

# City of Sacramento

## Legislation Text

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**File #:** 2019-01037, **Version:** 1

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**Title:**

**Third Party Appeal of 10K Mixed-Use Development Project (P18-056) [Noticed 7/12/2019]**

**File ID:** 2019-01037

**Location:** 930 K Street (APNs: 006-0102-012, -014, -015), District 4

**Recommendation:**

Conduct a public hearing and upon conclusion adopt: 1) a Resolution exempting the project from environmental review pursuant to California Public Resources Code Section 21155.4; and 2) a Resolution approving Site Plan and Design Review to demolish three existing commercial buildings and construct a 15-story mixed-use development (220-key hotel, 186 multi-unit dwellings, a restaurant, and retail) within the Central Business District (C-3-SPD) zone and Central City Special Planning District and a Tree Permit to remove two City Trees, thereby denying the third-party appeal.

**Contact:** Michael Hanebutt, Associate Planner, (916) 808-7933; Karlo Felix, Senior Planner, (916) 808-7183, Community Development Department

**Presenter:** Michael Hanebutt, Associate Planner, Community Development Department

**Applicant:** Nikky Mohanna, 10K, LLC\*, 1025 9<sup>th</sup> Street, Suite 205, Sacramento, CA 95814

\*10K, LLC is composed of: Mo Mohanna, Nikky Mohanna

**Property Owner:** Same as Applicant

**Attachments:**

- 01-Description/Analysis
- 02-Background
- 03-Draft Entitlements Resolution
- 04- Exhibit A: SACOG MTP/SCS Consistency Letter
- 05- Exhibit B: Project Plans
- 06- Exhibit C: Tree Permit
- 07- Appeal
- 08- California Green Code VOC and Formaldehyde Limits
- 09- Community Comments
- 10- General Plan Map

## 11- Aerial and Zoning Map

### Description/Analysis

**Issue Detail:** The applicant is requesting entitlements to allow the development of a 15 -story mixed-use building on ±0.48 acres in the Central Business District (C-3-SPD) zone within the Central City Special Planning District. The site is located at the southwest corner of 10<sup>th</sup> and K Streets and currently consists of three existing commercial buildings which would all be demolished in order to redevelop the site and accommodate the new building. The building would include ground floor retail, restaurant and hotel lobby spaces, seven floors of hotel rooms, and seven floors of residential units. The proposed project would include 220 hotel rooms, 186 residential units, and approximately 8,870 square feet of retail, restaurant, and hotel lobby uses along K and 10<sup>th</sup> Streets. Basement garage access for valet use is accessed from Kayak Alley.

On June 13, 2019, the Planning and Design Commission approved site plan and design review and tree permit. On June 21, 2019, an appeal was filed Staff received the appeal (filed on June 21, 2019) by Lozeau Drury LLP on behalf of Laborers International Union of North America, Local Union 185. The appeal states the project does not qualify for an exemption from the California Environmental Quality Act (CEQA) and that additional environmental review be conducted. Staff has provided a copy of this appeal (which was also submitted to the Commission at the hearing) as Attachment 7.

Staff analyzed the appeal and attached letter and has found no legitimate grounds for the appeal or argument for additional CEQA review. The analysis below supports staff's recommendation to deny the appeal thereby approving the project:

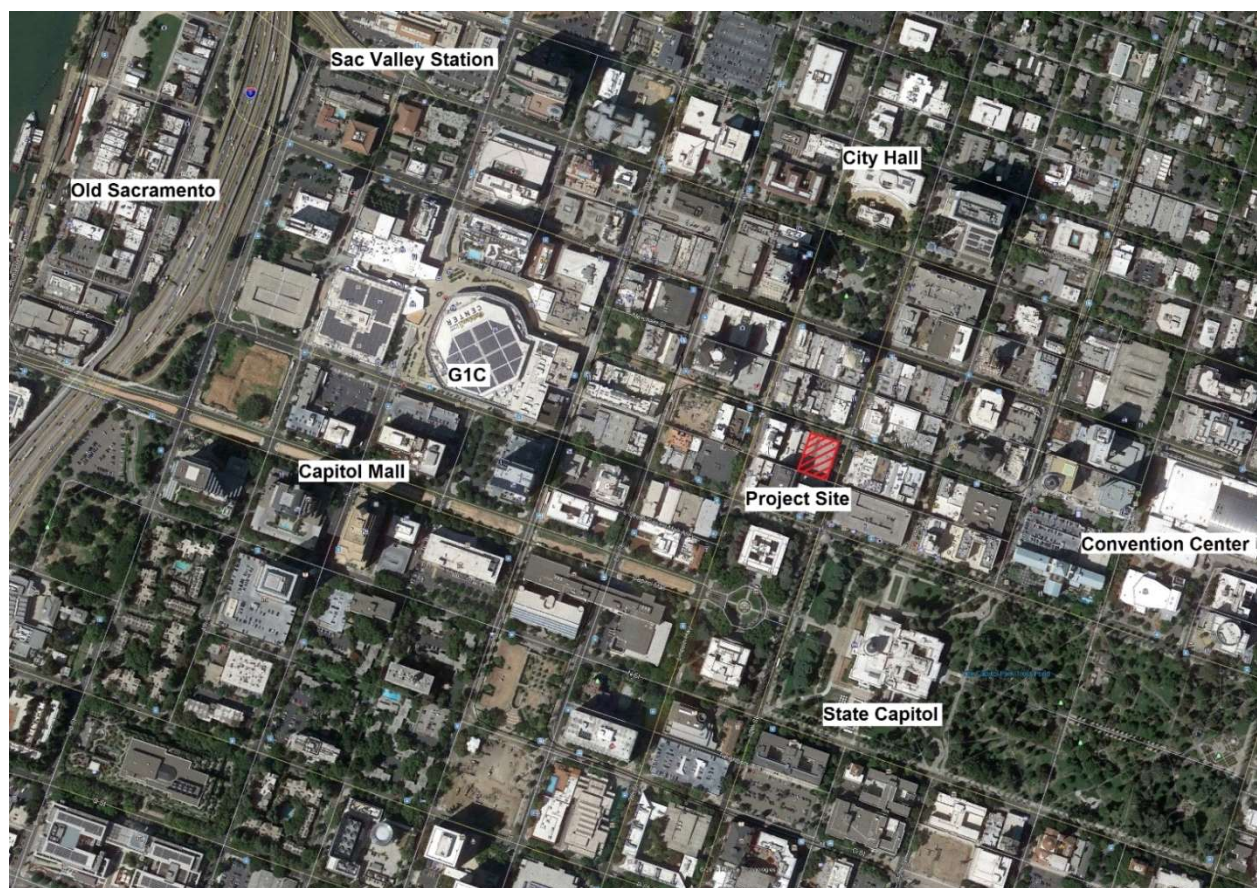
1. Information provided by the appellant is not new information as it relates to the Central City Specific Plan (CCSP) environmental impact report (EIR). The information was known and could have been part of a challenge at the time the City certified the EIR and filed its Notice of Determination. The claim here is not timely and is not information that requires the City to revise its CEQA determination for the 10K project.
2. Formaldehyde concerns have been raised and considered as part of the building code process. The City has adopted the Green Building Code (CalGreen) which includes a requirement that the applicant complete and submit Form CDD 0182. (see Attachment 8) This form sets forth formaldehyde limits for various components of new buildings. The code applies to all new commercial structures in the City.

CalGreen, Title 24, Part 11, section 4.504.5 provides that hardwood, plywood, particleboard and medium density fiberboard composite wood products used on the interior or exterior of the building shall meet the requirements for formaldehyde as specified in the Air Resources Board's Air Toxics Control Measure for Composite Wood (17 CCR 93120 et. seq.), as shown

in Table 4.504.5. Documentation is required per Section 4.504.5.1. Definition of Composite Wood Products: Composite wood products include hardwood plywood, particleboard, and medium density fiberboard. "Composite wood products" do not include hardboard, structural plywood, structural panels, structural composite lumber, oriented strand board, glued laminated timber, prefabricated wood I-joists, or finger-joined lumber, all as specified in CCR, Title 17, Section 93120.1(a).

3. The claim regarding Tier 4 would only be applicable if the City were tiering from the CCSP EIR - that is not the case. The requirement in section 21155.4 is that the project is consistent with a specific plan for which an EIR was prepared, which is the case here.

In any event, the mitigation measures identified in the CCSP EIR relating to air quality, that require implementation of the applicable rules and procedures of the Sacramento Metropolitan Air Quality Management District (SMAQMD) and the City, were found to mitigate the CCSP impacts of construction NOx emissions to a less-than-significant level, thus satisfying CEQA requirements. While Tier 4 standards relate to construction equipment, the City's actions for construction projects focus on total emissions, equipment and maintenance of equipment to ensure effective emissions control.



**Figure 1: Contextual Aerial**

## **Policy Considerations:**

### General Plan

The 2035 General Plan Update was adopted by City Council on March 3, 2015. The 2035 General Plan's goals, policies, and implementation programs define a roadmap to achieving Sacramento's vision to be the most livable city in America. The project site is designated in the General Plan as Central Business District (CBD), which includes a mixture of retail, office, governmental, entertainment and visitor-serving uses built on a formal framework of streets and park spaces laid out for the original Sutter Land Grant in the 1840s. The vision for the CBD is a vibrant downtown core that will continue to serve as the business, governmental, retail, and entertainment center for the city and the region. A significant element anticipated includes new residential uses within the CBD. Increasing the residential population will add vitality to the CBD by extending the hours of activity and the built-in market for retail, services, and entertainment.

Key urban form characteristics found in the CBD designation include:

- A mixture of mid- and high-rise buildings creating a varied and dramatic skyline with unlimited heights
- Buildings are sited to positively define the public streetscape and public spaces
- Building façades and entrances directly addressing the street and have a high degree of transparency
- Parking is integrated into buildings or placed in separate structures
- Side or rear access to parking and service functions
- Broad sidewalks appointed with appropriate pedestrian amenities, including sidewalk restaurant/café seating

The 10K project is consistent with the CBD designation as it supports the above-listed characteristics. The CBD designation establishes a floor area ratio (FAR) range between three and 15, as well as a residential density range between 61 and 450 dwelling units per acre. The 292,270 square foot development on a 20,878 square foot project site results in a FAR of 13.0 (with structured parking subtracted), consistent with the FAR range of this designation. The 186 dwelling units on a 0.48-acre project site results in a residential density of 387.5 dwelling units per acre, consistent with the density range of this designation. In addition to the project's consistency with the CBD designation, the project is consistent with the following General Plan goals and policies:

**Goal LU 1.1: Growth and Change.** Support sustainable growth and change through orderly and well-planned development that provides for the needs of existing and future residents and businesses, ensures the effective and equitable provision of public services, and makes efficient use of land and infrastructure.

**Policy LU 1.1.5 Infill Development.** The City shall promote and provide incentives (e.g., focused infill planning, zoning/rezoning, revised regulations, provision of infrastructure) for infill development, reuse, and growth in existing urbanized areas to enhance community character, optimize City investments in infrastructure and community facilities, support increased transit use, promote pedestrian- and bicycle-friendly neighborhoods, increase housing diversity, ensure integrity of historic districts, and enhance retail viability.

**Goal LU 5.1: Centers.** Promote the development throughout the city of distinct, well designed mixed-use centers that are efficiently served by transit, provide higher-density, urban housing opportunities and serve as centers of civic, cultural, and economic life for Sacramento's neighborhoods and the region.

**Policy LU 5.1.4 Vertical and Horizontal Mixed-Use.** The City shall encourage and, where feasible, require the vertical and horizontal integration of uses within commercial centers and mixed-use centers, particularly residential and office uses over ground floor retail.

**Goal LU 5.6: Central Business District.** Promote the CBD as the regional center of the greater Sacramento area for living, commerce, culture, and government.

**Policy LU 5.6.1 Downtown Center Development.** The City shall encourage development that expands the role of the CBD as the regional center for living, commerce, arts, culture, entertainment, and government.

### Central City Community Plan

The subject property is located within the Central City Community Plan Area of the General Plan. The General Plan identifies the Community Plan Area as the core of the city with an urban downtown that holds State government buildings, corporate offices and businesses, high-rise condominiums, historic neighborhoods, parks and recreational areas, nightlife, restaurant and shops, schools, and industrial and manufacturing complexes all within a tree-lined street grid. Overall the project is consistent with the Community Plan Area and supports the following highlighted implementing policy.

**Policy CCLU 1.2 Interrelated Land Uses.** The City shall provide for organized development of the Central City whereby the many interrelated land use components of the area support and reinforce each other and the vitality of the community.

*The proposed use supports the existing framework of Central Core consisting of walkable streets, community-serving retail and services uses, and restaurants. The proposed use also contributes to the variety of housing and transient accommodations.*

### Central City Specific Plan

The subject property is located within the JKL District of the Central City Specific Plan. The Specific Plan identifies the JKL District as one of the fastest growing and vibrant parts of the Central City. This district includes low-mid- and high-rise office, mixed-use, residential, hotel, commercial, retail, restaurant, and entertainment uses including Cesar Chavez Plaza, The Kay (former K Street Mall), and the Sacramento Convention Center. Overall the project is consistent with the Specific Plan and further supports the plan's emphasis for mixed-use and high intensity development in the JKL District.

**Goal LU.7 Mix of Uses.** Transform the Central City's major corridors into vibrant mixed-use, pedestrian-oriented, and transit-friendly environments.

**Policy LU.7.3 New Mixed Uses.** Promote new mixed uses, including additional employment,

retail, commercial, services, and residential uses compatible with the nearby neighborhood.

*The proposed use supports the existing framework of K Street as a vibrant entertainment corridor consisting of walkable streets, community-serving retail and entertainment uses, and restaurants. The proposed use revitalizes a long-vacant site and contributes to the variety of housing available in an area with a dearth of residential living options. Furthermore, the design of the project also activates K and 10th Streets with active uses and unique street interfaces including a retail arcade and raised patio. Staff believes the proposal is consistent with the goals and policies of the General Plan in that it provides additional housing and hotel options in the Central Business District. The project redevelops vacant buildings in a central location in the City to further contribute to the revitalization of downtown and K Street.*

**GOAL H.1 Housing Types.** Provide for a range of housing types that address the needs of a diverse population.

**Policy H.1.3 Variety of Housing Types.** Encourage projects that provide a variety of housing types and sizes, including those that serve individuals, families, seniors, and persons living with disabilities.

*The proposed development provides studio and one-bedroom units, contributing to the range of housing types available within the Central City.*

### 200-Year Flood Protection

State Law (SB 5) and Planning and Development Code chapter 17.810 require that the City must make specific findings prior to approving certain entitlements for projects within a flood hazard zone. The purpose is to ensure that new development will have protection from a 200-year flood event or will achieve that protection by 2025. The project site is within a flood hazard zone and is an area covered by SAFCA's Improvements to the State Plan of Flood Control System, and specific findings related to the level of protection have been incorporated as part of this project. Even though the project site is within a flood hazard zone, the local flood management agency, SAFCA, has made adequate progress on the construction of a flood protection system that will ensure protection from a 200-year flood event or will achieve that protection by 2025. This is based on the SAFCA Urban level of flood protection plan, adequate progress baseline report, and adequate progress toward an urban level of flood protection engineer's report that were accepted by City Council Resolution No. 2016-0226 on June 21, 2016 and the SAFCA 2018 Adequate Progress Annual Report accepted by City Council Resolution No. 2018-0445 on November 20, 2018.

**Economic Impacts:** Not applicable.

**Environmental Considerations:** The proposed 10K development at 930 K Street (P18-056) is a “project” as defined in the California Environmental Quality Act (CEQA). The City, as lead agency, is required to proceed in accordance with CEQA requirements prior to considering any approval.

Staff has determined that the 10K project qualifies for a statutory exemption pursuant to Public Resources Code (PRC) section 21155.4, which was added to the PRC by SB 743. The legislature included the following that applies to section 21155.4:

“With the adoption of...the Sustainable Communities and Climate Protection Act of 2008, the Legislature signaled its commitment to encouraging land use and transportation planning decisions and investments that reduce vehicle miles traveled and contribute to the reductions in greenhouse gas emissions required in the California Global Warming Solutions Act of 2006...Similarly, the California Complete Streets Act of 2008...requires local governments to plan for a balanced, multimodal transportation network that meets the needs of all users of streets, roads and highways for safe and convenient travel.”

Section 21155.4 is thus part of a comprehensive legislative approach to reducing VMT and supporting the state’s efforts to reduce greenhouse gas emissions. Section 21155.4 provides as follows:

(a) Except as provided in subdivision (b), a residential, employment center, as defined in paragraph (1) of subdivision (a) of Section 21099, or mixed-use development project, including any subdivision, or any zoning, change that meets all of the following criteria is exempt from the requirements of this division:

(1) The project is proposed within a transit priority area, as defined in subdivision (a) of Section 21099.

(2) The project is undertaken to implement and is consistent with a specific plan for which an environmental impact report has been certified.

(3) The project is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy for which the State Air Resources Board, pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, has accepted a metropolitan planning organization’s determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emissions reduction targets.

(b) Further environmental review shall be conducted only if any of the events specified in Section 21166 have occurred.

The requirements of the section are set forth below, *followed by text that identifies the manner in which the proposed project complies in italics.*

- The project must be a residential, employment center or mixed-use development project.

*The 10K project proposes a residential mixed-use development on 0.48 acre located at 930 K Street, in the C-3 SPD zone. The 10K project proposes to construct a 15-story structure that will consist of 186 dwelling units, 220 hotel rooms, approximately 7,761 square feet of restaurant/retail and has a FAR of 14.0 in the. "Mixed-use development combines two or more types of land use into a building or set of buildings that are physically and functionally integrated and mutually supporting. This can be some combination of residential, commercial, industrial, office, institutional, or other land uses." (San Joaquin Valley Blueprint Planners Toolkit, online access 9/24/2018)*

*The proposed project qualifies as a mixed-use development project.*

- The project must be located a transit priority area, as defined in subdivision (a) of Section 21099.

*Section 20199 defines "transit priority area" as including an area within ½ mile of an existing major transit stop. Pursuant to PRC section 21064.3, a major transit stop is "a site containing an existing rail transit station or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods." Pursuant to PRC section 21155(b), a high-quality transit corridor is defined as a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.*

*The City prepared an EIR for the CCSP, which was certified on April 19, 2018 (Resolution No. 2018-0129). Figure 4.12-13 in the CCSP EIR showed the portion of the CCSP area that would meet the criteria for proximity to transit in the legislation. The map identified areas one-half mile from RT's existing light rail stations and one-half mile from high quality transit corridors with service intervals of 15 minutes or less (CCSP EIR Figure 4.12-13). The project site is located in the area identified as a transit priority area. More specifically, the 10K site is directly adjacent to Sacramento Regional Transit's (Sac RT) Blue Line (light rail transit or LRT), is approximately 150 feet from the Cathedral Square southbound light rail station, and approximately 450 feet from the St. Rose of Lima Park northbound light rail station. Additionally, both the Gold and Green LRT lines run approximately 2-3 blocks to*

*the west of the project site along 7<sup>th</sup> and 8<sup>th</sup> Streets. Sac RT bus routes 11, 38, 86, and 88 provide bus stops on 9<sup>th</sup> Street a block to the west of the project site. There are additional bus routes with stops located within a few blocks of the project site.*

*The proposed project is located in a transit priority area.*

- The project is undertaken to implement and is consistent with a specific plan for which an environmental impact report has been certified.

*The proposed project's land use is consistent with the CCSP. The City prepared and certified an EIR for the CCSP.*

*The proposed project is consistent with a specific plan for which an EIR was certified.*

- The project is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in a sustainable communities strategy for which the State Air Resources Board (ARB) has accepted a metropolitan planning organization's determination that the sustainable communities CEQA review strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emissions reduction targets.

*The proposed project is consistent with the Metropolitan Transportation Plan/Sustainable Communities Strategy (MTP/SCS) adopted by the Sacramento Area Council of Governments (SACOG). The ARB has accepted SACOG's determination that the plan would achieve GHG reduction targets. The written concurrence from SACOG regarding the City's determination of consistency with the MTP/SCS is included as Attachment 4.*

*The proposed project is consistent with the MTP/SCS.*

- Further environmental review shall be conducted only if any of the events specified in Section 21166 have occurred.

*This requirement confirms that the requirement of consistency with a specific plan for which an EIR was prepared would be sufficient unless substantial changes have been proposed in the specific plan that would require major changes in the EIR, or changes have occurred in the circumstances under which the EIR was prepared or new information becomes available. The CCSP EIR was certified, and the CCSP adopted, on April 19, 2018. There have been no substantial changes in the CCSP or in the circumstances in the specific plan area that would affect the EIR analysis and conclusions.*

*The appeal asserts that the City has been provided with new information that should be*

*considered. As discussed in this staff report as part of the response to the appeal, information and regulatory actions regarding both formaldehyde and Tier 4 standards was available during the CCSP EIR process. In any event, the City's CEQA and building review processes ensure that no significant effects would occur in either case.*

*None of the events identified in PRC 21166 have occurred.*

The appeal challenges the City's determination based on assertions that Public Resources Code section 21166 requires a re-examination of the City's findings. As discussed in this staff report, the assertions of the appellant are without merit. PRC section 21155.4 provides that a project that meets the section requirements is exempt from CEQA review, unless one or more of the events identified in subsection (b) have occurred. As noted, none of those circumstances have occurred. The proposed project is, therefore, exempt from CEQA review.

**Sustainability:** The applicant is proposing to construct the project to achieve the LEED (Leadership in Energy & Environmental Design) Silver rating.

**Commission/Committee Action:** As previously mentioned, the Planning and Design Commission considered the project on June 13, 2019. During the hearing, one member of the public provided testimony in support of the project. At the conclusion of the hearing, the Commission approved the project (10 approval, zero deny, two absent).

**Rationale for Recommendation:** Staff recommends the City Council approve the requested entitlements and deny the appeal based on the findings of fact and subject to the conditions of approval listed in Attachment 3. Staff supports the project because it: a) is consistent with the CBD General Plan designation, the Central City Specific Plan, the C-3-SPD zone, and the Central City Special Planning District; b) provides new high-density residential units in the Central City; c) provides additional hotel rooms in Central City; d) limits vehicle and pedestrian conflicts with only a single garage access from the alley and valet and loading zones along 10<sup>th</sup> Street; e) provides a vibrant street presence and engaging both public street frontages; f) revitalizes properties along K Street; and f) continues the overall positive momentum of development and investment in the Central City.

**Financial Considerations:** Not applicable.

**Local Business Enterprise (LBE):** Not applicable.

**Public/Neighborhood Outreach and Comments:** As part of the project development, the applicant team has met with many local groups and business leaders in downtown. Staff routed the proposal to various neighborhood groups and associations, including the Downtown Sacramento Partnership, Preservation Sacramento, Environmental Council of Sacramento, Walk Sacramento, and the

Sacramento Area Bicycle Advocates (SABA). The groups listed above, and all property owners within 300 feet were sent a notice of the June 13, 2019 Planning and Design Commission meeting. Additionally, the project site was posted with a notice announcing the meeting. Planning staff received two comments; one from Walk Sacramento and one from SABA early in the project review. The applicant and Planning staff met with a representative of both organizations to discuss bicycle and pedestrian solutions and many points have been incorporated into the final project; better located and enlarged bicycle parking room, better pedestrian circulation, and lobby design. The public comments are included as Attachment 9.