remedies to alleviate impacts to the community and ensure compliance with the law. NASE has requested that ZA-1989-17683-PA2 be a Review of Conditions, as mandated by the 2001 Settlement Agreement and Condition 78 of the 2000 approval in ZA-1989-17683-PAD. Pursuant to the 2001 Settlement Agreement and Condition 78, the review must:

- examine the West Pico Drill Site’s compliance with conditions of approval;
- assess “neighborhood impacts;” and
- evaluate the “efficacy of mitigation measures,” with modification of the mitigation measures and/or corrective measures “if warranted.”

As set forth herein, this Review of Conditions must be comprehensive, legally compliant and must impose new conditions to address ongoing violations and impacts and correct significant errors in the 2000 approval for the West Pico Drill Site.

**1. The Review of Conditions Must Include a Comprehensive Compliance Inspection.**

The Review of Conditions for the West Pico Drill Site needs to be prefaced by a Comprehensive Compliance Inspection led by the Office of the Petroleum Administrator. This Review of Conditions should follow the example of the one and only Comprehensive Compliance Inspection of an oil drill site ever conducted by the City—the Rancho Park Drill Site inspection conducted in March/April 2017. Only a full inspection by a qualified professional can fully define the scope of the project in the current review. Thus, the inspection is necessary to

inform compliance with conditions of approval, CEQA clearance and, by the same measure, inform the ZA and the public regarding corrective measures that should be required.

## **2. The City Must Comply with ZA Memo 133 in its Review of Conditions By Requiring CEQA Review for the Projects on the Drill Site.**

The Review of Conditions for the West Pico Drill Site must be compliant with CEQA and with the City's own guidelines in ZA Memo 133. It has been established beyond the shadow of a doubt that mitigation measures from the 2000 approval and its associated EIR have failed to protect the community. Odor complaints from the community are well document and are matched by testimony from Council Member Paul Koretz. The Los Angeles Fire Department also imposed citations on the operators of the West Pico Drill Site for leaving petroleum exposed on surfaces in 2017 and 2018.

Multiple conditions from the 2000 approval have been violated, and the City has failed to enforce mitigation measures established through the associated EIR. Conditions 46, 47, 53, 57, 61, 72, and 78 (concerning odors, nuisance, good oil field practices, redrilling, and reviews of conditions) have all been violated. "Mitigating conditions are not mere expressions of hope." (*Lincoln Place Tenants Ass'n v. City of Los Angeles* (2005) 130 Cal.App.4th 1491, 1508.) CEQA requires mitigation measures to be concrete and enforceable. (Pub. Resources Code § 21081.6(b).) From at least 2006 to the present the ZA and the City have failed to monitor or enforce these conditions in violation of CEQA.

In addition to those ongoing CEQA violations by the City, PCEC has stepped forward to do honest research on projects executed at the site since 2000. PCEC agrees with NASE that there have been 25 unapproved projects, including 24 projects on oil wells that require discretionary review by the ZA according to City code, and thus CEQA clearance by State law. ZA Memo 133 directly states that proposals to drill, redrill, or convert wells are ineligible for categorical exemptions under CEQA. The 25 unapproved projects and the obvious need to revise mitigation measures makes reliance on categorical exemptions utterly improper. An Initial Study and an MND are required, at minimum, and that is what NASE requests.

## **3. The Continuing Impacts to the Community Demonstrate a Need to Impose New Conditions Through the Review of Conditions.**

The ongoing impacts to the community surrounding the West Pico Drill Site, and the numerous violations of existing conditions of approval, demonstrate a clear need to impose new conditions through the Review of Conditions process to prevent these problems from continuing.

Based on NASE's familiarity with the impacts to the community and the existing conditions, it is our position (supported by PCEC) that the following new conditions must be adopted:

- Annual Compliance Inspections led or overseen by qualified professional staff in the Office of the Petroleum Administrator.
- Permanent 24/7 Emissions Monitoring, with recorded data that is reported to the Petroleum Administrator, the ZA, and the public on a quarterly basis.
- Incorporation of the requirement of cyclical Five Year Reviews of Conditions from the 2001 Settlement Agreement into the ZA conditions for the site, using the full procedures delineated in Condition 78 of the 2000 approval as per the Settlement Agreement.
- Immediate Emergency and Accident Reporting to the City (to LAFD, the Petroleum Administrator, and the local Council office) for any emergency or accident that must be reported to any Federal, State, or regional agency.

The need for additional conditions may be identified through the comprehensive compliance inspection as well.

#### **4. The Review of Conditions Must Correct Several Errors from the 2000 Approval.**

The Review of Conditions for the West Pico Drill Site must also correct significant errors from the 2000 approval that are inconsistent with City law, the actual record of approvals for the site, and the facts of what actually exists at the site. Those errors include:

- **Delete Condition 72 to Eliminate its Contradiction with LAMC 13.01.H and 13.01.I.** This condition addressing "redrilling" directly contradicts the provisions of Los Angeles Municipal Code sections 13.01.H and 13.01.I. Both of these sections require discretionary approval by the ZA before any oil well is drilled, redrilled, or converted between producer and injection well. The contradiction may have contributed to the rash of unapproved projects at the site since 2000, including the redrilling of 12 wells since 2000 without ZA review, approval, or CEQA clearance. Condition 72's undermining of LAMC 13.01.H and 13.01.I on drilling and redrilling wells may have also contributed to the conversion of 10 wells since 2000 without ZA review, approval, or CEQA clearance per the requirements of ZA Memo 133.

- **Correct the Number of Existing Wells.** The 2000 ZA approval for the West Pico Drill Site incorrectly asserts that 69 wells existed at the site in 2000 and that 69 wells had been approved. Only 59 wells currently exist at the site, and only 57 existed in 2000. Only 57 wells have been approved for the site by the ZA. The ZA's error in 2000 reflected a lack of knowledge about the drill site, a lack of knowledge about the difference between a well cellar and a well, and a failure to cross-check with State records from DOGGR (now CalGEM) even as the ZA wrote conditions requiring that all monitoring agencies need to be consulted. This error may have contributed to the drilling of unapproved wells without CEQA clearance in 2005 and 2010.
- **West Pico Drill Site Includes Both 9101 and 9151 West Pico Blvd as a Single Controlled Drill Site.** The 2000 approval improperly split the single integrated "Controlled Drill Site" into two sites because the operator in 2000 proposed a construction project that would occur on only one half of the site. This error runs afoul of LAMC 13.01, especially 13.01.E.2.b. A Controlled Drill Site is the only kind of conditionally approved land use on which oil can be produced from wells and processed for sale. Only one Controlled Drill Site can exist in Oil Drilling District U-131, and only one has ever been approved: namely the West Pico Drill Site, approved in ZA-1965-17683. The ZA severed the unified Controlled Drill Site into two in 2000, leaving both without a legally sustainable basis for operation. This error also may have contributed to the improper installation of microturbines by obscuring the prohibition against electric generation on the Controlled Drill Site or anywhere in the Oil Drilling District that was written into the 1965 approval to establish the Controlled Drill Site. The 2000 approval, which completely rewrote and supplanted the 1965 approval, also prohibits electric generation at the West Pico Drill Site. By improperly splitting the Controlled Drill Site in two, the 2000 approval left the other half of the Controlled Drill Site without any approval or conditions in place.

**B. These Remedies Are Necessitated by the Ongoing and Potential Legal Violations.**

NASE has chosen to focus on remedies in this communication in a continuing effort to achieve relief for the community and legal compliance by the City. However, the description of the remedies, above, should provide you with an indication of some of the legal violations we may seek to challenge in court, if necessary. These include:

- Ongoing violations of CEQA for the City's failure to enforce mitigation measures from the EIR associated with the 2000 approval for the West Pico Drill Site.
- Failure to require CEQA review for discretionary, and recently discovered, well drilling, re-drilling and conversion projects at the West Pico Drill Site.
- The proposed improper reliance on categorical exemptions for the current review of the West Pico Drill Site.
- Failure to enforce LAMC 13.01.H and 13.01.I by allowing operation of 25 unapproved oil well projects on the West Pico Drill Site.
- Violated LAMC 13.01.E.2.b by dividing the Controlled Drill Site into two sites in 2000.
- Breach of the 2000 Settlement Agreement due to the City's failure to conduct the required five-year reviews for the West Pico Drill Site for at least the last 10 years. No legally required reviews have been held during Councilmember Koretz's term in the City Council until NASE demanded this review in November 2019.
- The current ZA review process also appears to be running afoul of the requirements of the 2000 Settlement Agreement, CEQA and City regulations due to its improperly narrow focus and the ZA's stated position that the process would not result in the modification of any conditions.

## **Conclusion**

The problems at the West Pico Drill Site are not isolated incidents and they are not unknown to City officials. The City has been negligent in its land use-based regulation of oil drill sites, failing to protect the communities impacted by these drill sites. It has never performed regular inspections to monitor for compliance with ZA-assigned conditions, and so mitigation measures routinely are not followed and not enforced. Similarly, the City continues to engage in a pattern and practice of handing out categorical exemptions from CEQA review for oil projects, contrary to the requirements of CEQA, ZA Memo 133 and LAMC 13.01.H and 13.01.I. Taken together, this pattern of negligence gives a green light to unapproved projects and turns a blind eye to poor work practices, all at the expense of communities the City is supposed to protect.

Most confounding here is the City's refusal to address environmental, health, and safety protections when an operating oil company comes forward to join with the community in asking the City to implement CEQA properly and to do inspections, require emissions monitoring, and perform serious reviews. This situation must be remedied. It is NASE's hope that the current ZA process can be revised to begin to address these ongoing issues, but if not, we are prepared to pursue available legal options.

Thank you for your time and consideration in this matter.

Sincerely,



Amy Minter

cc:

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March 23, 2021

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Re: PRA Request R006330-120320 for West Pico Drill Site;  
Retention of Oil Permitting Records; and Permit Inspection  
Fees

Dear Mr. Uyemura, Mr. Terrazas and Ms. Crowley,

On behalf of Neighbors for A Safe Environment (NASE), a California nonprofit corporation seeking to protect neighborhoods from the impacts of oil drilling, we seek to address a partially outstanding Public Records Act (PRA) request from Professor Michael Salman regarding documents relating to permits for oil wells within the City of Los Angeles. We also seek to address the City's record retention policies for these and other related documents, as well as a lack of monitoring of oil drilling activities demonstrated by documents and other information that Professor Salman has received.

### **Outstanding Public Records Act Request**

Professor Salman submitted PRA Request R006330 on December 3, 2020, requesting records pertaining to Los Angeles Fire Departments (LAFD) oil well operating permits for the wells at the West Pico Drill Site that are processed by the Office of Finance for the years spanning 2000 to 2020. This request was submitted to the Office of Finance after Professor Salman spent approximately two months trying to obtain these records from the LAFD. After several requests to LAFD, each supported by additional identifying information to help staff locate the records, LAFD personnel told Professor Salman that the Office of Finance was “the custodian for operational permits” and “the Custodian of Records” for those permits.

The Office of Finance has provided Professor Salman with pdf copies of operating permits for the years 2005-2020. We understand that the Office of Finance digitized records from the start date of 2005, and that paper records for earlier permits may not exist in the Office of Finance. We do not know whether copies of these earlier permits exist in the files of the LAFD, but to the extent they do, we request that any such records held by the LAFD please be produced in response to the several PRA requests that have been filed by Professor Salman.

While the Office of Finance has provided copies of operating permits identified above, it has not yet provided Professor Salman with copies of any communications with LAFD or LADBS or City Planning. It is our understanding that Finance is working with other City information technology agencies to determine if there are electronic records it can recover. If the Office of Finance cannot provide copies of these requested documents from its own files, then we request that the Office of Finance, as the Custodian of Records, please obtain copies from the LAFD Harbor Industrial Unit and from the LADBS and/or City Planning, where these communications originated.

### **Record Retention for Oil Well Permitting Documents**

Professor Salman has received conflicting information from the Office of Finance and LAFD regarding the record retention policies of these departments for documents relating to oil well permits. PRA Request R006330 included a request for all applications, authorizations/rejections communicated by the LAFD and/or LADBS and/or Department of City Planning, communications with the LAFD and/or LADBS and/or City Planning,

communications with the operating oil company, and the permits themselves. There have been inconsistencies in responses to Professor Salman regarding how long the Office of Finance and LAFD retain these documents.

Given that it is unclear how long these documents will be retained under existing department procedures, this letter serves to put the Office of Finance on notice that these records must be retained due to the potential for litigation by NASE addressing oil well operating permits at the West Pico Drill Site. All records (paper, electronic, and on other media) pertaining to LAFD oil well operating permits for the wells at the West Pico Drill Site that are processed by the Office of Finance – including applications, authorizations/rejections communicated by the LAFD and/or LADBS and/or Department of City Planning, communications with the LAFD and/or LADBS and/or City Planning, communications with the operating oil company, and the permits themselves should be retained.

The Zoning Administrator, City Attorney, Petroleum Administrator and other City officials and staff have been advised of the potential for litigation concerning the City's actions and negligence at the West Pico Drill Site (9101 & 9151 W Pico Blvd, Los Angeles, CA 90035) and other similar sites where there has been a pattern and practice of violating City law and CEQA. Please see the attached letter to those City officials and staff, sent on August 24, 2020, in connection with a still open Planning Department case, number ZA-1989-17683-PA2. (Attachment 1.)

Below we set forth additional issues of concern by NASE regarding the City of Los Angeles's failure to monitor, implement, and enforce its own laws governing the operation of oil wells and oil drill sites, as well as the City's violation of the California Environmental Quality Act (CEQA), that are the subjects of potential litigation concerning the West Pico Drill Site and other drill sites within the City.

### **Renewal of Annual Operating Permits Despite Legal Violations.**

LAFD Annual Operating Permits are required for oil wells. (Los Angeles Municipal Code (LAMC) 57.106.6.1, LAMC 57.106.6.3.2.) These Annual Operating Permits are conditioned upon an agreement "to comply with all regulations, laws, or ordinances pertaining thereto." (LAMC 57.105.3.9.1.2.) One such regulation is that: "No person shall drill, deepen or maintain an oil well or convert an oil well from one class to

the other and no permits shall be issued for that use, until a determination has been made by the Zoning Administrator or Area Planning Commission pursuant to the procedure prescribed in Subsection H of this section.” (LAMC 13.01.I, emphasis added.)

There are currently 57 oil wells at the West Pico Drill Site. As the attached letter to the Zoning Administrator explains, since 2000 there have been 2 new wells drilled, 12 existing wells re-drilled, and 10 wells converted at the West Pico Drill Site, all without application to the Zoning Administrator and therefore without Zoning Administrator approval required by the LAMC and without environmental clearance required by CEQA. All of these wells have been granted LAFD operating permits and annual renewals, despite this failure to comply with City regulations and State law.

Non-compliance with City regulations at oil drill sites is a Citywide problem. For example, the Banning Semi-Controlled Drill Site in Wilmington, established in 2006, has approximately 220 wells and is one of the most troubled sites in the City. There are lengthy records of violations logged by DOGGR/CalGEM and SCAQMD, many of which also violate City law and Zoning Administrator assigned conditions restricting odors, fumes, noise and other nuisances. There have been projects executed without required Zoning Administrator approval, in violation of City regulations. The operator of this site applied for a slew of DOGGR permits to drill new wells in 2019, telling DOGGR that its 2006 Zoning Administrator approval and MND provided local approval and CEQA clearance, failing to disclose that the 2006 approval for drilling new wells was limited to a term of 12 years and expired in August 2018. Despite this, we believe that LAFD Annual Operating Permits for the Banning site in Wilmington are renewed year after year, in violation of the requirement for operator compliance “with all regulations, laws, or ordinances.”

In addition to requiring operator compliance “with all regulations, laws, or ordinances,” the LAMC also declares that: “Notwithstanding any other provisions of this Code or any other ordinance of the City of Los Angeles, no permit or license shall be issued in violation of any provisions of this Code or any other ordinance of the City of Los Angeles; if any permit or license is issued in violation of any provision of this Code or any other ordinance of the City of Los Angeles the same shall be void. Any permit or license issued, which purports to authorize the doing of any act prohibited by any other provision of this Code or any other ordinance of the City of Los Angeles, shall be void.” (LAMC 11.02, emphasis added; LAMC 11.01 [“‘Shall’ is mandatory”].) To the extent

Annual Operating Permits were issued for unapproved or unlawfully approved projects or were issued or renewed despite violations of City regulations, they must be considered void.

### **Failure to Expend Permitting Renewal Fees for Intended Purpose**

The violations of City and State law referenced above and the long history of non-compliance by the operators of the West Pico Drill Site and Banning Semi-Controlled Drill Site in Wilmington is traceable to the City's failure and refusal to do general compliance inspections and enforce its own laws.

The LAFD Annual Operating Permits are issued after a fee is paid, and a fee is required each year for the renewal of the LAFD Annual Operating Permits. These fees were established and are imposed by the City to cover the cost of annual compliance inspections for each drill site in the City. In fiscal year 2020-21, the permit fee was \$1,290. For next year, the LAFD has requested and the City Council has agreed to increase the fee to \$1,670. This is a cost per permit, and each oil well requires its own permit. The permit cost is calculated to pay for five "inspector hours" per oil well. (See Report from Board of Fire Commissioners," November 18, 2020 [https://clkrep.lacity.org/onlinedocs/2020/20-1501\\_rpt\\_FC\\_11-18-2020.pdf](https://clkrep.lacity.org/onlinedocs/2020/20-1501_rpt_FC_11-18-2020.pdf), incorporated by reference.) The permit fee is expressly earmarked to pay for oil well inspections, and the permit is conditioned on compliance "with all regulations, laws, or ordinances."

These permitting fees result in significant revenue for the LAFD. There are approximately 1,100 oil wells in the City, so in 2020-21 more than \$1.4 million was collected in operating permit fees. With the recently approved fee increase, next year the City will collect \$1.8 million to pay for inspections. The West Pico Drill Site has 57 oil wells. In fiscal year 2020-21, \$73,530 was collected in permit fees at this one drill site to cover the cost of compliance inspections. The Banning Semi-Controlled Drill Site in Wilmington has approximately 220 wells. In 2020-21, \$283,000 of fees earmarked for LAFD compliance inspections of the wells was collected for the operating permits at this site.


Despite collecting significant annual renewal fees to cover the cost of compliance inspections for each oil well in the City, Professor Salman has been informed by LAFD that compliance inspections of each site have no connection to permit renewal. These renewals are approved automatically upon payment of the fee without any reference to

what might be found during inspections, as a matter of standard operating procedure. Indeed, LAFD operating permits have been renewed when there were open and unresolved Notices of Violation from the LAFD itself. Additionally, it is our understanding that the LAFD inspections that are performed look only for Fire Code violations and do not crosscheck approvals from the Zoning Administrator nor permitting and Notices of Violation from any other agency. Thus, when renewing the permits, LAFD has not verified operator compliance “with all regulations, laws, or ordinances.”

Failing to expend permitting fees in the manner they were intended, to fund annual compliance inspections, appears to be a major contributing factor to the numerous drill site violations noted above and in the attached letter. Allowing non-compliance with City law by failing to inspect for non-compliance appears to be a continuing pattern and practice. This failure to perform fully-funded annual compliance inspections is particularly alarming given the potential dangers presented by poorly run and poorly regulated oil well operations that have been a subject of major concern in the City for years.

### **Conclusion**

We look forward to your prompt response regarding the outstanding Public Records Act request by Professor Salman. NASE also urges you to carefully consider the legal issues and community concerns we have outlined above. Thank you for your time and consideration in this matter.

Sincerely,  
  
Amy Minter

Enclosure

cc:

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Office of Finance  
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# ATTACHMENT 1





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August 24, 2020

*Via U.S. Mail and Email ([dylan.sittig@lacity.org](mailto:dylan.sittig@lacity.org), [theodore.iring@lacity.org](mailto:theodore.iring@lacity.org))*

Associate Zoning Administrator  
Theodore Irving  
c/o Dylan Sittig, City Planning Associate  
200 N. Spring St, Room 720  
Los Angeles, CA 90012

Re: ZA-1989-17683-PA2; Need for Comprehensive Review of Conditions at the West Pico Drill Site (9101 & 9151 W Pico Blvd, Los Angeles, CA 90035) to Address Numerous Legal Violations and Community Impacts

Dear Mr. Irving,

On behalf of Neighbors for A Safe Environment (NASE), a California nonprofit corporation, we seek to address ongoing and emerging legal violations at the West Pico Drill Site (9101 & 9151 West Pico Blvd, Council District 5) that have led to a failure to provide necessary protections to the community surrounding this drill site. NASE has extensively communicated with the Zoning Administrator (ZA) and documented the bases of its concerns. NASE has also cooperated with the operator of the West Pico Drill Site, the Pacific Coast Energy Company (PCEC), and together with PCEC presented a set of practical solutions to the ZA. We urge the City to implement the reasonable and viable remedies we have previously presented and which are outlined below.

Unfortunately, thus far, the City has failed to act on the remedies NASE has proposed, including NASE's request for a Review of Conditions as per the procedures required by the 2001 Settlement Agreement between NASE, the City and the West Pico Drill Site operator and Condition 78 of the 2000 approval in ZA-1989-17683-PAD. Additionally, despite clear requirements in the City's Municipal Code and ZA Memo 133 for discretionary approval supported by environmental review for any oil well drilling, redrilling or conversion project, the City persists in relying on inapplicable categorical exemptions from the California Environmental Quality Act (CEQA) for approvals. Thus far, the City has also refused to impose

necessary modification of conditions to correct a great many ongoing violations of CEQA and City law by the City, as well as by the current and prior site operators.

NASE has retained our firm to make another effort to convince the City to bring its own practices of land use regulation and petroleum administration into compliance with the 2001 Settlement Agreement, CEQA, and City law. This letter outlines the remedies that would achieve those simple goals and provide necessary protection for the surrounding community. It also gives the City notice that if persistent violations are not rectified, NASE is prepared to seek legal remedies to require compliance with the Settlement Agreement and enforce CEQA and City law. We hope that the City will prefer to open discussion about a reasonable set of remedies.

**A. NASE Urges the City to Adopt Remedies to Address Legal Violations and Impacts to the Community.**

From its initial communication with the Chief ZA in November 2019 up until now, NASE has asked for only modest and eminently viable remedies to alleviate impacts to the community and ensure compliance with the law. NASE has requested that ZA-1989-17683-PA2 be a Review of Conditions, as mandated by the 2001 Settlement Agreement and Condition 78 of the 2000 approval in ZA-1989-17683-PAD. Pursuant to the 2001 Settlement Agreement and Condition 78, the review must:

- examine the West Pico Drill Site’s compliance with conditions of approval;
- assess “neighborhood impacts;” and
- evaluate the “efficacy of mitigation measures,” with modification of the mitigation measures and/or corrective measures “if warranted.”

As set forth herein, this Review of Conditions must be comprehensive, legally compliant and must impose new conditions to address ongoing violations and impacts and correct significant errors in the 2000 approval for the West Pico Drill Site.

**1. The Review of Conditions Must Include a Comprehensive Compliance Inspection.**

The Review of Conditions for the West Pico Drill Site needs to be prefaced by a Comprehensive Compliance Inspection led by the Office of the Petroleum Administrator. This Review of Conditions should follow the example of the one and only Comprehensive Compliance Inspection of an oil drill site ever conducted by the City—the Rancho Park Drill Site inspection conducted in March/April 2017. Only a full inspection by a qualified professional can fully define the scope of the project in the current review. Thus, the inspection is necessary to

inform compliance with conditions of approval, CEQA clearance and, by the same measure, inform the ZA and the public regarding corrective measures that should be required.

## **2. The City Must Comply with ZA Memo 133 in its Review of Conditions By Requiring CEQA Review for the Projects on the Drill Site.**

The Review of Conditions for the West Pico Drill Site must be compliant with CEQA and with the City's own guidelines in ZA Memo 133. It has been established beyond the shadow of a doubt that mitigation measures from the 2000 approval and its associated EIR have failed to protect the community. Odor complaints from the community are well document and are matched by testimony from Council Member Paul Koretz. The Los Angeles Fire Department also imposed citations on the operators of the West Pico Drill Site for leaving petroleum exposed on surfaces in 2017 and 2018.

Multiple conditions from the 2000 approval have been violated, and the City has failed to enforce mitigation measures established through the associated EIR. Conditions 46, 47, 53, 57, 61, 72, and 78 (concerning odors, nuisance, good oil field practices, redrilling, and reviews of conditions) have all been violated. "Mitigating conditions are not mere expressions of hope." (*Lincoln Place Tenants Ass'n v. City of Los Angeles* (2005) 130 Cal.App.4th 1491, 1508.) CEQA requires mitigation measures to be concrete and enforceable. (Pub. Resources Code § 21081.6(b).) From at least 2006 to the present the ZA and the City have failed to monitor or enforce these conditions in violation of CEQA.

In addition to those ongoing CEQA violations by the City, PCEC has stepped forward to do honest research on projects executed at the site since 2000. PCEC agrees with NASE that there have been 25 unapproved projects, including 24 projects on oil wells that require discretionary review by the ZA according to City code, and thus CEQA clearance by State law. ZA Memo 133 directly states that proposals to drill, redrill, or convert wells are ineligible for categorical exemptions under CEQA. The 25 unapproved projects and the obvious need to revise mitigation measures makes reliance on categorical exemptions utterly improper. An Initial Study and an MND are required, at minimum, and that is what NASE requests.

## **3. The Continuing Impacts to the Community Demonstrate a Need to Impose New Conditions Through the Review of Conditions.**

The ongoing impacts to the community surrounding the West Pico Drill Site, and the numerous violations of existing conditions of approval, demonstrate a clear need to impose new conditions through the Review of Conditions process to prevent these problems from continuing.

Based on NASE's familiarity with the impacts to the community and the existing conditions, it is our position (supported by PCEC) that the following new conditions must be adopted:

- Annual Compliance Inspections led or overseen by qualified professional staff in the Office of the Petroleum Administrator.
- Permanent 24/7 Emissions Monitoring, with recorded data that is reported to the Petroleum Administrator, the ZA, and the public on a quarterly basis.
- Incorporation of the requirement of cyclical Five Year Reviews of Conditions from the 2001 Settlement Agreement into the ZA conditions for the site, using the full procedures delineated in Condition 78 of the 2000 approval as per the Settlement Agreement.
- Immediate Emergency and Accident Reporting to the City (to LAFD, the Petroleum Administrator, and the local Council office) for any emergency or accident that must be reported to any Federal, State, or regional agency.

The need for additional conditions may be identified through the comprehensive compliance inspection as well.

#### **4. The Review of Conditions Must Correct Several Errors from the 2000 Approval.**

The Review of Conditions for the West Pico Drill Site must also correct significant errors from the 2000 approval that are inconsistent with City law, the actual record of approvals for the site, and the facts of what actually exists at the site. Those errors include:

- **Delete Condition 72 to Eliminate its Contradiction with LAMC 13.01.H and 13.01.I.** This condition addressing "redrilling" directly contradicts the provisions of Los Angeles Municipal Code sections 13.01.H and 13.01.I. Both of these sections require discretionary approval by the ZA before any oil well is drilled, redrilled, or converted between producer and injection well. The contradiction may have contributed to the rash of unapproved projects at the site since 2000, including the redrilling of 12 wells since 2000 without ZA review, approval, or CEQA clearance. Condition 72's undermining of LAMC 13.01.H and 13.01.I on drilling and redrilling wells may have also contributed to the conversion of 10 wells since 2000 without ZA review, approval, or CEQA clearance per the requirements of ZA Memo 133.

- **Correct the Number of Existing Wells.** The 2000 ZA approval for the West Pico Drill Site incorrectly asserts that 69 wells existed at the site in 2000 and that 69 wells had been approved. Only 59 wells currently exist at the site, and only 57 existed in 2000. Only 57 wells have been approved for the site by the ZA. The ZA's error in 2000 reflected a lack of knowledge about the drill site, a lack of knowledge about the difference between a well cellar and a well, and a failure to cross-check with State records from DOGGR (now CalGEM) even as the ZA wrote conditions requiring that all monitoring agencies need to be consulted. This error may have contributed to the drilling of unapproved wells without CEQA clearance in 2005 and 2010.
- **West Pico Drill Site Includes Both 9101 and 9151 West Pico Blvd as a Single Controlled Drill Site.** The 2000 approval improperly split the single integrated "Controlled Drill Site" into two sites because the operator in 2000 proposed a construction project that would occur on only one half of the site. This error runs afoul of LAMC 13.01, especially 13.01.E.2.b. A Controlled Drill Site is the only kind of conditionally approved land use on which oil can be produced from wells and processed for sale. Only one Controlled Drill Site can exist in Oil Drilling District U-131, and only one has ever been approved: namely the West Pico Drill Site, approved in ZA-1965-17683. The ZA severed the unified Controlled Drill Site into two in 2000, leaving both without a legally sustainable basis for operation. This error also may have contributed to the improper installation of microturbines by obscuring the prohibition against electric generation on the Controlled Drill Site or anywhere in the Oil Drilling District that was written into the 1965 approval to establish the Controlled Drill Site. The 2000 approval, which completely rewrote and supplanted the 1965 approval, also prohibits electric generation at the West Pico Drill Site. By improperly splitting the Controlled Drill Site in two, the 2000 approval left the other half of the Controlled Drill Site without any approval or conditions in place.

**B. These Remedies Are Necessitated by the Ongoing and Potential Legal Violations.**

NASE has chosen to focus on remedies in this communication in a continuing effort to achieve relief for the community and legal compliance by the City. However, the description of the remedies, above, should provide you with an indication of some of the legal violations we may seek to challenge in court, if necessary. These include:

- Ongoing violations of CEQA for the City's failure to enforce mitigation measures from the EIR associated with the 2000 approval for the West Pico Drill Site.
- Failure to require CEQA review for discretionary, and recently discovered, well drilling, re-drilling and conversion projects at the West Pico Drill Site.
- The proposed improper reliance on categorical exemptions for the current review of the West Pico Drill Site.
- Failure to enforce LAMC 13.01.H and 13.01.I by allowing operation of 25 unapproved oil well projects on the West Pico Drill Site.
- Violated LAMC 13.01.E.2.b by dividing the Controlled Drill Site into two sites in 2000.
- Breach of the 2000 Settlement Agreement due to the City's failure to conduct the required five-year reviews for the West Pico Drill Site for at least the last 10 years. No legally required reviews have been held during Councilmember Koretz's term in the City Council until NASE demanded this review in November 2019.
- The current ZA review process also appears to be running afoul of the requirements of the 2000 Settlement Agreement, CEQA and City regulations due to its improperly narrow focus and the ZA's stated position that the process would not result in the modification of any conditions.

## **Conclusion**

The problems at the West Pico Drill Site are not isolated incidents and they are not unknown to City officials. The City has been negligent in its land use-based regulation of oil drill sites, failing to protect the communities impacted by these drill sites. It has never performed regular inspections to monitor for compliance with ZA-assigned conditions, and so mitigation measures routinely are not followed and not enforced. Similarly, the City continues to engage in a pattern and practice of handing out categorical exemptions from CEQA review for oil projects, contrary to the requirements of CEQA, ZA Memo 133 and LAMC 13.01.H and 13.01.I. Taken together, this pattern of negligence gives a green light to unapproved projects and turns a blind eye to poor work practices, all at the expense of communities the City is supposed to protect.

Most confounding here is the City's refusal to address environmental, health, and safety protections when an operating oil company comes forward to join with the community in asking the City to implement CEQA properly and to do inspections, require emissions monitoring, and perform serious reviews. This situation must be remedied. It is NASE's hope that the current ZA process can be revised to begin to address these ongoing issues, but if not, we are prepared to pursue available legal options.

Thank you for your time and consideration in this matter.

Sincerely,



Amy Minter

cc:

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# ATTACHMENT 3





## OFFICE OF ZONING ADMINISTRATION

City Hall 200 N. Spring Street, Room 763 Los Angeles, CA 90012

### OFFICE OF ZONING ADMINISTRATION

#### MEMORANDUM

ZA MEMORANDUM NO. 133

September 19, 2016

TO: Office of Zoning Administration  
Development Services Centers  
Department of Building and Safety  
Department of Public Works – Bureau of Engineering  
Los Angeles Fire Department  
Los Angeles Department of Water and Power

FROM: Linn K. Wyatt  
Chief Zoning Administrator

SUBJECT: **APPLICATION AND PROCESSING REQUIREMENTS, INCLUDING CEQA REVIEW, FOR OIL AND GAS APPROVALS PURSUANT TO LOS ANGELES MUNICIPAL CODE SECTION 13.01-H.**

This Memorandum supersedes ZA Memorandum No. 94, dated December 12, 1994, and ZA Memorandum No. 94A, dated March 24, 2000.

This Memorandum is intended to establish a comprehensive set of procedures and policies for the acceptance and processing of applications for oil drilling approvals pursuant to Los Angeles Municipal Code (LAMC) Section 13.01-H and to establish City guidelines for the California Environmental Quality Act (CEQA) review of Section 13.01-H oil drilling applications.

#### **I. Background**

The LAMC requires a formal application and a filing fee in conjunction with a request for a determination of conditions for the conduct of oil drilling pursuant to LAMC Section 13.01-H. Other than the requirement for an application and payment of a filing fee, the LAMC contains no express procedural requirements for the determination of conditions under Section 13.01-H for an original approval or for a modification or clarification to a previously approved determination of conditions.

*Z.A. Memoranda Nos. 94 and 94A*

Historically, as described in ZA Memoranda Nos. 94 and 94A, applicants were permitted to apply for modifications to the original conditions for oil drilling approvals through the use of a more limited review process (similar to a plan approval under LAMC Section 12.24-L and M).

The use of the process outlined in Memoranda Nos. 94 and 94A is no longer permitted for any Section 13.01-H application, including those submitted as a determination of conditions, modification of condition, request for clarification, or related approval. All applicants seeking an approval under Section 13.01-H must follow the application procedures outlined in this Memorandum. All applications seeking any approval under Section 13.01-H will be processed by the City, including the Office of the Zoning Administrator, pursuant to this Memorandum.

*Existing Approvals with Modification Procedures*

In addition to the above historical process, there are existing active approvals which include conditions establishing a process for subsequent modifications or condition review. An example of one condition reads substantially as follows:

*Drilling operations for the first X wells identified in the grant clause of the instant determination shall be completed within 36 months from the effective date of this determination. The drilling for the following X wells as hereby authorized shall be subject to a review of plans by the Zoning Administrator, without a public hearing, for the purpose of updating the record with the well identification and path.*

Another condition reads substantially as follows:

*Review of Conditions. Two years following completion of construction... the applicant shall submit a Plan Approval application for reviewing the effectiveness of these conditions. ... The applicant shall submit a 500-foot radius map with accompanying labels for owners and occupants. The Zoning Administrator may set the matter for public hearing if warranted.*

Both of these conditions include processes that are inconsistent with the processes established in this Memorandum. The first condition is inconsistent because it allows for modifications without a public hearing. The second condition is inconsistent because it allows the Zoning Administrator to not set a public hearing for a Plan Approval and implies the notice radius is 500 feet.

To the extent that any existing condition or grant in an existing approval gives the Zoning Administrator discretion in the process to be followed for a modification or condition review, the procedures in this Memorandum shall be followed, in accordance with the findings in Section II and the purpose statements in Section III.

To the extent that any existing condition or grant in an existing approval mandates a procedure that is inconsistent with this Memorandum, the Zoning Administrator shall consider whether a Plan Approval process shall be initiated by the City to revise any conditions to protect the public health, safety and welfare, including any condition establishing a process inconsistent with the purpose of this Memorandum. On the other hand, if an existing condition or provision is not modified through a Plan Approval, then the process outlined in the existing approval shall be followed.

Nothing in this Memorandum is intended to expand the authority the City has to initiate a Plan Approval.

## **II. Findings**

In issuing this Memorandum, the Zoning Administrator makes the following findings:

- A. In adopting the California Environmental Quality Act<sup>1</sup>, the Legislature declared:

It is the intent of the Legislature that all agencies of the state government which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian. (Public Resources Code Section 21000(g).

- B. The CEQA Guidelines provide that CEQA's basic goal of protecting the environment has two purposes:

- (1) avoiding, reducing, or preventing environmental damage where possible by requiring alternatives or mitigation measures; and
- (2) providing information to decision-makers and the public concerning the environmental effects of proposed and approved actions. (CEQA guidelines 15002(a).)

- C. One oft-repeated purpose of the CEQA Guidelines is to provide for public participation, including as set forth in Section 15201:

Public participation is an essential part of the CEQA process. Each public agency should include provisions in its CEQA procedure for wide public involvement, formal and informal, consistent with its existing activities and procedures, in order to receive and evaluate public reactions to environmental issue related to the agency's activities. Such procedure should include, wherever possible,

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<sup>1</sup> Public Resources Code, Sections 21000, *et seq.*

making environmental information available in electronic format on the Internet, on the web site maintained and utilized by the public agency.

- D. Although CEQA does not require formal hearings at any state of the environmental review process, section 15202 provides that:

...

- (b) If an agency provides a public hearing on its decision to carry out or approve a project, the agency should include environmental review as one of the subjects for the hearing.
- (c) A public hearing on the environmental impact of a project should usually be held when the lead agency determines it would facilitate the purposes and goals of CEQA to do so. The hearing may be held in conjunction with and as part of normal planning activities.

...

- (f) A public agency may include, in its implementing procedures, procedures for the conducting of public hearings pursuant to this section. The procedures may adopt existing notice and hearing requirements of the public agency for regularly conducted legislative, planning, and other activities.

- E. Applications for oil and gas projects under LAMC Section 13.01-H have the potential to create unique risks and hazards to have the potential for significant and immediate impacts on the health, safety, and welfare of the residents in and around the project site through increased noise, odor, dust, traffic, and other disturbances, as well as the potential to significantly impact the City's air, water, soil, biological quality, geology, water, stormwater and wastewater infrastructure, transportation, emergency response plans and other aesthetic values and community resources.
- F. People living and working within the land use and environmental impact range of oil and gas operations and activities have a substantial interest in participating in a public hearing on 13.01-H approvals.
- G. Section 13.01-H provides authority for the Zoning Administrator to condition, approve or deny a Section 13.01-H application under the City's police powers to protect public health, safety and welfare and to issue and implement reasonable procedures to process Section 13.01-H applications consistent with the requirements for due process.

### **III. Purpose and Intent of Memorandum**

This Memorandum is issued with the following intent:

- Ensure that the City complies with all legal requirements of CEQA in approving Section 13.01-H projects;
- Provide all parties that may be impacted by a project subject to a Section 13.01-H application an opportunity to participate in a public hearing;
- Meet the intent of CEQA in the review and approval of CEQA findings and determinations, to provide adequate public participation;
- Ensure that staff has time to adequately consider and respond to, if necessary, evidence submitted on a Section 13.01-H application and its related environmental findings (including the CEQA Guideline Section 15300.2 exceptions) prior to the issuance of any decision;
- Provide decision-makers and City Staff, and the public with the information and data needed for adequate decision-making under CEQA and Section 13.01-H;
- Ensure that Section 13.01-H applications are processed efficiently;
- Ensure that applicants, staff, and the public can rely on a consistent practice in reviewing Section 13.01-H applications;
- Provide for transparent disclosure and participation process; and
- Ensure that the city's processing and approvals pursuant to 13.01-H will not result in adverse effects to public health, safety, and welfare

#### **IV. Application Requirements**

The original case number shall be used for the plan approval request. Before an application may be deemed complete, the applicant must submit:

- 1) A completed "Land Use Application For Oil & Gas Project Conditional Approval" (CP Form CP-7834) with all required attachments, as specified in the application and the Instructions (CP Form CP-7833.)
- 2) A completed Environmental Assessment Form for Oil and Gas Projects (EAF-O, CP-7832), with all required attachments.
- 3) The filing fee pursuant to LAMC Section 19.01.

#### **V. Processing Section 13.01-H Applications**

##### **A. CEQA Review**

The following review procedures are intended to provide guidelines to implement CEQA on all Section 13.01-H applications. Nothing in this Memorandum or the guidelines provided herein are intended to conflict with CEQA. To the extent that these guidelines are silent or ambiguous, the Zoning Administrator shall fall back on the requirements and intent of CEQA. To the extent that these guidelines impermissibly conflict with CEQA, the provisions of CEQA control. Nothing in these Guidelines is intended to conflict with the Permit Streamlining Act, Gov't Code Section Government Code § 65920 et seq.

## **1. Preliminary Review for Exemptions**

No categorical exemption forms will be processed for consideration or issued at the Planning Department Development Services. The applicant shall submit a complete EAF-O form with their application, which shall be reviewed by the Zoning Administrator. The Zoning Administrator will conduct a preliminary review to determine whether the application qualifies for an exemption from environmental review pursuant to CEQA. The Zoning Administrator may require the applicant to provide additional supporting materials from the applicant to support the use of a categorical exemption.

An application to drill, re-drill, deepen, or convert a well is not eligible for a categorical exemption and shall require an Initial Study or an EIR as described in section V.A.2. All other projects may be reviewed to determine if the project is exempt under any applicable categorical exemption in CEQA Guidelines Section 15300-15333 or any City Guidelines (adopted pursuant to CEQA). If a project is determined not to fall into any categorical exemption based on the project description, an Initial Study shall be prepared pursuant to section V.A.2. If the project falls within a categorical exemption, the Zoning Administrator shall determine if, based upon the whole of the record, any exception to any exemption under CEQA Guidelines, Section 15300.2, applies to the project, including, but not limited to the following:

Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

If the project is determined to be categorically exempt (CE) and no exceptions apply, the Zoning Administrator shall do all of the following:

- Give the public hearing notice required in section V.B., including a notice of an intent to adopt a categorical exemption to all property owners and occupants within a 1,500-foot radius of the project site's outer boundary, and provide for a 35-day comment period on the project, prior to approval. The public hearing may be held during the comment period. The hearing notice (with the notice of intent to adopt a CE) must be provided in English and Spanish.
- If after the 35-day comment period, or any time prior to making a decision on the project, the Zoning Administrator determines that substantial evidence does not support the use of the exemption, including from the existence of an exception in Section 15300.2, the Zoning Administrator shall require an Initial Study to be prepared consistent with the procedures outlined herein.

- Alternatively, if the Zoning Administrator finds after the 35-day comment period, or any time prior to making a decision on the project, that additional information and analysis is required to determine if the categorical exemption is supported with substantial evidence, and the applicant desires the City to use a categorical exemption rather than a prepare an Initial Study, the Zoning Administrator may require the applicant to submit additional information or documents and/or technical studies or reports, including requiring the applicant to hire independent consultants to prepare any necessary technical studies or reports or peer review any prepared studies or reports. If after reviewing any additional documents, reports or studies, required by the Zoning Administrator, it is determined that a categorical exemption is not supported by substantial evidence, an Initial Study shall be prepared.
- If the use of the categorical exemption is supported by substantial evidence in the record at the time of the decision, the Zoning Administrator shall ensure the record contains a memorandum or narrative substantiating the use of the categorical exemption, including explaining how substantial evidence in the administrative record supports the use of the exemption, and that the Zoning Administrator considered whether any exception to an exemption under CEQA Guidelines Section 15300.2 is applicable, including providing where necessary an explanation or evidence to demonstrate that any comments submitted on the intent to adopt the Categorical Exemption do not provide substantial evidence that an exception applies or the exemption does not apply.

## ***2. Initial Study Determination***

For any project that does not qualify for a categorical exemption, including any project to drill, redrill, or convert a well, an Initial Study must be completed.

Nothing in this subsection is intended to require the preparation of an Initial Study, when a preliminary review of the project demonstrates an EIR is clearly required, pursuant to CEQA Guidelines Section 15060(d).

The Initial Study must be prepared by an environmental consultant with the qualifications and experience required in this Memorandum. The Zoning Administrator may require the applicant to provide any additional documents, information or technical studies or reports necessary to complete the environmental review of the project, including requiring the applicant to hire an independent contractor to prepare or peer review technical studies or reports. The Initial Study shall comply with Section 15063 of the CEQA Guidelines and be prepared using Appendix G to the CEQA Guidelines and any City issued procedures or guidelines.

If the Initial Study shows both of the following Health Impact Assessment Criteria apply, the Zoning Administrator shall also require a Health Impact Assessment (HIA), as defined in Subsection V.A.5., before preparing the environmental clearance for the project:

- one or more of the air or hazards impact thresholds on Appendix G identified as III(a), III(b), III(d), VIII(a),VIII(b), VIII(c),or VIII(g) are found to be “less than significant impact with mitigation”; and
- the project is within 1,500 feet of any sensitive receptors, as defined by SCAQMD.

After the Initial Study is completed (and the HIA, if necessary), the Zoning Administrator will determine whether the proposed environmental clearance for the proposed project is a Negative Declaration (ND) or a Mitigated Negative Declaration (MND) or whether an EIR is required pursuant to sections 15065 or 15064 of the CEQA Guidelines.

If the Initial Study demonstrates that all of the impact areas will have no impact or less than significant impact, the Zoning Administrator may prepare a ND. (Note: if the Health Impact Assessment Criteria apply, a ND could not be prepared because the Initial Study identified significant impact requiring mitigation.)

If the Initial Study (and the HIA, if required) demonstrates that the project will not result in a significant impact with mitigation imposed, the Zoning Administrator may prepare a MND.

If the Initial Study (and the HIA, if required) demonstrates that the project may result in a significant impact to the environment that cannot be mitigated to less than significant, the Zoning Administrator shall require the preparation of an EIR. In determining whether an EIR is required, the Zoning Administrator shall review and consider all of the following CEQA Guidelines, without limitation to any other applicable requirements of CEQA:

- 15064 (guidelines on determining significant impacts),
- 15064.4 (guidelines on determining greenhouse gas impacts),
- 15064.5 (guidelines on determining cultural and archaeological impacts), and
- 15065 (guidelines requiring consideration of Mandatory Findings of Significance, including subsection (a)(4): “The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.”)

If an ND or MND is issued, the Zoning Administrator shall publish a Notice of Intent to Adopt an ND or MND pursuant to CEQA Guidelines Section 15073, prepare the ND or MND findings (and the Mitigation Monitoring Program for a MND) and process the application pursuant to Section IV. The Public Hearing notice sent in section V.B. will include a statement that the City has published a Notice of Intent to Adopt an ND or MND and include a link to the City’s website where the Notice of Intent is published. The Notice of Intent to Adopt an ND or MND shall be published on the City’s website in English and Spanish.

If the Initial Study demonstrates the project requires an Environmental Impact Report (EIR), the Zoning Administrator shall follow the procedures in section V.A.3.



### ***3. Environmental Impact Report***

If an EIR is to be prepared on a project, in addition to any other requirements of CEQA, the City will require all of the following:

- Provide the Notice of Preparation to all property owners and occupants within a 1,500-foot radius of the project site's outer boundary; and
- Prepare a Health Impact Assessment, as defined in section V.A.5., if not already prepared, and provide a relevant summary of the Health Impact Assessment in the EIR where appropriate to inform the required analysis. The Health Impact Assessment shall be considered in any certification of the EIR and the approval, conditional approval, or denial of the Section 13.01-H application.

An environmental consultant with qualifications and experience provided in section V.A.4 must prepare the EIR. The EIR must be prepared and certified in compliance with CEQA, including but not limited to, CEQA Guideline Sections 15080-15097, 15120-15155.

### ***4. Environmental Consultant Qualifications***

The City shall ensure that any environmental consultant that is preparing an Initial Study, MND, ND, or an EIR on a 13.01-H project has the following qualifications and experience:

- The Project Manager has at least seven (7) years' experience preparing CEQA documents.
- The Project Manager has prepared and/or reviewed at least five (5) EIRs for projects involving oil and gas drilling or production.
- The consultant or consultant team, including any subcontractors, have demonstrated training, knowledge, and experience in the following topic areas as they specifically relate to oil and gas projects: environmental health, public health, hazardous materials, air quality, GHG emissions, water quality, geology, noise, traffic, aesthetics, and risk and safety issues.
- In the case of EIRs or MNDs requiring Health Impact Assessments, the consultant team, including any subcontractors, has at least five (5) years' experience in preparing Health Impact Assessments. The consultant who prepares the HIA shall be familiar with accepted HIA process and content including, but not limited to, the "Minimum Elements and Practice Standards for Health Impact Assessment," Version 3.

The City shall ensure that all environmental consultants have copies of this Memorandum prior to preparation of any Initial Study, ND, MND or EIR.

### ***5. Health Impact Assessment (HIA)***

A HIA is defined as follows:

A study of the project for the surrounding vicinity identifying pollution and population indicators, such as, but not limited to, those analyzed in the

California Communities Environmental Health Screening Tool; the number of people affected by the project; short term or permanent impacts caused by the project; likelihood that impacts will occur; and recommended mitigation measures.

Any HIA required under these procedures shall be used to inform whether an EIR is required and whether to approve, condition, or deny the application under Section 13.01-H.

### **B. Public Participation**

The Zoning Administrator will hold a public hearing on all Section 13.01 applications prior to project approval.

Notice of this public hearing must be sent to all property owners and occupants within a 1,500-foot radius of the project site's outer boundary, in English and Spanish. For projects being approved with a CE, ND or MND, the Notice of Intent to Adopt a CE, ND or MND may be combined with the public hearing notice.

### **C. Final Determination**

Notices of final decisions will be issued to the applicant, all residents abutting the project site, and all individuals who request such notice.

All Zoning Administrator Section 13.01-H Determinations may be appealed to the Area Planning Commission. The Area Planning Commission decision is final. All CEQA determinations by the Zoning Administrator or the Area Planning Commission are subject to appeal to the City Council pursuant to Public Resources Code Section 21151(c).

Nothing in this Memorandum is intended to limit the Zoning Administrator's express and inherent authority to administer LAMC Section 13.01-H.

LKW:lw