Request for Qualifications and Proposals

Monastery of the Angels

1977 Carmen Ave
Los Angeles, CA

emmaus group

Table of Contents

Dominic D. Dutra
BS, MBA, CCIM
ddutra@3DStrategies.com
510.366.9931
DRE License #: 00963281

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Background

Background on the Dominican Friars

Founded in 1850, the Dominican Friars of the Western Province (Province of the Most Holy Name of Jesus) serve throughout the Western U.S. (and internationally) in a variety of apostolates, including campus and parish ministries, schools, seminaries, universities, media, and missions to the poor. There are four Dominican provinces in the United States: Western, Eastern, Central and Southern provinces, each with their own governance. The Western Dominican Province is headquartered in Oakland, CA and is made up of approximately 140 friars.

Background on the Dominican Nuns

St. Dominic established the first community of cloistered Dominican nuns in 1206 in Prouille, France. Over the centuries, communities of Dominican nuns have spread throughout the world and are a great source of spiritual strength for the Order and local communities. Free from the distractions of the world, the nuns dedicate themselves to a life of prayer and contemplation for the salvation of souls. There are many autonomous Dominican monasteries of nuns around the world. In North America, some of the Dominican monasteries are affiliated through the North American Association of Dominican Monasteries, of which the Monastery of the Angels was a member.

Objectives

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The Dominican Friars of the Province of the Most Holy Name of Jesus (Western Dominican Province) and the Dominican Nuns of the Monastery of the Angels announced an exclusive agreement between their two organizations, and have launched a public process seeking future options for the restoration and use of the Nuns' historic property at 1977 Carmen Ave, Los Angeles, CA.

Both the friars and nuns are part of the world-wide Order of Preachers (aka the Dominicans) founded by St. Dominic in the 13th century. Though independent in their operations and civil structures, the friars and nuns belong to the same extended Dominican family and collaborate in their shared mission to preach the Gospel. With the above in mind, the key objectives that will be used to evaluate proposals include, but are not limited to the following:

- Protect the legacy of the Nuns and the Monastery;
- Provide for the ongoing financial support of the Nuns of the Order of Preachers;
- Constitutes a viable solution that would protect the Monastery from further decline and deterioration
- To the extent possible, keep the Property within the Dominican and/or Roman Catholic family;
- Preserve the monastery chapel as a Roman Catholic spiritual home for the surrounding neighborhood and the Archdiocese of Los Angeles;
- Constitutes a viable solution that would protect the Monastery from further degradation and destruction;
- Continues to make the pumpkin bread and candy business accessible to the community;

In addition to supporting the above objectives, proposals should:

- Proposals that are not strictly Dominican and/or Roman Catholic in nature should detail how their proposed use aligns with the four Dominican Pillars of community, ministry (service), study, and prayer;
- Provide evidence of the proposers professional qualifications and experience to successfully implement a multi-year strategy for obtaining any and all regulatory approvals for the proposed use and building permits, including the estimated timeline associated therewith;
- Provide a clear financial proposal for the purchase, lease (ground lease or building lease) and renovation of the property including its potential subdivision, master planning and/or phased development
- Provide documentation showing that the proposer has the ability to meet the financial obligations of their proposal.
- Provide evidence of the proposer's knowledge and applicability of the land use provisions of the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C. §§ 2000cc, et seq., protect individuals, houses of worship, and other religious institutions from discrimination in zoning and landmarking laws.
- Provide evidence of the proposer's knowledge and applicability of SB 4 – Affordable Housing on Faith Lands Act and other laws providing for exemptions, streamlining and other legal rights for development of properties owned by faithbased properties

Property Video

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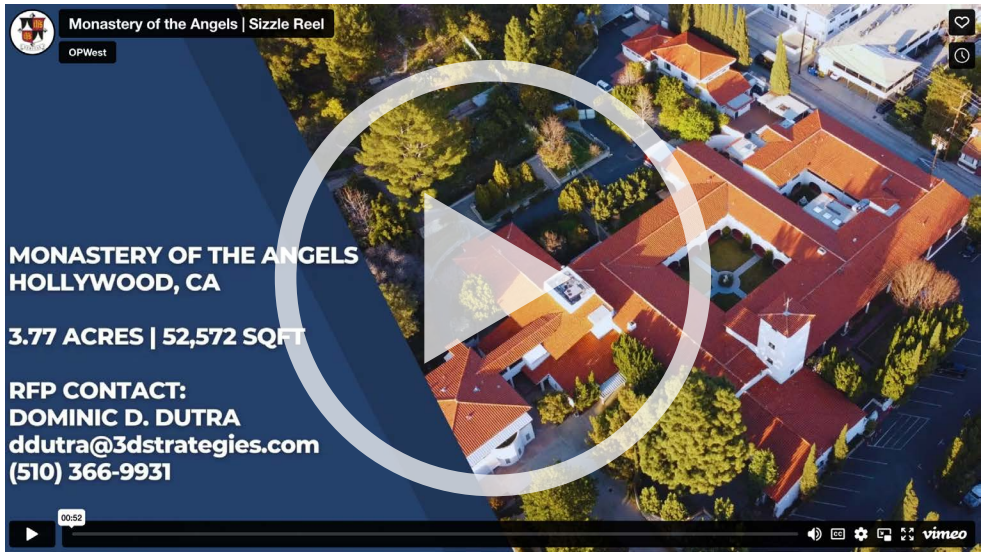
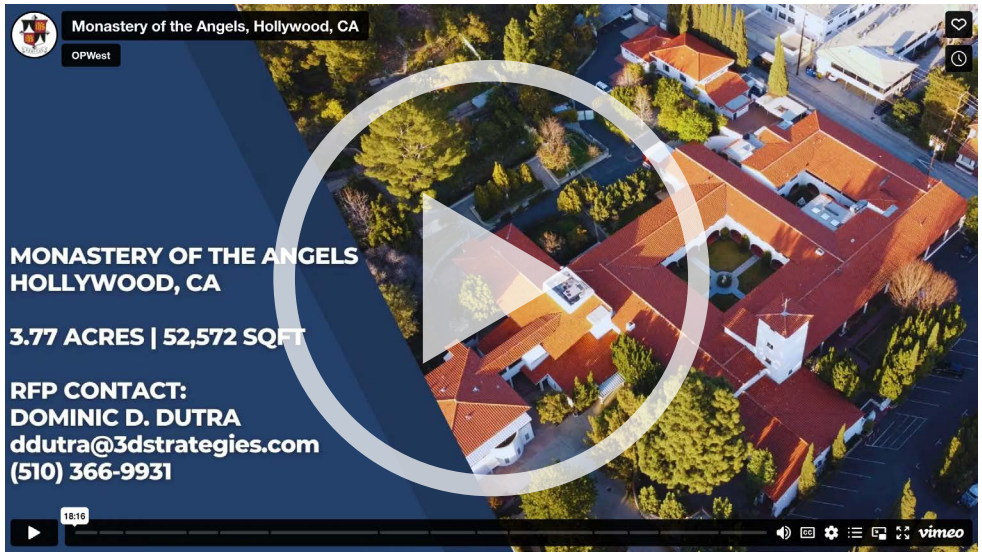


Watch the short video: https://vimeo.com/807621770/



Watch the longer video: https://vimeo.com/808452453/88b85fe5bb

Interested parties should submit questions and formal proposals to:

Dominic D. Dutra
BS, MBA, CCIM
ddutra@3DStrategies.com
510.366.9931
DRE License #: 00963281

General Plan & Zoning

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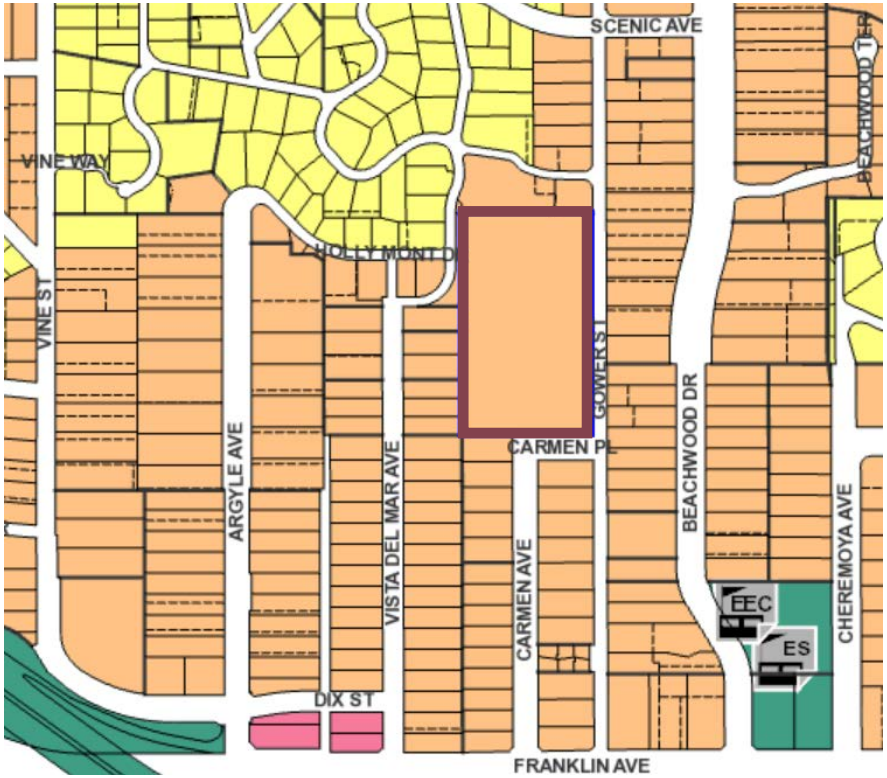
General Plan Land Use

Low Medium II: 18-29 dwelling units/net acre



Zoning

- RD1.5-1XL
- SEC. 12.09.1. “RD” RESTRICTED DENSITY MULTIPLE DWELLING ZONE
  - See **Exhibit A**
- GENERALIZED SUMMARY OF ZONING REGULATIONS
  - See **Exhibit B**
- ZI-2427 Freeway Adjacent Advisory Notice for Sensitive Uses
  - See **Exhibit C**
- ZI-2452 Transit Priority Area in the City of Los Angeles
  - See **Exhibit D**
- Transit Oriented Communities Affordable Housing Incentive Program Guidelines (TOC Guidelines)
  - See **Exhibit E**

District

4th District
Councilmember: Nithya Raman

Religious Land Use

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The land use provisions of the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C. §§ 2000cc, et seq., protect individuals, houses of worship, and other religious institutions from discrimination in zoning and landmarking laws (for information on RLUIPA's institutionalized persons provisions, please refer to the Civil Rights Division's Special Litigation Section).

Religious assemblies, especially smaller or unfamiliar ones, may be illegally discriminated against on the face of zoning codes and also in the highly individualized and discretionary processes of land use regulation. Zoning codes and landmarking laws may illegally exclude religious assemblies in places where they permit theaters, meeting halls, and other places where large groups of people assemble for secular purposes. Or the zoning codes or landmarking laws may permit religious assemblies only with individualized permission from the zoning board or landmarking commissions, and zoning boards or landmarking commission may use that authority in illegally discriminatory ways.

To address these concerns, RLUIPA prohibits zoning and landmarking laws that substantially burden the religious exercise of churches or other religious assemblies or institutions absent the least restrictive means of furthering a compelling governmental interest. This prohibition applies in any situation where: (i) the state or local government entity imposing the substantial burden receives federal funding; (ii) the substantial burden affects, or removal of the substantial burden would affect, interstate commerce; or (iii) the substantial burden arises from the state or local government's formal or informal procedures for making individualized assessments of a property's uses. In addition, RLUIPA prohibits zoning and landmarking laws that:

(1) treat churches or other religious assemblies or institutions on less than equal terms with nonreligious assemblies or institutions;

(2) discriminate against any assemblies or institutions on the basis of religion or religious denomination;

(3) totally exclude religious assemblies from a jurisdiction; or

(4) unreasonably limit religious assemblies, institutions, or structures within a jurisdiction.

The Department of Justice can investigate alleged RLUIPA violations and bring a lawsuit to enforce the statute. The Department can obtain injunctive, but not monetary, relief. Individuals, houses of worship, and other religious institutions can also bring a lawsuit in federal or state court to enforce RLUIPA.

See **Exhibit F** for more information.

SB 4

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SB 4, the Affordable Housing on Faith Lands Act, provides a streamlined process for religious organizations and nonprofit colleges to develop affordable housing on their property.

Many of California's faith-based organizations and non-profit colleges are located on lands where multifamily housing is expressly prohibited by local zoning codes. In order to build homes on these lands, they must first rezone the land – a time-consuming and expensive proposition that can add years to the process of building the affordable homes Californians need.

The rezoning process also increases the risk and uncertainty for housing, since such applications are subject to an unlimited number of appeals and lawsuits from neighbors who may oppose housing on the site. This risk and uncertainty is a major driver of skyrocketing housing costs for all Californians.

SB 4 will make it legal for faith-based institutions and non-profit colleges to build affordable, multi-family homes on lands they own by streamlining the permitting process and overriding local zoning restrictions. The bill also guarantees "by-right" approval of new homes, as long as they are consistent with all objective building standards and comply with existing environmental protections. Finally, the bill will end the misuse of the California Environmental Quality Act, which is often invoked to block these types of homes.

SB 4 will help our state's construction workforce rise and thrive through the following provisions:

Construction workers on SB 4 projects will be paid prevailing wages on projects with over 10 homes.
On projects with at least 50 homes, contractors must offer apprentices employment and pay for health care for construction workers and their dependents.
The pro-worker provisions help create new opportunities for construction workers while enhancing the state's ability to grow the skilled workforce necessary to build the homes we need.

Any housing built under SB 4 must be deed-restricted affordable for a minimum of 55 years for rental properties, and 45 years for homes offered for ownership. Density and height restrictions must align with appropriate standards for affordable housing under existing housing element law.

Author: Wiener (D, SD 11)

Co-sponsors: Non-Profit Housing Association of Northern California (NPH), Southern California Association of Non-Profit Housing (SCANPH), Jewish Public Affairs Committee of California (JPAC), California Conference of Carpenters, Inner City Law Center

See **Exhibit G** for more information.

Site Plan

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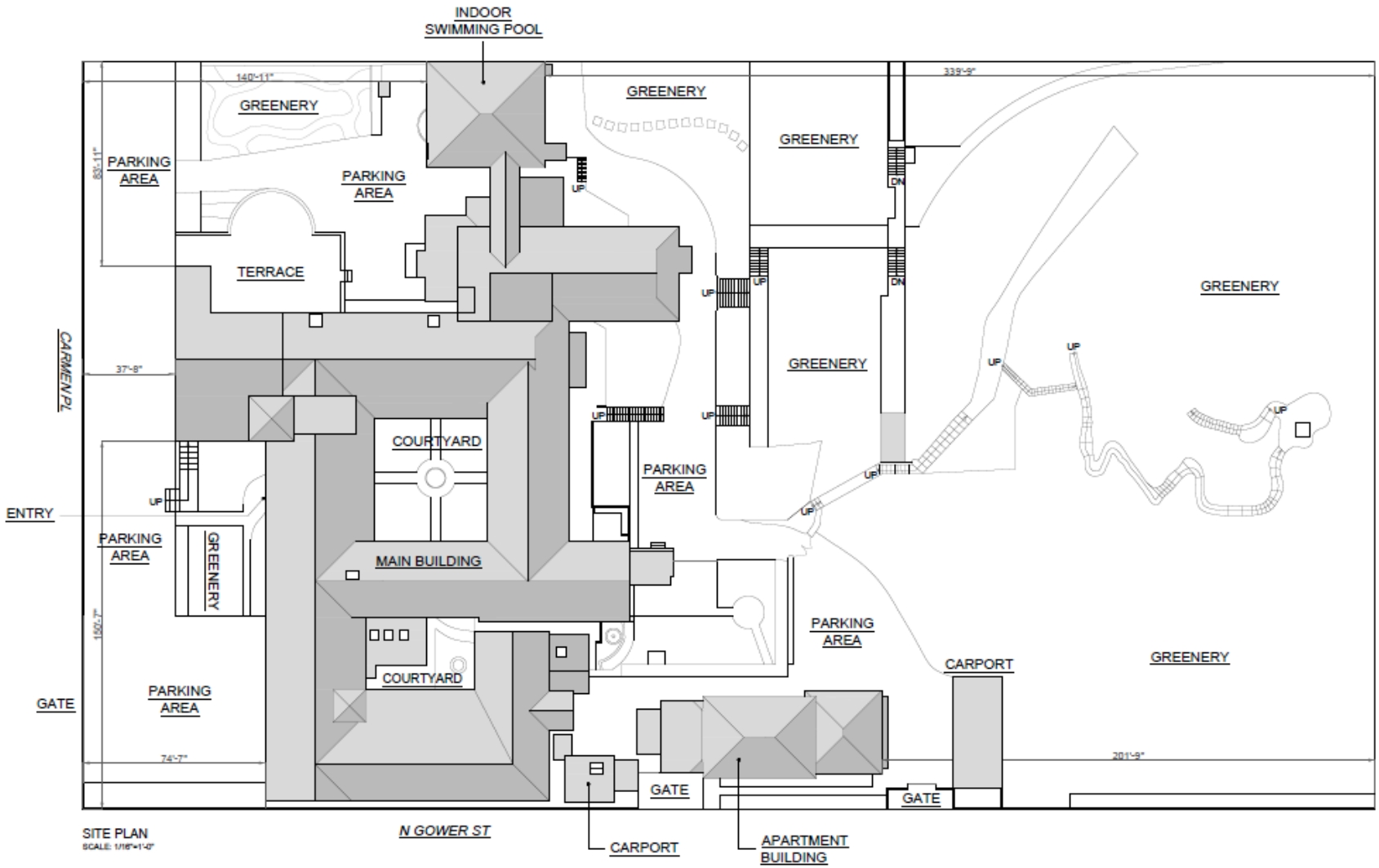

Floor Plan

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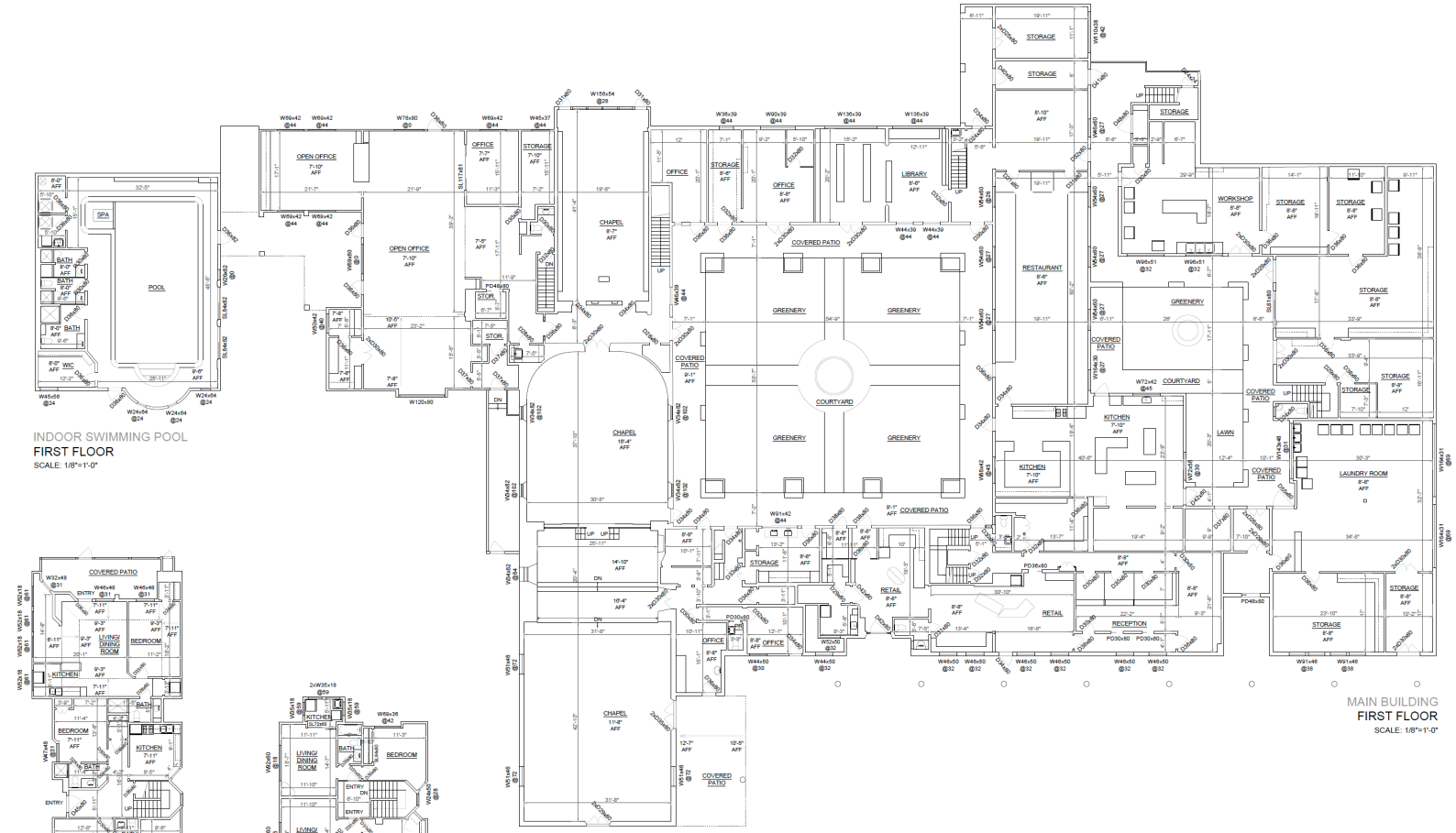

Floor Plan

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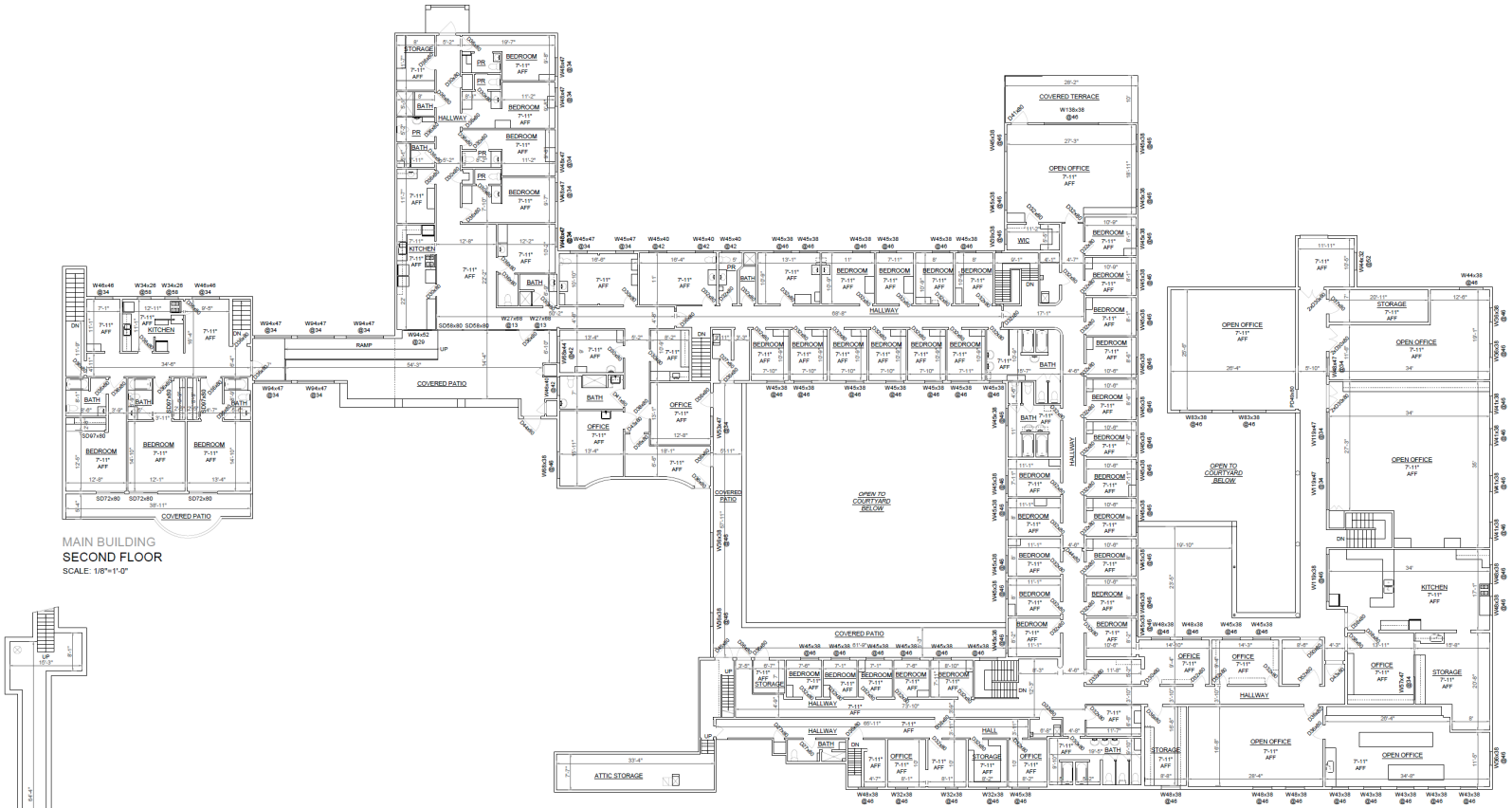

Property Reports

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Property Condition Assessment

PROPERTY CONDITION ASSESSMENT

PREPARED FOR:
3D Strategies Inc.
539 Barcelona Drive
Fremont, California 94536
Dominic Dutra

PREPARED BY:
Bureau Veritas
10461 Mill Run Circle, Suite 1100
Owings Mills, Maryland 21117
800.733.0660
www.us.bureauveritas.com

BV CONTACT:
Michael Young
Michael.Young@bureauveritas.com
800.733.0660 x7296610

BV PROJECT #:
159798.23R000-001.264

DATE OF REPORT:
March 15, 2023

ONSITE DATE:
March 12, 2023

PROPERTY CONDITION ASSESSMENT
Monastery of the Angels
1977 Carmen Avenue
Los Angeles, California 90068

Bureau Veritas
10461 Mill Run Circle, Suite 1100 | Owings Mills, MD 21117 | www.us.bureauveritas.com | p 800.733.0660

READ THE FULL REPORT HERE

Seismic Risk Assessment

SEISMIC RISK ASSESSMENT

PREPARED FOR:
3D Strategies Inc.
539 Barcelona Drive
Fremont, California 94536
Dominic Dutra

PREPARED BY:
Bureau Veritas
10461 Mill Run Circle, Suite 1100
Owings Mills, Maryland 21117
800.733.0660
www.us.bureauveritas.com

BV CONTACT:
Matt Anderson
Matt.Anderson@bureauveritas.com
800.733.0660 x7297613

BV PROJECT #:
159798.23R000-001.316

DATE OF REPORT:
March 16, 2023

ONSITE DATE:
March 11, 2023

SEISMIC RISK ASSESSMENT
Monastery of the Angels
1977 Carmen Avenue
Los Angeles, California 90068

Bureau Veritas
10461 Mill Run Circle, Suite 1100 | Owings Mills, MD 21117 | www.us.bureauveritas.com | p 800.733.0660

READ THE FULL REPORT HERE

Phase 1 Environmental Assessment

PHASE I ENVIRONMENTAL SITE ASSESSMENT

PREPARED FOR:
3D Strategies Inc.
539 Barcelona Drive
Fremont, California 94536
Dominic Dutra

PREPARED BY:
Bureau Veritas
10461 Mill Run Circle, Suite 1100
Owings Mills, Maryland 21117
800.733.0660
www.us.bureauveritas.com

BV CONTACT:
Joslyn Smith
Joslyn.Smith@bureauveritas.com
800.733.0660 x7296254

BV PROJECT #:
159798.23R000-001.135

DATE OF REPORT:
March 21, 2023

ONSITE DATE:
March 12, 2023

PHASE I ENVIRONMENTAL SITE ASSESSMENT
Monastery of the Angels
1977 Carmen Avenue
Los Angeles, California 90068

Bureau Veritas
10461 Mill Run Circle, Suite 1100 | Owings Mills, MD 21117 | www.us.bureauveritas.com | p 800.733.0660

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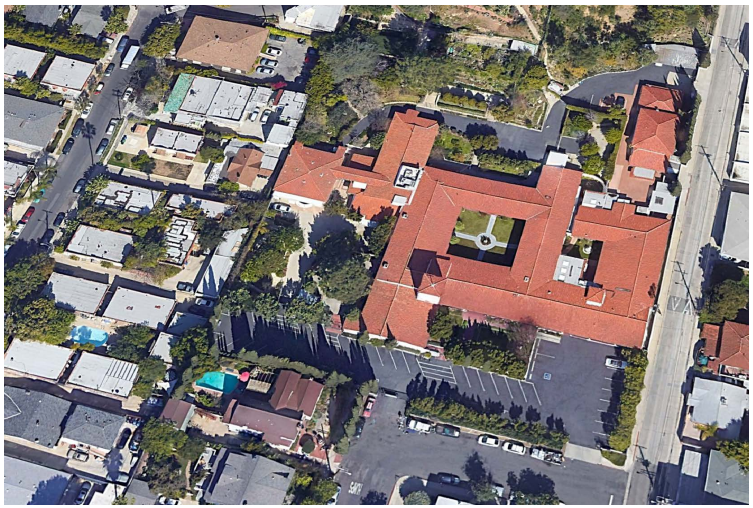
Sales Comps Summary



1977 CARMEN AVENUE

Los Angeles, CA

The Monastery of the Angels is a 3.77-acre property that contains an impressive 52,572 SF monastic structure dating from 1947.

It is located between the iconic “Hollywood” sign and the Hollywood Boulevard -Sidewalk of the Stars.

	PROPERTY NAME	SF	ACRES	YEAR BUILT	DATE OF SALE	SALES PRICE	PRICE SF
1	3250 19th Ave., San Francisco - School Bldg	81,756	5.39	1952	10/27/2021	$40,000,000	$489.26
2	650 N Bronson Ave Los Angeles - Movie/TV/Radio Bldg	87,756	4.24	1946	12/23/2022	$37,534,638	$611.02
3	4561 Colorado Blvd., Los Angeles - Movie/TV/Radio Bldg	146,000	5.65	1965	2/2/2022	$72,597,287	$497.24
4	497 E St., Chula Vista - Religious Facility	32,000	2.75	1946	9/22/2022	$22,410,000	$700.31
5	11111 Jefferson Blvd, Culver City - Demolished Post Office Bldg	27,043	1.93	-	9/1/2021	$31,323,267	$1,158.28
6	2440 Leghorn St, Mountain View - Religious Facility	56,950	3.47	1968	9/22/2021	$31,450,000	$552.24
7	1290 Parkmoor Ave., San Jose - School Bldg	80,604	3.03	1985	12/31/2022	$77,710,000	$964.10
8	251 S Randolph Ave, Brea - Religious Facility				12/1/2021	$29,919,500	$1,139.05/
9	5901 Venice Blvd, Los Angeles - Radio/Tv Transmission Bldg	38,457	2.31	1941	9/25/2018	$25,500,000	$663.08
10	9094 Washington Blvd, Culver City - Movie/Radio/TV Studio				1/26/2021	$22,327,527	$888.30/
11	9336 Washington Blvd, Culver City - Movie/Radio/TV Studio	12,000	2.17	1920	11/19/2019	$60,168,711	$5,014.06

Sales Comparables

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1 3250 19TH AVENUE
San Francisco, CA

SALES PRICE	$40,000,000.00
Sale Date	10/27/2021
Year Built	1952
Price Per SF	$489.26
Square Feet	81,756 SF
Acres	5.39#3

2 650 N BRONSON AVENUE
Los Angeles, CA

SALES PRICE	$37,534,638
Sale Date	1 2/23/2022
Year Built	1946
Price Per SF	$611.02
Square Feet	87,756 SF
Acres	4.24

3 4561 COLORADO BOULEVARD
Oakland Park, FL

SALES PRICE	$72,597,287
Sale Date	2/2//2022
Year Built	1965
Price Per SF	$267.63
Square Feet	146,000 SF
Acres	5.65

Sales Comparables

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4 497 E STREET
Chula Vista, CA

SALES PRICE	$22,410,000
Sale Date	9/22/2022
Year Built	1946
Price Per SF	$267.63
Square Feet	32,000 SF
Acres	2.75

5 11111 JEFFERSON BOULEVARD
Culver City, CA

SALES PRICE	$31,323,267
Sale Date	9/1/2021
Year Built	-
Price Per SF	$1,158.28
Square Feet	27,043 SF
Acres	1.93

6 2440 LEGHORN STEET
Mountain View, CA

SALES PRICE	$31,450,000
Sale Date	9/22/2021
Year Built	1968
Price Per SF	$552.24
Square Feet	56,950 SF
Acres	3.47

Sales Comparables

emmaus group

7 1290 PARKMOOR AVENUE
San Jose, CA

SALES PRICE	$77,710,000
Sale Date	12/31/2020
Year Built	1985
Price Per SF	$964.10
Square Feet	80,604 SF
Acres	3.03

8 251 S RANDOLPH AVENUE
Brea, CA

SALES PRICE	$29,919,500
Sale Date	12/1/2021
Year Built	1961
Price Per SF	$1,139.05 SF
Square Feet	26,267 SF
Acres	1.99

9 5901 VENICE BOULEVARD
Los Angeles, CA

SALES PRICE	$25,500,000
Sale Date	9/25/2018
Year Built	1941
Price Per SF	$663.08
Square Feet	38,457 SF
Acres	2.31

Sales Comparables

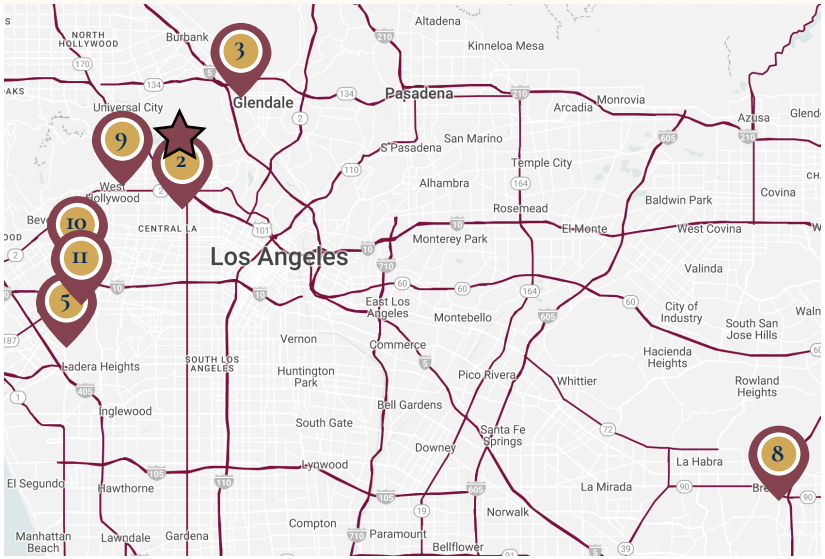
emmaus group

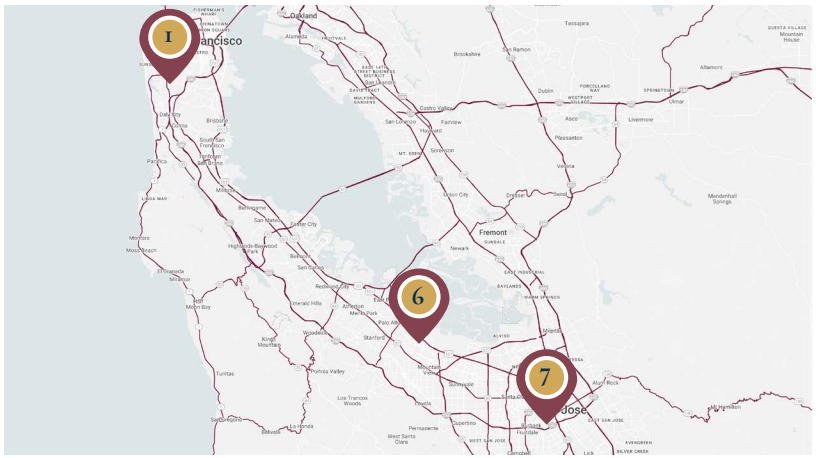
10 9094 WASHINGTON BOULEVARD
Culver City, CA

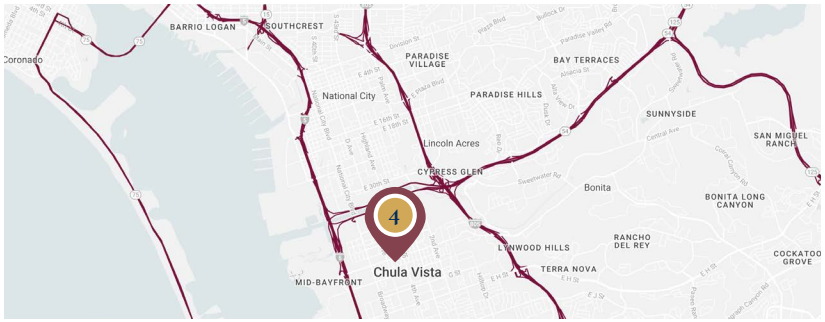
SALES PRICE	$22,327,527
Sale Date	1/26/2021
Year Built	1996
Price Per SF	$888.30
Square Feet	25,135 SF
Acres	0.49

11 9336 WASHINGTON BOULEVARD
Culver City, CA

SALES PRICE	$60,168,711
Sale Date	11/19/2019
Year Built	1920
Price Per SF	$5,014.06
Square Feet	12,000 SF
Acres	2.17







Location Map

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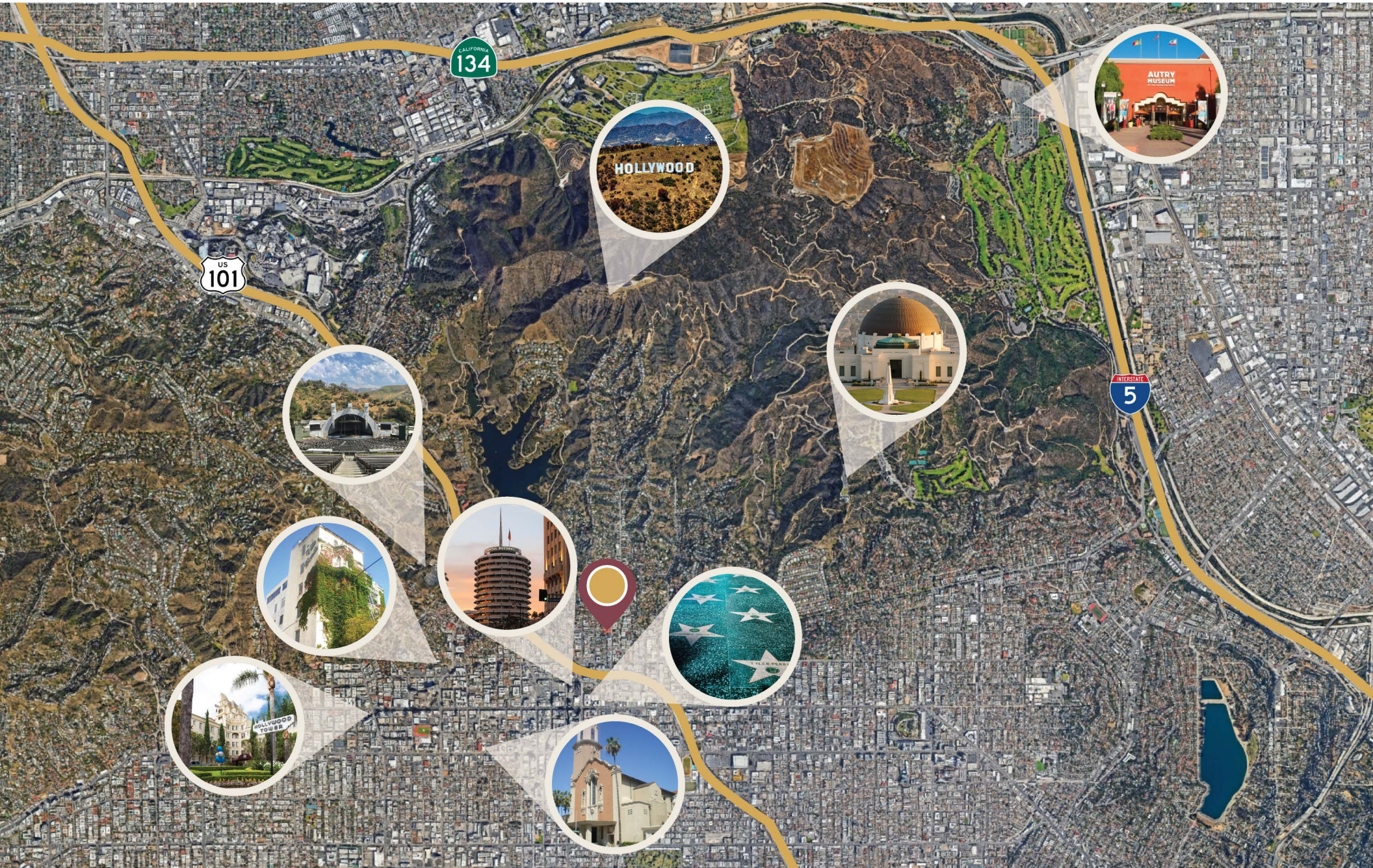

Hollywood, California

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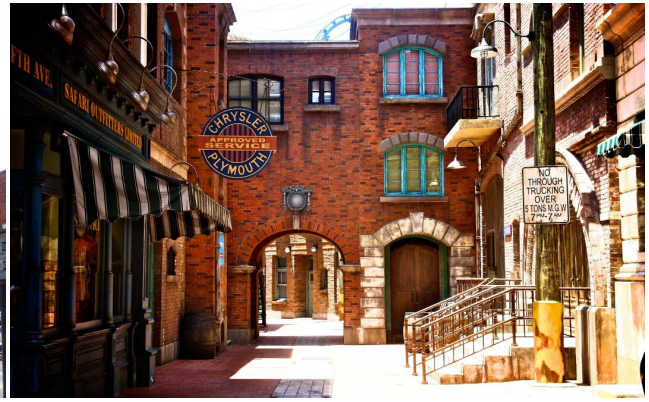
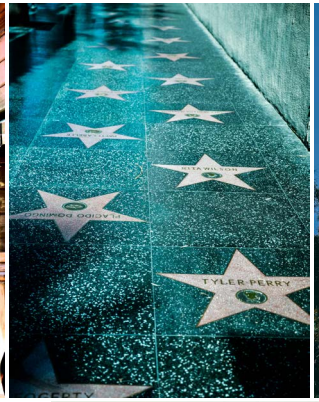
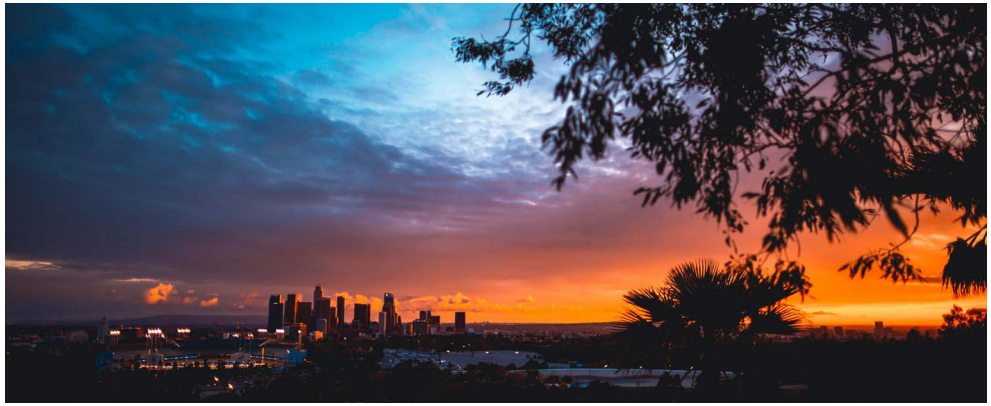
Hollywood is a neighborhood in Los Angeles, California, most famous for its iconic film industry and studios. In 1886 when it was only an agricultural community, a real estate developer on his honeymoon, named H.J. Whitley, stood atop the hill in Hollywood looking over the valley. A Chinese man hauling wood passed by and Whitley asked him what he was doing. When the man, because of his accent, replied, “holly-wood”, Whitley was inspired to name the area Hollywood. Whitley’s town grew and in 1903 it became a municipality. In the early 1900s filmmakers began to make movies in Los Angeles, and in 1910 Hollywood merged with Los Angeles. Its first studio opened in 1911. As the film industry grew Hollywood gained the nickname Tinseltown, and today it is known as the most famous film industry center in the world.







Demographics

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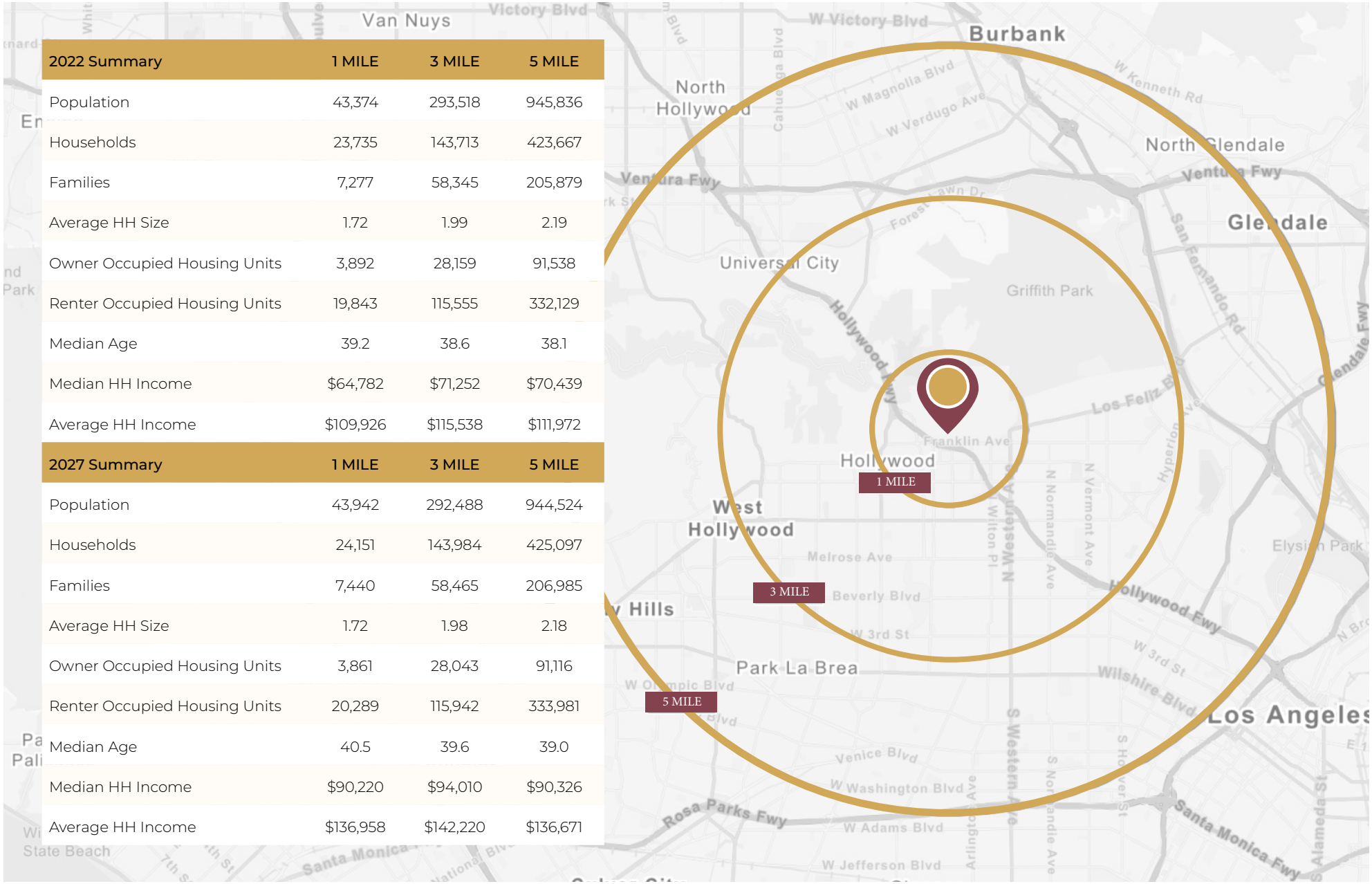
2022 Summary	1 MILE	3 MILE	5 MILE
Population	43,374	293,518	945,836
Households	23,735	143,713	423,667
Families	7,277	58,345	205,879
Average HH Size	1.72	1.99	2.19
Owner Occupied Housing Units	3,892	28,159	91,538
Renter Occupied Housing Units	19,843	115,555	332,129
Median Age	39.2	38.6	38.1
Median HH Income	$64,782	$71,252	$70,439
Average HH Income	$109,926	$115,538	$111,972

2027 Summary	1 MILE	3 MILE	5 MILE
Population	43,942	292,488	944,524
Households	24,151	143,984	425,097
Families	7,440	58,465	206,985
Average HH Size	1.72	1.98	2.18
Owner Occupied Housing Units	3,861	28,043	91,116
Renter Occupied Housing Units	20,289	115,942	333,981
Median Age	40.5	39.6	39.0
Median HH Income	$90,220	$94,010	$90,326
Average HH Income	$136,958	$142,220	$136,671



Selection Process

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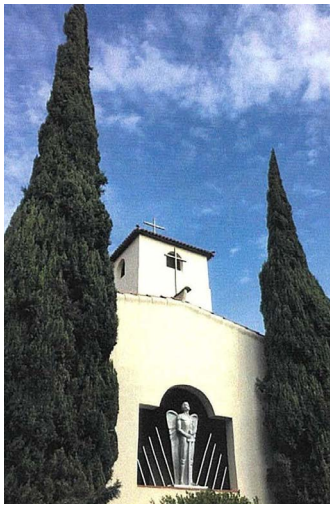
SELECTION PROCESS FOR SUBMITTALS

All Proposals will be reviewed by the leadership of the Dominican Friars and Dominican Nuns (the "Leadership") with respect to the qualifications of the proposer and the alignment of the proposal with the stated objectives. In selecting a proposal, if any, the Leadership may consider a range of factors, including, but not limited to, the financial qualifications and terms offered; the experience, expertise and professional qualifications of the proposer team; the nature, scope and extent of impacts of the proposed use; overall benefit to the future of the Dominican Order and the Monastery, and other appropriate criteria.

All proposals will be subject to review by legal counsel with respect to compliance with all applicable laws including, but not limited to, laws associated with the use or disposition of religious and/or nonprofit owned properties. All proposals must contain proposed material agreement terms and documentation of financial responsibility (detailed herein).

All inquiries associated with the Property, to garner assistance in a tour of the Property, and all proposals should be directed to: Dominic D. Dutra at ddutra@3Dstrategies.com.

The Monastery of the Angels reserves the right to accept proposals, or reject all proposals, at its sole discretion.



Selection Process

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DOCUMENTATION OF FINANCIAL STABILITY

All proposers must provide documentation showing that they have the financial ability to meet the financial obligations concerning their proposal. The financial documentation is one important factor in determining whether a proposer is a "responsible proposer".

Documentation of financial responsibility may include the following:

1. Financial statements for the past three (3) years.

2. A letter of reference from a major bank or lending institution.

3. A statement describing any and all litigation in which the entity and its principals have been involved during the past five (5) years, as well as any litigation which is pending or threatened against the entity and principals, and known to the entity based on its reasonable inquiry.

4. A statement regarding any past or current bankruptcies involving the entity, the principals, or any sub-entity.

5. All documentation of financial responsibility shall be submitted with the proposal at the same time as the proposed lease terms.

6. The Owner reserves the right to perform a background or credit check on any entity or principals.

7. This proposal is made directly to interested parties. All responses must be net of any broker's commission. The Monastery of the Angels shall not pay a real estate commission to a party's principal's broker.

Additional information may also be requested.

Submission Requirements

This RFQ is open to prospective Respondents who seek qualification to develop a project on the subject property. Qualifications will be based upon a determination by the property owners, in its sole discretion, that the Respondent meets the requirements and criteria outlined in this RFQ/P. Upon receipt, all RFQ/P submissions will be reviewed for completeness and compliance with the submission requirements stipulated herein.

After verification of compliance, the evaluation team will assess each Respondent's qualifications in the areas of technical capability and financial capability in accordance with the standards and criteria set forth in this RFQ.

Respondents are sought that have the demonstrated experience and financial capability to deliver a high quality development project.

DELIVERY OF RESPONSES

1. Each Respondent must submit:
   - Ten (10) bound hard copies of the proposal. The original set of documents must be signed by a person with the authority to bind the Respondent to a legal document; and
   - One (1) electronic file containing the proposal (It is the responsibility of the Respondent to ensure that the file is readable and not corrupt).

2. The RFQ must be submitted in a sealed envelope prior to 10:00 am (PST) and **emailed to ddutra@3DStrategies.com,** marked as follows:
   Monastery or the Angels
   Statement of Qualifications and Proposal Attn: Dominic D. Dutra
   3D Strategies, Inc.
   539 Barcelona Drive
   Fremont, CA 94536

Submission Requirements

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REQUIREMENTS OF THE RESPONSE

Respondents must include all information stipulated in this RFQ. Responses should follow the format outlined herein. Responses should be prepared simply and economically, providing a straightforward and concise description of the Respondent's relevant experience and qualifications.

In order to ensure a uniform review process and to obtain the maximum degrees of comparability, the Response should be organized in accordance with the following:

1. **Cover Letter (2 page maximum)**
2. **Table of Contents**
3. **Executive Summary**
4. **Description of Respondent Organization**
    - **a. Description of Respondent:** Includes a description of the Team, including a description of all Team Members and the anticipated legal relationship (governance and capital structure). All anticipated equity investors and shareholders should be indentified, as should key contractors and service providers.
    - **b. Basic Information:** Basic information regarding individual Team Members, such as legal structure, service offerings, financial standing, etc.
    - **c. Role of Team Members and identification of Key Personnel:** Please ensure that all the requirements addressed in the "Evaluation Criteria" section are addressed.
    - **d. Controlling Interest:** Identify the individuals or companies who hold a major or controlling interest in each Team Member, as well as the anticipated controlling interest in the Team.
    - **e. Lead Member:** Identify the Lead Member of the Team, identifying its experience in successfully leading Teams on projects similar to that envisioned for the project
    - **f. Expected Advisors:** Identify the companies and individuals who are expected to act as legal, financial or other advisors for the Team.
    - **g. Designated Representative:** Provide a single contact person for all future communications relating to this procurement. Please identify the contact person's name, title, organization, address, telephone number, and email address.

Submission Requirements

h. Provide evidence of the proposer's knowledge and applicability of the land use provisions of the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C. §§ 2000cc, et seq., protect individuals, houses of worship, and other religious institutions from discrimination in zoning and landmarking laws.

i. Provide evidence of the proposer's knowledge and applicability of SB 4 – Affordable Housing on Faith Lands Act and other laws providing for exemptions, streamlining and other legal rights for development of properties owned by faith -based organizations

5. Past Performance on Comparable Projects

Respondent's qualifications should demonstrate expertise, experience, and financial capacity in the delivery of projects that compare to the project elements outlined in the 'Development Vision' section. Respondents should provide illustrative materials for comparable projects of the last 10 years. For each project, Respondents should include, at a minimum:

a. Name and location of project;
b. Development Team members, including lead private entity(ies), project architect, general contractor, lender(s) and equity provider(s);
c. Development scope (land area, gross square footage by program/product type, construction type(s);
d. Development costs (hard costs soft costs, fees), excluding land costs;
e. Development Financing;
f. Project timeline, ranging from initial planning to land acquisition to construction completion;
g. Summary of the marketing strategy and specific results of those efforts, including names of entities attracted;
h. Site plan, photographs, project renderings;
i. Evidence of design excellence and inclusion of sustainable design features; and
j. Statement of how the project compared to the Development Vision contemplated herein.

Respondents should provide the status of any current projects that may compete with the Brooks Senior Living project.

Submission Requirements

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6. Financial Criteria

Respondents should address the following areas with respect to financial capability:

a. Financial Capacity: Respondents must demonstrate their financial capacity to finance a similar senior living project. Team Members should provide enough financial information to demonstrate that they have the financial resources required to successfully execute a project of this nature and scope.

b. Ability to Raise Financing: Respondents must state whether they have the ability to attract equity financing for this project, or if they plan to co-develop the project with the BDA. If the Respondent will raise their own financing, the Respondent must provide specific evidence demonstrating their ability to raise financing for a project of this nature and scope. Specific factors that should be assessed include.

    I. Capability of raising debt and equity in the current capital/credit market;

    II. Experience financing recent transactions;

c. Statements regarding the Respondent's financial credit worthiness and past development experience which can be verified, including the names and addresses of at least three commercial or institutional credit references and a letter authorizing each credit reference to respond to inquiries from **Dominic D. Dutra, 3D Strategies, Inc.**

Evaluation Criteria

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GENERALITIES

A Qualified Respondent must have direct experience with the successful delivery of the proposed project.

The property owners aspire to work with diverse and inclusive development teams that have a clear understanding of the evolving demographics of the Hollywood District 4 market as well as the region, state, and nation, and who can demonstrate this understanding in the assembled Team.

In the event that a Respondent is a Team, said Team must evidence that it satisfies all evaluation criteria. The capabilities of each Team Member shall be assessed to determine whether their combined qualifications meet the eligibility criteria set forth herein.

PAST PERFORMANCE

The evaluation of past performance will address whether the Response adequately demonstrates:

a. Ability to successfully plan, finance, and construct development projects as proposed;
b. Delivery of high quality design standards that create distinctive and unique places; and
c. Ability to integrate high quality public design and development features

FINANCIAL CAPABILITY

The evaluation of financial capabilities will address whether the Response adequately addresses financial capability requirements with respect to the following areas:

a. Financial capacity;
b. Ability to raise financing; and
c. Verification of credit worthiness and past development experience

Evaluation Criteria

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EVALUATION PROCEDURES

The Responses to the RFQ/P will be reviewed and evaluated by an Evaluation Team according to the requirements and criteria outlined in this RFQ/P. Each Response will be reviewed to determine whether it is responsive to the submission requirements. The property owners reserve the right to reject any or all proposals and reserves the right to issue a subsequent RFQ/P or cancel the entire RFQ?p process. The property owners reserve the right to contact any Respondent for clarification after responses are opened and/or to further negotiate with any Respondent if such clarification is deemed desirable by the property owners. The property owners reserve the right to evaluate responses submitted, to waive any informalities and irregularities therein, or to reject any or all submittals should it be deemed in the The property owners' best interest. The property owners reserve the right to negotiate with any, all or none of the Respondents.

NOTIFICATIONS

Short-listed Qualified Respondents could be invited to participate in further due diligence and to respond to a RFQ/P for Development of the subject property, if issued.

The property owners reserve the right to modify or terminate this solicitation at any stage if it determines this action to be in its best interests (as outlined above). The receipt of proposals or other documents at any stage of either the RFQ/P or the RFQ/P process will in no way obligate the property owners to enter into any contract of any kind with any party.

Evaluation Criteria

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CONDITIONS FOR RESPONDENTS

PROPRIETARY INFORMATION

All Proposals and any related documents received in response to this RFQ/P shall become the property of property owners without any restriction on usage and are non-returnable. Respondent may maintain a copy of any such material for their records. The property owners shall own the entire copyright of whatever nature or extent and in all media whatsoever to any documents (records) produced through the submittal.

Respondent acknowledges that all information submitted to the property owners in response to this RFQ shall become the property of the the property owners upon receipt and will not be returned. Any information deemed to be confidential by the Respondent should be clearly noted on the page or pages where such confidential information is contained; however, the property owners cannot guarantee that it will not be compelled to disclose all or part of said information.

All confidential information, which is clearly identified as such, shall to the extent permitted by law, be held in confidence and used only in the evaluation process for the RFQ/P, except as the property owners is otherwise permitted by written instructions from the Respondent. Respondent shall be solely responsible for protecting their own trade secrets or confidential information and will be responsible for all costs associated with protecting such information from disclosure. The property owners have no duty to defend proprietary information from any public records request.

Evaluation Criteria

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RIGHTS OF THE PROPERTY OWNERS AND 3D STRATEGIES, INC.

In connection with this procurement process, including the receipt and evaluation of Responses and any eventual transaction, the property owners reserves to itself (at its sole discretion) all rights available to it under applicable law, including without limitation, with or without cause, and with or without notice, the right to:

a. Cancel, withdraw, postpone, or extend this procurement, in whole or in part, at any time prior to the execution of the transaction, without incurring any obligations or liabilities.
b. Modify the procurement schedule.
c. Waive deficiencies, informalities and irregularities in a Response.
d. Suspend and terminate the procurement process or terminate evaluations of Responses received.
e. Hold meetings and interviews, and conduct discussions and correspondence, with one or more of the Respondents to seek an improved understanding of any information contained in a Response.
f. Seek or obtain, from any source, data that has the potential to improve the understanding and evaluation of the Response.
g. Seek clarification from any Respondent to fully understand information provided in the Response and to help evaluate and rank the Respondents.
h. Reject a Response containing exceptions, additions, qualifications or conditions not called for in the RFQ /P or otherwise not acceptable to the property owners
i. Conduct an independent investigation of any information, including prior experience, included in a Response by contacting references, accessing public information, contacting independent parties, or any other means.
j. Request additional information from a Respondent during the evaluation of its Response.

OBLIGATION TO KEEP RESPONDENT TEAM

Intact Respondents are advised that all firms identified in the Response shall remain on the Team for the duration of the procurement process. If extraordinary circumstances require a change, it must be submitted in writing to the property owners and 3D Strategies, Inc. The property owners may, at its sole discretion, determine whether to authorize a change, recognizing that certain circumstances may occur that are beyond the Respondent's control. Unauthorized changes to the Team at any time during the procurement process may result in elimination of the Respondent from further consideration.

Disclaimer

Dominic D. Dutra
BS, MBA, CCIM
ddutra@3DStrategies.com
510.366.9931
DRE License #: 00963281

While the information contained herein has been provided in good faith and in an effort to provide prospective buyers with relevant property data, it should not be considered a substitute for a thorough due diligence investigation.

The information contained herein has been obtained from sources we believe to be reliable; however, Emmaus Group has not verified, and will not verify, any of the information contained herein, nor has Emmaus Group conducted any conclusive investigation regarding these matters and makes no warranty or representation whatsoever regarding the accuracy or completeness of the information provided. All potential buyers must take appropriate measures to verify all of the information set forth herein.

Emmaus Group has not made any investigation, and makes no warranty or representation, with respect to the subject property, the future projected financial performance of the property, the property's development potential, the size and square footage of the property and improvements, the presence or absence of contaminating substances, PCBs or asbestos (or any other hazardous materials or substances), the compliance with Local, State and Federal regulations, or the physical condition of the improvements of the subject property.

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Exhibit A

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SEC. 12.09.1. "RD" RESTRICTED DENSITY MULTIPLE DWELLING ZONE.
(Added by Ord. No. 127,777, Eff. 8/1/64.)

The following regulations shall apply in the "RD" Restricted Density Multiple Dwelling Zone:

A. Use. No building, structure or land shall be used and no building or structure shall be erected, structurally altered, enlarged or maintained, except for the following uses, and when a "**Supplemental Use District**" is created by the provisions of Article 3 of this chapter, for such uses as may be permitted therein:

1. One-family dwellings.

2. Two-family dwellings.

3. Multiple dwellings or group dwellings.

4. Apartment houses.

5. Park, playgrounds or community center, owned and operated by a governmental agency.

6. **(Amended by Ord. No. 157,144, Eff. 11/22/82.)** The keeping of equines, in conjunction with the residential use of the lot, and subject to the following limitations:

(a) Such activities are not for commercial purposes.

(b) The keeping of equines shall be permitted only on lots having an area of 20,000 square feet or more. Where equines are being kept, the number of such animals being kept shall not exceed one for each 5,000 square feet of lot area.

7. Accessory buildings, including private garages, accessory living quarters, servants quarters, recreation rooms, or private stables, provided that:

(a) Every accessory building containing accessory living quarters or servants quarters shall constitute a dwelling and the lot area requirements of the zone in which it is located shall be complied with.

(b) No stable is located or maintained on a lot having an area of less than 20,000 square feet and its capacity does not exceed one equine for each 5,000 square feet of lot area. **(Amended by Ord. No. 157,144, Eff. 11/22/82.)**

(c) An accessory living quarters, servants quarters, recreation room or private garage or any combination of said uses may be included in one building not exceeding two stories in height. For location of accessory buildings, refer to Section 12.21C.

8. Conditional uses enumerated in Sec. 12.24 when the location is approved pursuant to the provisions of said section.

9. Accessory uses and home occupations, subject to the conditions specified in Section 12.05A16 of this Code. **(Amended by Ord. No. 171,427, Eff. 1/4/97, Oper. 3/5/97.)**

10. **(Deleted by Ord. No. 171,687, Eff. 8/19/97.)**

11. Name plates and signs, and required automobile parking spaces as provided for in Section 12.21A of this Code. **(Added by Ord. No. 171,427, Eff. 1/4/97, Oper. 3/5/97.)**

B. Area. (Amended by Ord. No. 158,381, Eff. 11/20/83.) No building or structure nor the enlargement of any building or structure shall be erected or maintained unless the following yards and lot areas are provided and maintained in connection with such building, structure or enlargement:

1. **Front Yard.** There shall be a front yard of not less than 15 feet in depth in the RD1.5, RD2, RD3 and RD4 Zones and not less than 20 feet in depth in the RD5 and RD6 Zones.

2. **Side Yards:**

(a) **RD1.5 and RD2 Zones.** For a main building not more than two stories in height in the RD1.5 and RD2 zones, there shall be a side yard on each side of said building of not less than five feet, except that where the lot is less than 50 feet in width, the side yard may be reduced to 10% of the width of the lot, but in no event to less than three feet in width. For a building more than two stories in height in the RD1.5 and RD2 zones, one foot shall be added to the width of such yard for each additional story above the second story, but in no event shall a side yard of more than 16 feet in width be required.

(b) **RD3 and RD4 Zones.** There shall be a side yard on each side of a main building in the RD3 and RD4 zones of not less than five feet or 10% of the width of the lot, whichever is larger, but in no event shall a side yard of more than 10 feet be required.

(c) **RD5 and RD6 Zones.** There shall be a side yard on each side of a main building in the RD5 and RD6 zones of not less than 10 feet in width.

3. **Rear Yards.** There shall be a rear yard of not less than 15 feet in depth in the RD1.5, RD2, RD3 and RD4 Zones and not less than 25 feet in depth in the RD5 and RD6 Zones.

4. **Lot Area.** Every lot classified in the "RD" Zone is, according to the lot area requirements, further designated as RD1.5, RD2, RD3, RD4, RD5 and RD6.

Every lot shall have a minimum width, area and lot area per dwelling unit or guest room as follows:

[LOT SIZE – "RD"ZONE]

Zone	Minimum Lot Width (feet)	Minimum Lot Area (Square feet)	Minimum Lot Area Per Dwelling Unit or Guest Room (square feet)
RD1.5	50	5,000	1,500
RD2	50	5,000	2,000
RD3	60	6,000	3,000
RD4	60	8,000	4,000
RD5	70	10,000	5,000
RD6	70	12,000	6,000

Exceptions to area regulations are provided for in Section 12.22C.

C. Restriction. (Amended by Ord. No. 173,268, Eff. 7/1/00, Oper. 7/1/00.) For any lot designated as Public, Quasi-Public, Public/Quasi-Public Use, Other Public, or Open Space on the land use map of the applicable community or district plan; any lot shown on the map as having existing lakes, waterways, reservoirs, debris basins, or similar facilities; any lot shown on the map as the location of a freeway right-of-way; and any property annexed to the City of Los Angeles where a plan amendment was not adopted as part of the annexation proceedings:

Any of the uses permitted by Subsection A of this section shall require prior approval in accordance with the provisions of Section 12.24.1 of this Code.

Exhibit B

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GENERALIZED SUMMARY OF ZONING

Zone	Use	Maximum Height		Required Yards			Minimum Area		Min. Lot Width	Parking Required
		Stories	Feet	Front	Side	Rear	Per Lot	Per Dwelling Unit		
Multiple Residential										
R2	**Two-Family Dwellings** R1 Uses, Home Occupations	Unlimited (9)	45 ft or (6a), (7), (9)	20% lot depth; 20 ft max, but not less than prevailing	5 ft; or 10% lot width where lot is < 50 ft wide; 3 ft min (7); additional 5 ft offset required for side walls >45 ft long & >14 ft high	15 ft	5,000 sq-ft	2,500 sq-ft	50 ft	2 spaces, one covered
RD1.5	**Restricted Density Multiple Dwelling** One-Family Dwellings, Two-Family Dwellings, Apartment Houses, Multiple Dwellings, Home Occupations			15 ft	5 ft; or 10% of lot width where lot is less than <50 ft wide; 3 ft min; +1 ft for each story over 2nd, not to exceed 16 ft (6a)	15 ft		1,500 sq-ft		1 space per unit < 3 habitable rooms; 1.5 spaces per unit = 3 habitable rooms; 2 spaces per unit > 3 habitable rooms; uncovered (6a) 1 space each guest room (first 30) Bicycle Parking pursuant to Sec. 12.21 A.16 of the LAMC
RD2								2,000 sq-ft		
RD3					10% of lot width, 10 ft max; 5 ft min (6a)		6,000 sq-ft	3,000 sq-ft	60 ft	
RD4							8,000 sq-ft	4,000 sq-ft		
RD5				20 ft	10 ft (6a)	25 ft	10,000 sq-ft	5,000 sq-ft	70 ft	
RD6							12,000 sq-ft	6,000 sq-ft		
RMP	**Mobile Home Park** Home Occupations		45 or (9)	20% lot depth, 25 ft max	10 ft	25% lot depth, 25 ft max	20,000 sq-ft	20,000 sq-ft	80 ft	2 covered spaces per dwelling unit Bicycle Parking pursuant to Sec. 12.21 A.16 of the LAMC
RW2	**Two-Family Residential Waterways** One-Family Dwellings, Two-Family Dwellings, Home Occupations			10 ft	10% lot width; 3 ft min; +1 ft for each story over 2nd	15 ft	2,300 sq-ft	1,150 sq-ft	28 ft	

Exhibit C

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CITY OF LOS ANGELES
DEPARTMENT OF CITY PLANNING
ZONING INFORMATION FILE

ZI NO. 2427

FREEWAY ADJACENT ADVISORY NOTICE

Effective: September 17, 2018
Council District: Citywide, within 1,000 feet of freeways

PURPOSE
Air pollution studies indicate a strong link between the chronic exposure of populations to vehicle exhaust and particulate matter from roads and freeways and elevated risk of adverse health impacts, particularly in sensitive populations such as young children and older adults. Areas located within 500 feet of a freeway[1] are known to experience the greatest concentrations of fine and ultrafine particulate matter (PM), a pollutant implicated in asthma and other health conditions. In 2003, the California Legislature enacted SB 352, which precludes the siting of public schools within 500 feet of a freeway, unless it can be shown that any significant health risk can be mitigated.

Freeways are a major stationary source of air pollution and their impact on the air we breathe and public health in cities continues to be a subject of public health research. Scientific literature previously focused on impacts to immediately surrounding communities within 500 feet of freeways; however, recent studies have established strong links to negative health outcomes affecting sensitive populations at a distance of 1,000 feet from freeways, (and in some instances, up to one mile). Therefore, the Department of City Planning is using the 1,000 feet boundary, as the distancing threshold, for conservative consideration of risk to the negative effects of air pollution caused by freeway proximity.

INSTRUCTIONS
All applicants filing a discretionary application, with the Department of City Planning, for a new and/or expanded project located within 1,000 feet of a freeway shall be advised of the following information and expectations.

PROJECT FEATURES AND DESIGN ALTERNATIVES TO CONSIDER:
When integrated into the project design and program concept, the following measures may reduce air pollution exposure and associated health risks, and therefore, should be taken into account when your project is being configured or when a specific site is being considered for development.

1. Avoid locating the following sensitive uses within the project: schools, day care facilities and senior care centers.
2. Locate occupied open space areas (play areas, courtyards, patios, balconies, etc.) as far from the freeway sources as possible when the size of the site permits.
3. Prioritize the location of non-habitable uses, such as parking structures and building areas not calculated in floor area, nearest the freeway.
4. Screen the project site with substantial vegetation and/or a wall barrier.

PROJECT REQUIREMENTS
All projects seeking discretionary approval for which findings must be made regarding conformance to the General Plan are expected to adhere to the Citywide Design Guidelines, including those that address freeway proximity.

SUPPORTING INFORMATION

Existing Adopted Policies Addressing Impacts of Air Quality
The City's General Plan already contains adopted policies addressing health-based risks and outcomes. Below are a few that are directly related to freeways.

Air Quality Element Policy 4.3.1: Revise the City's General Plan/Community Plans to ensure that new or related sensitive receptors are located to minimize significant health risks posed by air pollution sources.

Housing Element Policy 4.1.9: Whenever possible, assure adequate health-based buffer zones between new residential and emitting industries.

Housing Element Policy 2.1.2: Establish standards that enhance health outcomes.

Plan for Healthy LA Policy 1.5 - Plan for Health: Improve Angelenos' health and well-being by incorporating a health perspective into land use, design, policy, and zoning decisions through existing tools, practices, and programs.

Plan for Healthy LA Policy 5.2 – People: Reduce negative health impacts for people who live and work in close proximity to industrial uses and freeways through health promoting land uses and design solutions.

Plan for Healthy LA Policy 5.4 - Noxious activities: Protect communities' health and well-being from exposure to noxious activities (for example, oil and gas extraction) that emit odors, noise, toxic, hazardous, or contaminant substances, materials, vapors, and others.

Plan for Healthy LA Policy 5.7 - Land use planning for public health and GHG emission reduction: Promote land use policies that reduce per capita greenhouse gas emissions, result in improved air quality and decreased air pollution, especially for children, seniors and others susceptible to respiratory diseases.

Adopted Ordinance Addressing Impacts of Air Quality
As part of the Clean Up Green Up initiative, on April 26, 2016, City Council amended Articles 5 and 9 of Chapter IX of the Los Angeles Municipal Code (L.A.M.C.) addressing sources of outside air in buildings and requiring all new mechanically ventilated buildings located within 1,000 feet of the freeway to install air filtration media that provides a Minimum Efficiency Reporting Value (MERV) of 13 (Ordinance 184245).

[1] Freeway, as defined in the Caltrans Highway Design Manual – Chapter 60, pg. 60-2: (May 7, 2012)
"Freeway--A divided arterial highway with full control of access and with grade separations at intersections."

Exhibit D

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CITY OF LOS ANGELES
DEPARTMENT OF CITY PLANNING
ZONING INFORMATION FILE

ZI NO. 2452

TRANSIT PRIORITY AREAS (TPAs) / EXEMPTIONS TO AESTHETICS AND PARKING WITHIN TPAs PURSUANT TO CEQA

CITYWIDE

Note: This Zoning Information File is for information only and does not require any compliance check from LADBS or DCP.

COMMENTS:

On September 2013, the Governor signed into law Senate Bill (SB) 743, which instituted changes to the California Environmental Quality Act (CEQA) when evaluating environmental impacts to projects located in areas served by transit. While the thrust of SB 743 addressed a major overhaul on how transportation impacts are evaluated under CEQA, it also limited the extent to which aesthetics and parking are defined as impacts under CEQA. Specifically, Section 21099 (d)(1) of the Public Resources Code (PRC) states that a project's aesthetic and parking impacts shall not be considered a significant impact on the environment if:

1. The project is a residential, mixed-use residential, or employment center project, and

2. The project is located on an infill site within a transit priority area.

Section 21099 (a) of the PRC defines the following terms:

(1) "Employment center project" (TPAs) means a project located on property zoned for commercial uses with a floor area ratio of no less than 0.75 and that is located within a transit priority area.

(4) "Infill site" means a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses.

(7) "Transit priority area" means an area within one-half mile of a major transit stop that is existing or planned. Section 21064.3 of the PRC defines a "major transit stop" as a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, 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. For purposes of Section 21099 of the PRC, a transit priority area also includes major transit stops in the City of Los Angeles (city) that are scheduled to be completed within the planning horizon of the Southern California Association of Governments (SCAG) Regional Transportation Plan / Sustainable Community Strategy (RTP/SCS).

While the Governor's Office of Planning and Research (OPR) is still in the process of drafting guidance to substantially revise transportation impact methodology for infill projects, the elimination of aesthetics and parking for infill projects went into effect January 2014. No further action is needed for the elimination of aesthetics and parking for infill projects, defined herein to take effect as part of the City's impact evaluations pursuant to CEQA.

INSTRUCTIONS:

Visual resources, aesthetic character, shade and shadow, light and glare, and scenic vistas or any other aesthetic impact as defined in the City's CEQA Threshold Guide shall not be considered an impact for infill projects within TPAs (shown in the attached map) pursuant to CEQA. However, this law did not limit the ability of the City to regulate, or study aesthetic related impacts pursuant to other land use regulations found in the Los Angeles Municipal Code (LAMC), or the City's General Plan, including specific plans. For example, DCP staff would still need to address a project's shade and shadow impacts if it is expressly required in a specific plan, Community Design Overlays (CDOs), or Historic Preservation Overlay Zones (HPOZs). Also note that the limitation of aesthetic impacts pursuant to Section 21099 of the PRC does not include impacts to historic or cultural resources. Impacts to historic or cultural resources will need to be evaluated pursuant to CEQA regardless of project location.

Find attached a citywide map of TPAs in the City of Los Angeles. Department of City Planning (DCP) staff should use this citywide map in determining if a project is clearly within a TPA, and if aesthetics and parking are not to be included in a project's impact evaluation in a negative declaration (ND), mitigated negative declaration (MND) or environmental impact report (EIR) prepared in accordance with CEQA. Eventually, TPAs will be identified in ZIMAS, however this map is to be referenced on an interim basis. Planners should also consult ZIMAS or Navigate LA if it cannot be determined from the map if a project site is within ½ mile of a major transit stop.

A project shall be considered to be within a TPA if all parcels within the project have no more than 25 percent of their area farther than one-half mile from the major transit stop and if not more than 10 percent of the residential units or 100 units, whichever is less, in the project are farther than one-half mile from the major transit stop. Projects intersecting non-overlapping TPA boundaries would also need to demonstrate they are within one-half mile of a major transit stop based on boarding location information. The burden shall be on the project applicant to demonstrate their project is within a TPA for parcels along a TPA boundary.

For further information regarding TPAs, contact Cally Hardy at (213) 978-1643.

Further reference:

http://opr.ca.gov/s_transitorienteddevelopmentsb743.php

Exhibit E

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DEPARTMENT OF
CITY PLANNING

CITY PLANNING COMMISSION

DAVID H. J. AMBROZ
PRESIDENT

RENEE DAKE WILSON
VICE-PRESIDENT

CAROLINE CHOE
VAHID KHORSAND
JOHN W. MACK
SAMANTHA MILLMAN
MARC MITCHELL
VERONICA PADILLA-CAMPOS
DANA M. PERLMAN

ROCKY WILES
COMMISSION OFFICE MANAGER
(213) 978-1300

CITY OF LOS ANGELES
CALIFORNIA

ERIC GARCETTI
MAYOR

EXECUTIVE OFFICES
200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801

VINCENT P. BERTONI, AICP
DIRECTOR
(213) 978-1271

KEVIN J. KELLER, AICP
EXECUTIVE OFFICER
(213) 978-1272

LISA M. WEBBER, AICP
DEPUTY DIRECTOR
(213) 978-1274

JAN ZATORSKI
DEPUTY DIRECTOR
(213) 978-1273

http://planning.lacity.org

CASE NO. CPC-2017-1914-MSC

February 26, 2018

TECHNICAL CLARIFICATIONS TO THE TRANSIT ORIENTED COMMUNITIES AFFORDABLE HOUSING INCENTIVE PROGRAM GUIDELINES (TOC GUIDELINES)

The Transit Oriented Communities Affordable Housing Incentive Guidelines (TOC Guidelines) developed pursuant to Measure JJJ was released on September 22, 2017. Since that time, several technical clarifications have been identified. The Department has updated the TOC Guidelines to reflect these clarifications. All changes are listed in the Activity Log of the Guidelines.

If you have any questions, please do not hesitate to contact Matthew Glesne of the Department of City Planning at (213) 978-2666 or matthew.glesne@lacity.org.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning

VBP:KJK:MG:CH:mn

Attachment: TOC Guidelines

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What is RLUIPA?

RLUIPA stands for "The Religious Land Use and Institutionalized Persons Act." This is a federal law that, among other things, protects religious institutions from unduly burdensome or discriminatory land use regulations.

Congress passed RLUIPA in 2000, after hearing testimony that land use/ zoning regulations were often burdening the ability of religious congregations to exercise their faiths in violation of the Constitution.

What Does RLUIPA Do?

Bars land use regulations that impose a "substantial burden" on religious exercise

If you work with a church or other religious institution, you know that having a place to meet and operate is fundamental. Section 2(a) of RLUIPA bars land use/zoning restrictions that impose a **"substantial burden"** on the religious exercise of a person or institution, unless the government can show that:

- it has a **"compelling interest"** for imposing the restriction and
- the restriction is the **least restrictive** way for the government to further that interest.

For example: A church is denied a permit to build an addition to accommodate more Sunday school classes, which it believes it needs to carry out its religious mission. This may violate RLUIPA if the town cannot show a compelling reason for the denial.

Requires governments to treat houses of worship as favorably as nonreligious assemblies

Section 2(b)(1) of RLUIPA says that religious assemblies and institutions must be treated at least as well as nonreligious assemblies and institutions. This is known as the **"equal terms"** provision of RLUIPA.

For example: A mosque leases space in a storefront. Zoning officials deny an occupancy permit since houses of worship are forbidden in that zone. However, fraternal organizations, meeting halls, and banquet facilities are all permitted as of right in the same zone. This may violate RLUIPA.

Bars governments from discriminating among religions

Section 2(b)(2) of RLUIPA bars discrimination "against any assembly or institution on the basis of religion or religious denomination."

For example: A Hindu congregation is denied a building permit for a temple despite meeting all of the requirements for height, setback, and parking required by the zoning code. The zoning administrator is overheard making a disparaging remark about Hindus. If it were proven that the permit was denied because the applicants were Hindu, this would violate RLUIPA.

Bars governments from totally or unreasonably excluding houses of worship.

Section 2(b)(3)(A) and (B) of RLUIPA provide: "No government shall impose or implement a land use regulation" that "totally excludes religious assemblies from a jurisdiction," or "unreasonably limits religious assemblies, institutions, or structures within a jurisdiction."

For example: A town, seeking to preserve tax revenues, enacts a law that no new churches or other houses of worship will be permitted. Such a total exclusion may violate RLUIPA.

Examples of DOJ's RLUIPA Work

Montgomery County, Maryland

Bethel World Outreach Ministries had outgrown its church and purchased a 119-acre cite in the county to build a new 800-seat church. The county subsequently made zoning changes that blocked the development. The church brought suit under RLUIPA. After a trial court ruled against it, the church reached out to DOJ for help.

DOJ filed a friend-of-the-court brief in a federal appeals court arguing that the church had shown a substantial burden on its religious exercise. The appeals court agreed, finding that the church had outgrown its facility and needed a bigger church; that it had a reasonable expectation that it could build on the property it bought; and that the "delay, uncertainty and expense" of looking for a different property all created a substantial burden on the church's religious exercise.

Bernards Township, New Jersey

The Islamic Society of Basking Ridge was meeting in a rented public school and a public park and was looking for permanent space. It bought a property in a zone permitting places of worship as-of-right, and which met the minimum acreage requirements for places of worship. However, the Islamic Society was denied a permit to build a mosque after 39 public hearings over a three-and-a-half year period. The Islamic Society reached out to DOJ.

After a thorough investigation, DOJ filed suit alleging violations of RLUIPA. Ultimately, DOJ and the Islamic Society reached a settlement with the Township. The settlement allowed the Islamic Society to build its mosque.

Hollywood, Florida

The Hollywood Community Synagogue applied for a permit to operate out of two connected houses on a busy street which it had purchased. After several hearings, and despite a determination by the zoning board that the synagogue met the requirements for a permit, the city commission denied the synagogue's permit.

DOJ investigated and ultimately filed a RLUIPA case. DOJ alleged that the city had given similar permits to other houses of worship and nonreligious assemblies, and had never before denied any place of worship a special permit to operate in a residential district. The suit also alleged bias against Orthodox Jews by the city.

On the eve of trial, DOJ, the synagogue, and the city reached a settlement that allowed the synagogue to operate.

www.justice.gov/crt/rluipa

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Questions and Answers on the Land Use Provisions of RLUIPA

1. Who is protected and what types of activities are covered by RLUIPA?

RLUIPA protects the religious exercise of "persons," defined to include religious assemblies and institutions in addition to individuals.[11] Courts have applied RLUIPA, for example, in cases involving houses of worship,[12] individuals holding prayer meetings in their homes,[13] religious schools,[14] religious retreat centers,[15] cemeteries,[16] and faith-based social services provided by religious entities.[17]

2. What does "religious exercise" include?

RLUIPA provides that "religious exercise" includes any exercise of religion, "whether or not compelled by, or central to, a system of religious belief."[18] Thus, a county or municipality cannot avoid the force of RLUIPA by asserting that a particular religious activity is something that a religious group merely wants to do rather than something that it must do. For example, a town could not claim that Sunday school classes are not religious exercise because they are less central to a church's beliefs or less compulsory than worship services.[19]

RLUIPA also specifies that "[t]he use, building, or conversion of real property for the purpose of religious exercise shall be considered to be religious exercise . . . ."[20] This provision makes clear that religious exercise under RLUIPA includes construction or expansion of places of worship and other properties used for religious exercise.[21]

[11] RLUIPA, 42 U.S.C. § 2000cc(a).
[12] *See, e.g.*, *Guru Nanak Sikh Soc'y v. Cty. of Sutter*, 456 F.3d 978, 986-87 (9th Cir. 2006); *Saints Constantine and Helen Greek Orthodox Church v. City of New Berlin,* 396 F.3d 895, 897 (7th Cir. 2005).
[13] *See, e.g., Konikov v. Orange Cty.*, 410 F.3d 1317, 1320-21 (11th Cir. 2005) (meetings in rabbi's home).
[14] *See Westchester Day Sch. v. Vill. of Mamaroneck*, 504 F.3d 338, 344 (2d Cir. 2007).
[15] *See DiLaura v. Twp. of Ann Arbor*, 112 F. App'x 445, 446 (6th Cir. 2004).
[16] *See Roman Catholic Diocese of Rockville Ctr. v. Vill. of Old Westbury*, 128 F. Supp. 3d 566, 571 (E.D.N.Y. 2015).
[17] *See, e.g., Harbor Missionary Church Corp. v. City of San Buenaventura,* 642 F. App'x. 726, 729 (9th Cir. 2016); *Layman Lessons, Inc. v. City of Millersville*, 636 F. Supp. 2d 620, 648-50 (M.D. Tenn. 2008).
[18] RLUIPA, 42 U.S.C. § 2000cc-5(7)(A).
[19] *See Westchester Day Sch. v. Vill. of Mamaroneck*, 417 F. Supp. 2d 477, 545 (S.D.N.Y. 2006) (classes with Jewish content are religious exercise for RLUIPA purposes whether or not they are "core religious practice."); *Living Water Church of God v. Charter Twp. of Meridian*, 384 F. Supp. 2d 1123, 1130 (W.D. Mich. 2005) (use of church for school and other ministries of the church were religious exercise for purposes of RLUIPA), *rev'd on other grounds*, 258 F. App'x 729 (6th Cir. 2007).
[20] RLUIPA, 42 U.S.C. § 2000cc-5(7)(B).
[21] *See, e.g., Chabad Lubavitch of Litchfield County, Inc. v. Borough of Litchfield*, No. 3:09-cv-1419, 2016 WL 370696, *18 (D. Conn. 2016); *Congregational Rabbinical Coll. of Tartikov, Inc. v. Village of Pomona*, 138 F. Supp. 3d 352, 424 (S.D.N.Y. 2015) (citing *Sherbert v. Verner*, 374 U.S. 398, 403 (1963)).

Courts have held that "religious exercise" covers a wide range of activities, including operation of various faith-based social services facilities;[22] accessory uses such as fellowship halls, parish halls and similar buildings or rooms used for meetings, religious education, and similar functions;[23] operation of a religious retreat center in a house;[24] religious gatherings in homes;[25] and construction or expansion of religiously affiliated schools, even where the facilities would be used for both secular and religious educational activities.[26]

3. Who is bound by RLUIPA's requirements?

RLUIPA applies to states (including state departments and agencies) and their subdivisions, such as counties, municipalities, villages, towns, cities, city councils, planning boards, zoning boards, and zoning appeals boards.[27]

4. Does RLUIPA exempt religious assemblies and institutions from local zoning laws?

No. RLUIPA is not a blanket exemption from zoning laws.[28] As a general matter, religious institutions must apply for the same permits, follow the same requirements, and go through the same land use processes as other land users.[29] But RLUIPA by its terms prohibits a local government from applying zoning laws or regulations in a way that:

- Substantially burdens religious exercise without a compelling justification pursued through the least restrictive means;
- Treats religious uses less favorably than nonreligious assemblies and institutions;
- Discriminates based on religion or religious denomination; or
- Totally or unreasonably restricts religious uses in the local jurisdiction.

When there is a conflict between RLUIPA and the zoning code or how it is applied, RLUIPA, as a federal civil rights law, takes precedence.[30]

[22] *See* notes to Question and Answer 1, above.
[23] *See Mintz v. Roman Catholic Bishop of Springfield*, 424 F. Supp. 2d 309, 319 (D. Mass. 2006).
[24] *See DiLaura*, 112 F. App'x at 446.
[25] *See Konikov,* 410 F.3d at 1320-21.
[26] *See Westchester Day Sch.,* 504 F.3d at 347.
[27] RLUIPA, 42 U.S.C. 2000cc-5(4).
[28] *See World Outreach Conference Ctr. v. City of Chicago,* 591 F.3d 531, 539 (7th Cir. 2009); *see also* 146 CONG. REC. S7776.
[29] *See, e.g.*, *Civil Liberties for Urban Believers v. City of Chicago*, 342 F.3d 752, 762 (7th Cir. 2003); *Anselmo v. Cty. of Shasta,* 873 F. Supp. 2d 1247, 1262 (E.D. Cal. 2012).
[30] *Holy Ghost Revival Ministries v. City of Marysville*, 98 F. Supp. 3d 1153, 1165 (W.D. Wash. 2015) (zoning laws that conflict with RLUIPA must yield under the Supremacy Clause).

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5. Are there occasions when a religious assembly or institution does not have to apply for zoning approval, and appeal any denial, before it has recourse to RLUIPA?

As a practical matter, applying for a zoning permit, special use permit, conditional use permit, special exception, variance, rezoning, or other zoning procedure, and appealing within that system in case of denials, is often the fastest and most efficient way to obtain ultimate approval.

Some courts have held that, in some circumstances, religious institutions need not make an application or appeal before filing a RLUIPA lawsuit. These include settings where further application or appeal would be futile under the circumstances;[31] there would be excessive delay, uncertainty, or expense;[32] or if the application requirements are discriminatory on their face.[33]

6. RLUIPA applies to any "land use regulation." What does that mean?

RLUIPA defines land use regulation as a "zoning or landmarking law, or the application of such a law, that limits or restricts a claimant's use or development of land."[34] Zoning laws include statutes, ordinances, or codes that determine what type of building or land use can be located in what areas and under what conditions.[35] In addition to requests for variances, rezonings, special use permits, conditional use permits, occupancy permits, site plans approvals, and other typical zoning actions, some courts have construed "zoning law" to encompass things such as environmental regulations[36] or sewage requirements[37] that are integrated into the zoning process. Landmarking laws are restrictions that municipalities place on specific buildings or sites to preserve those that are deemed significant for historical, architectural, or cultural reasons.[38]

Some courts have held that RLUIPA's definition of land use regulation, however, does not extend to every type of law involving land, such as fire codes,[39] the Americans with Disabilities Act's building accessibility requirements,[40] an ordinance requiring all land development to tap into municipal sewer connections,[41] or stormwater remediation fees.[42]

7. Does RLUIPA apply to local governments using eminent domain to take property owned by religious institutions?

"Eminent domain" refers to government taking of private property for public use with just compensation. Some courts have held that, as a general matter, eminent domain is not the application of a zoning or landmarking law, and thus RLUIPA will not apply.[43] However, where municipalities have tried to use eminent domain to short-circuit the zoning process for places of worship that have applied for zoning approval, other courts have found that such actions may be covered by RLUIPA.[44]

8. Can places of worship still be landmarked?

Yes, places of worship can be landmarked.[45] However, like any other land use regulation, landmarking designations that impose a substantial burden on religious exercise must be justified by compelling governmental interests and pursued in the least restrictive ways possible.[46] Landmarking regulations also must be applied in a nondiscriminatory manner.[47]

9. What kinds of burdens on religious exercise are "substantial burdens" under RLUIPA?

A court's substantial burden inquiry is fact-intensive. Courts look at the degree to which a zoning or landmarking restriction is likely to impair the ability of a person or group to engage in the religious exercise in question.[48] Whether a particular restriction or set of restrictions will be a substantial burden on a complainant's religious exercise will vary based on the context. Courts have looked at factors such as the size and resources of the burdened party,[49] the actual religious needs of an individual or religious congregation,[50] the level of current or

[31] *World Outreach,* 591 F.3d at 537.
[32] *Guru Nanak Sikh Soc'y,* 456 F.3d at 991; *Saints Constantine and Helen Greek Orthodox Church*, 396 F.3d at 901.
[33] *See Digrugilliers v. City of Indianapolis*, 506 F.3d 612, 615 (7th Cir. 2007).
[34] RLUIPA, 42 U.S.C. § 2000cc-5(5).
[35] *See Martin v. Houston*, 196 F. Supp. 3d 1258, 1264 (M.D. Ala. 2016).
[36] *Fortress Bible Church v. Feiner*, 694 F.3d 209, 216 (2d Cir. 2012).
[37] *United States v. Cty. of Culpeper*, 245 F. Supp. 3d 758, 766 (W.D. Va. 2017).
[38] *See Penn Cent. Transp. Co. v. City of New York*, 438 U.S. 104, 129 (1978); *Temple B'Nai Zion, Inc. v. City of Sunny Isles Beach*, 727 F.3d 1349, 1353 (11th Cir. 2013).
[39] *See Petra Presbyterian Church v. Vill. of Northbrook*, 489 F.3d 846, 851 (7th Cir. 2007); *Lighthouse Cmty. Church of God v. Southfield*, No. 05-40220, 2007 WL 1017004 (E D. Mich. Apr. 2, 2007); *Affordable Recovery House v. City of Blue Island,* No. 12-CV-4241, 2016 WL 1161271, at *6 (N.D. Ill. Sep. 21, 2016).
[40] *Anselmo v. Cty. of Shasta*, 873 F. Supp. 2d 1247, 1256-57 (E.D. Cal. 2012).
[41] *See Baptist Church of Leechburg v. Gilpin Twp.*, 118 F. App'x 615, 617 (3d Cir. 2004).
[42] *Shaarei Tfiloh Congregation v. Mayor and City Council of Baltimore*, Nos. 2645, 2572, 2018 WL 1989534, at *23 (Md. Ct. Spec. App. Apr. 27, 2018).
[43] *See, e.g., St. John's United Church of Christ v. City of Chicago,* 401 F. Supp. 2d 887, 899 (N.D. Ill. 2005)
[44] *See Albanian Associated Fund v. Twp. of Wayne*, No. 06-cv-3217, 2007 WL 4232966, at *3 (D.N.J. Nov. 29, 2007); *Cottonwood Christian Ctr. v. Cypress Redevelopment Agency*, 218 F. Supp. 2d 1203, 1230 (C.D. Cal. 2002).
[45] *See, e.g., Trinity Evangelical Lutheran Church v. City of Peoria*, 591 F.3d 531, 533 (7th Cir. 2009).
[46] RLUIPA, 42 U.S.C. § 2000cc(a)(1); *see also Trinity Evangelical Lutheran*, 591 F.3d at 533.
[47] RLUIPA, 42 U.S.C. § 2000cc(b)(2).
[48] *See World Outreach*, 591 F.3d at 537, 539; *Vision Church v. Vill. of Long Grove*, 468 F.3d 975, 1000 (7th Cir. 2006).
[49] *See World Outreach*, 591 F.3d at 537, 539.
[50] *See Vision Church,* 468 F.3d at 1000.

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imminent space constraints,[51] whether alternative properties are reasonably available,[52] the history of a complainant's efforts to locate within a community,[53] the absence of good faith by the zoning authorities,[54] and many other factors.

Examples of actions that some courts have found to constitute a substantial burden on religious exercise under RLUIPA include:

- effectively barring use of a particular property for religious activity;[55]
- imposing a significantly great restriction on religious use of a property;[56] and
- creating significant delay, uncertainty, or expense in constructing or expanding a place of worship, religious school, or other religious facility.[57]

Some courts have, for example, found substantial burdens on religious exercise in a denial of a church construction permit due to onerous off-street parking requirements imposed by a city,[58] a denial of approval for construction of a parish center,[59] a denial of expansion plans for a religious school,[60] and a denial of an application to convert a building's storage space to religious use.[61]

Conversely, other courts have found no substantial burden violation when a church was denied the amount of off-street parking it would have preferred when there were reasonable parking alternatives available,[62] when a religious high school was denied the ability to operate a commercial fitness center and dance studio out of a portion of its building,[63] and when a church was barred from demolishing an adjacent landmarked building it had purchased in order to construct a family life center, as there was other space on the church's campus that would be suitable.[64]

[51] *See Rocky Mountain Christian Church v. Bd. of Cty. Comm'rs of Boulder*, 612 F. Supp. 2d 1163, 1172 (D. Colo. 2009), *aff'd*, 613 F.3d 1229, 1236 (10th Cir. 2010).
[52] *See Petra Presbyterian Church*, 489 F.3d at 851; *World Outreach*, 591 F.3d at 539; *Midrash Sephardi v. Town of Surfside*, 366 F.3d 1214, 1228 (11th Cir. 2004).
[53] *See Guru Nanak Sikh Soc'y*, 456 F.3d at 991; *Saints Constantine and Helen Greek Orthodox Church*, 396 F.3d at 901.
[54] *See Guru Nanak Sikh Soc'y,* 456 F.3d at 991-92; *Saints Constantine and Helen Greek Orthodox Church*, 396 F.3d at 901.
[55] *See Living Water Church of God v. Charter Twp. of Meridian*, 258 F. App'x. 729, 737 (6th Cir. 2007); *DiLaura*, 112 Fed. App'x. at 446.
[56] *See Guru Nanak Sikh Soc'y*, 456 F.3d at 988.
[57] *See Saints Constantine and Helen Greek Orthodox Church,* 396 F.3d at 901; *Guru Nanak Sikh Soc'y*, 456 F.3d at 992; *Westchester Day Sch.*, 504 F.3d at 349.
[58] *See Lighthouse Cty. Church of God v. City of Southfield*, No. 05-40220, 2007 WL 30280, at *9 (E.D. Mich. Jan 3, 2007).
[59] *See Mintz*, 424 F. Supp. 2d at 322.
[60] *See Westchester Day Sch.*, 504 F.3d at 349.
[61] *Castle Hills First Baptist Church v. City of Castle Hills*, No. SA-01-CA-1149-RF, 2004 WL 546792, at *17 (W.D. Tex. Mar. 17, 2004).
[62] *Id.*
[63] *See New Life Worship Ctr. v. Town of Smithfield Zoning Bd. of Review*, No. 09-0924, 2010 WL 2729280 (R.I. Super. Ct. July 7, 2010).
[64] *See Trinity Evangelical Lutheran Church*, 591 F.3d at 539.

10. RLUIPA contains a complicated description about when the "substantial burden" section will apply. Just when does the "substantial burden" test apply in a particular case?

RLUIPA applies the substantial burden test to zoning or landmarking laws that have procedures in place under which the government makes "individualized assessments of the proposed uses for the property involved."[65] Individualized assessments may be present, some courts have held, when the government looks at and considers the particular details of a proposed land use in deciding whether to permit or deny the use.[66] RLUIPA thus generally may cover applications for variances, special use permits, special exceptions, rezoning requests, conditional use permits, zoning appeals, and similar applications for relief, since these all ordinarily involve reviewing the facts and making discretionary determinations whether to grant or reject an application.[67] Some courts have held, however, that denial of a building or occupancy permit based *solely* on a mechanical, objective basis with no discretion on the part of the decision maker would not be an individualized assessment.[68]

Even if a zoning or landmarking case does not involve an individualized assessment, the substantial burden test still applies if there is federal funding involved or if the use at issue affects interstate commerce,[69] as might be the case with some construction or expansion projects.[70]

11. What are examples of compelling interests that will permit local governments to impose substantial burdens on religious exercise?

A government cannot impose a substantial burden on religious exercise unless it can prove both that it is pursuing a compelling governmental interest, and that it is using the means that are the least restrictive of religious freedom.[71] In the RLUIPA context, some courts have interpreted "compelling interest" to mean an interest of the "highest order."[72] As one court described it, an interest of the highest order typically involves "some substantial threat to public safety, peace, or order."[73] Some courts have ruled, for

[65] RLUIPA, 42 U.S.C. § 2000cc (a)(2)(C).
[66] *See Guru Nanak Sikh Soc'y*, 456 F.3d at 986-87.
[67] *Id.; see also Konikov*, 410 F.3d at 1323; *Freedom Baptist Church of Del. Cty. v. Twp. of Middletown*, 204 F. Supp. 2d 857, 868 (E.D. Pa. 2002) ("[L]and use regulations through zoning codes necessarily involve case-by-case evaluations of the propriety of proposed activity against extant land use regulations.").
[68] *See, e.g.*, *Grace United Methodist v. Cheyenne*, 451 F.3d 643, 654 (10th Cir. 2006) (non-discretionary denial of variance not individualized assessment).
[69] RLUIPA, 42 U.S.C. § 2000cc(a)(2)(b).
[70] *See Westchester Day Sch.,* 504 F.3d at 354.
[71] RLUIPA, 42 U.S.C. § 2000cc-2(b).
[72] *Westchester Day Sch.,* 504 F.3d at 353.
[73] *Congregational Rabbinical Coll. of Tartikov, Inc. v. Village of Pomona*, 138 F. Supp. 3d 352, 456 (S.D.N.Y. 2015) (citing *Sherbert v. Verner*, 374 U.S. 398, 403 (1963)).

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example, that a municipality's asserted interests in revenue generation and economic development[74] or aesthetics[75] were not compelling.

While increased traffic can implicate safety concerns, some courts have ruled that a county or municipality cannot simply point to an interest in traffic safety in the abstract as a compelling interest justifying a substantial burden on religious exercise.[76] Rather, according to these courts, the local government must show that it has a compelling interest in achieving that interest through the particular restriction at issue, such as safety interests in regulating traffic flow on the particular street at issue.[77]

Even where an interest is compelling, RLUIPA requires that it must be pursued through the least restrictive means.[78] That is, if there is another way that the government could achieve the same compelling interest that would impose a lesser burden on religious exercise, it must choose that way rather than the more burdensome option.[79]

12. What does RLUIPA require of local governments with regard to treating religious assemblies and institutions as favorably as nonreligious assemblies and institutions?

RLUIPA contains a section known as the "equal terms" provision. It provides that "[n]o government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution."[80]

This provision was meant to address the problem of zoning codes, either facially or in application, excluding places of worship where secular assemblies are permitted. Senators commented on the problem of houses of worship being excluded from places where theaters, meeting halls, private clubs, and other secular assemblies would be permitted.[81]

Determining if a religious assembly is treated on "less than equal terms" than a secular assembly or institution requires a comparison of how the two types of entities are treated on the face of a zoning code or in its application.[82] Courts have differed regarding how such a comparison is made, and thus the precise legal test for determining when this provision is violated will vary depending on the judicial circuit in which the case arises.[83]

Examples of cases in which some courts have found equal terms violations include situations where places of worship were forbidden but private clubs were permitted;[84] where religious assemblies were prohibited but auditoriums, assembly halls, community centers, senior citizen centers, civic clubs, day care centers, and other assemblies were allowed;[85] and where places of worship were forbidden but community centers, fraternal associations, and political clubs were permitted.[86]

13. What constitutes discrimination based on religion or religious denomination under RLUIPA?

RLUIPA bars imposition or implementation of a land use regulation that discriminates on the basis of religion or religious denomination.[87] Courts have held that this bar applies to application of land use regulations that are discriminatory on their face, as well as land use regulations that are facially neutral but applied in a discriminatory manner based on religion or religious denomination.[88] Thus, if a zoning permit is denied because municipal officials do not like members of a particular religious group, or if for any other reason an applicant is denied a zoning permit it would have granted had it been part of a different religion or religious denomination, RLUIPA has been violated. Because this section applies to discrimination based on either religion *or religious denomination*, it can apply to situations where a city may not be discriminating against all members of a religion, but merely a particular sub-group or sect.

14. What does it mean for a local government to totally exclude religious uses from a jurisdiction?

RLUIPA prohibits local governments from "totally exclud[ing] religious assemblies from a jurisdiction."[89] For example, if a city, town, or county had no location where religious uses are permitted, that would be a facial violation of RLUIPA.[90]

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[74] *See Cottonwood Christian Ctr.*, 218 F. Supp. 2d at 1228-29.
[75] *See Westchester Day Sch.*, 504 F.3d at 353.
[76] *See id.*
[77] *Id.*
[78] RLUIPA, 42 U.S.C. § 2000cc(a)(1)(b).
[79] See, e.g., *Yellowbear v. Lambert*, 741 F.3d 48, 56-57 (10th Cir. 2014).
[80] RLUIPA, 42 U.S.C. § 2000cc(b)(1).
[81] 146 Cong. Rec. 16698 (daily ed. 2000) (Joint Statement of Senators Hatch and Kennedy).
[82] *See, e.g., Centro Familiar Cristiano Buenas Nuevas v. City of Yuma*, 651 F.3d 1163, 1173 (9th Cir. 2011); *Third Church of Christ, Scientist, of New York City v. City of New York*, 626 F.3d 667, 669 (2d Cir. 2010).
[83] *See, e.g., River of Life Kingdom Ministries v. Vill. of Hazel Crest,* 611 F.3d 367, 371 (7th Cir. 2010); *Lighthouse Inst. for Evangelism*, 510 F.3d at 269; *Midrash Sephardi*, 366 F.3d at 1232.
[84] *Midrash Sephardi*, 366 F.3d at 1233; *Vietnamese Buddhism Study Temple in Am. v. City of Garden Grove*, 460 F. Supp. 2d 1165, 1174 (C.D. Cal. 2006).
[85] *Digrugilliers*, 506 F.3d at 614-15.
[86] *Petra Presbyterian Church,* 489 F.3d at 846.
[87] RLUIPA, 42 U.S.C. § 2000cc-2(b)(2).
[88] *See United States v. Vill. of Airmont,* No. 7:05-cv-5520, at 17-19 (S.D.N.Y. Nov. 12, 2008) (order denying motion to dismiss).
[89] RLUIPA, 42 U.S.C. § 2000cc-2(b)(3)(A).
[90] *See Vision Church*, 468 F.3d at 990.

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15. What does it mean for a local government to impose unreasonable limitations on a religious assembly, institution, or structure?

RLUIPA prohibits land use regulations that "unreasonably limit[ ]" religious assemblies, institutions, or structures within a jurisdiction.[91] One court has concluded that a municipality will violate this provision if its land use laws, or their application, deprive religious institutions and assemblies of reasonable opportunities to use and construct buildings within that jurisdiction.[92] Another court has held that determination of reasonableness depends on a review of all of the facts in a particular jurisdiction, including the availability of land and the economics of religious organizations.[93] Some courts have found unreasonable limitations where regulations effectively left few sites for construction of houses of worship, such as through excessive frontage and spacing requirements, or where zoning restrictions imposed steep and questionable expenses on applicants.[94]

16. When must someone file suit under RLUIPA?

RLUIPA lawsuits brought by private plaintiffs must be filed in state or federal court within four years of the alleged RLUIPA violation.[95]

17. What is the Department of Justice's role in enforcing RLUIPA?

The Department of Justice is authorized to file a lawsuit under RLUIPA for declaratory or injunctive relief, but not for damages.[96] In a RLUIPA lawsuit, the Department might seek, for example, an order from a court requiring a municipality that has violated RLUIPA to amend its zoning code or grant specific zoning permits to a place of worship, religious school, or other religious use. The Department may not, however, seek monetary awards on behalf of persons or institutions that have been injured. To recover damages for RLUIPA violations, alleged victims must file private suits.[97] The Department reviews each case on its merits and the law in the jurisdiction in question. The Department does not base the decision of whether to bring an enforcement action on compliance or noncompliance with this guidance document.

Responsibility for coordinating RLUIPA land use investigations and suits has been assigned to the Housing and Civil Enforcement Section of the Civil Rights Division. That Section investigates and brings RLUIPA lawsuits, both on its own and in conjunction with United States Attorney's offices around the country. If you wish to bring a potential case to the attention of the Department of Justice, you should do so as soon as possible to allow adequate time for review.

The Department receives many complaints from individuals whose rights under RLUIPA may have been violated. It cannot open full investigations and bring suit in all cases. The Department generally endeavors to select cases that involve especially important or recurring issues, that will set precedents for future cases, that involve particularly serious violations, or that will otherwise advance the Department of Justice's goals of protecting religious liberty. In addition to opening investigations and filing suits, the Department sometimes files statements of interest and friend-of-the-court briefs in privately filed suits to highlight important issues of law. Individuals and institutions who believe their RLUIPA rights have been violated are encouraged to seek advice from a private attorney to protect their rights, in addition to contacting the Department of Justice.

18. How can someone contact the Department of Justice about a RLUIPA matter?

The Civil Rights Division's Housing and Civil Enforcement Section may be reached by phone at:

(202) 514-4713
(800) 514-1116
(202) 305-1882 (TTY)
(202) 514-1116 (fax).

The mailing address is:

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Housing and Civil Enforcement Section, NWB
Washington, D.C. 20530

Email: RLUIPA.complaints@usdoj.gov

More information about RLUIPA is available at www.justice.gov/crt/rluipa

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[91] RLUIPA, 42 U.S.C. § 2000cc-2(b)(3)(B).
[92] *Rocky Mountain Christian Church v. Bd. of Cty. Comm'rs of Boulder*, 613 F.3d 1229, 1238 (10th Cir. 2010).
[93] *Vision Church*, 468 F.3d at 990 (citing 146 Cong. Rec. E1563 (daily ed. Sept. 22, 2000) (statement of Rep. Canady)).
[94] *Rocky Mountain Christian Church*, 613 F.3d at 1238; *see also Chabad of Nova, Inc. v. City of Cooper City*, 575 F. Supp. 2d 1280, 1290-91 (S.D. Fla. 2008) (imposition of "inflated costs" and onerous frontage and spacing requirements on houses of worship constitute unreasonable limitations).
[95] 28 U.S.C. § 1658; *Al-Amin v. Shear,* 325 F. App'x. 190, 193 (4th Cir. 2009); *Congregation Adas Yereim v. City of New York*, 673 F. Supp. 2d 94, 108 (E.D.N.Y. 2009).
[96] RLUIPA, 42 U.S.C. § 2000cc-2(f).

Exhibit G

emmaus group

Senator Scott Wiener, 11th Senate District

Senate Bill 4 – Affordable Housing on Faith Lands Act

SUMMARY

Senate Bill 4 provides a streamlined process for religious organizations and nonprofit colleges to develop affordable housing on their property regardless of local zoning restrictions.

BACKGROUND

Faith-based organizations have a long history of partnering with nonprofit developers to build affordable housing. Often, these religious organizations have excess land that they make available for affordable housing developments.

In addition to faith-based organizations, other non-traditional players with surplus land, such as nonprofit colleges, have also stepped up to provide affordable housing solutions for their students, faculty, and others in the community.

Affordable housing development is limited both by available funding as well as land-use restrictions that prohibit all residential uses at densities adequate for affordable housing development.

PROBLEM

Unfortunately, many of these faith-based organizations and non-profit colleges are located in areas that are not zoned to permit multifamily housing. This means that the religious institution and affordable housing developer partner have to rezone the land, which is a tricky process that costs money and can cause long delays in building the affordable homes Californians need. Further, the rezoning process opens up the affordable housing development to significant risk and unpredictability in the approval process as there are more avenues for lawsuit and appeal.

SOLUTION

Senate Bill 4 streamlines the building process for faith-based institutions and non-profit colleges that want to build affordable projects for low-income families by allowing them to build multifamily housing, regardless of local zoning restrictions. This proposed legislation also guarantees by-right approval of projects so long as they are consistent with all objective standards of the jurisdiction and comply with listed environmental protections. This approval process ensures that the California Environmental Quality Act (CEQA) cannot be misused against these projects. CEQA is a critically important law for protecting the environment from projects such as refineries that pollute natural resources and jeopardize health, especially for historically marginalized and underserved populations. However, each step of the CEQA process is subject to appeals and lawsuits that can increase project costs. It's not unusual for it to take three to four years and millions of dollars to resolve a single lawsuit, while appeals regularly take six months to resolve.

Equally important, this Act will help our state's construction workforce rise and thrive. Construction workers will be protected by the requirement to pay prevailing wages on projects with over 10 units. On projects with at least 50 units, contractors must offer apprentices employment and pay for health care for construction workers and their dependents. This creates an economic base and new opportunities for construction workers and provides our state with the highly skilled workforce it needs to build our future.

The faith-based organization or nonprofit college must agree to maintain the affordability of these homes to households below 80 percent of the area median income for at least 55 years for rental housing and 45 years for homeownership opportunities. If a project is located in an area zoned for residential use, it must be allowed a density deemed appropriate for lower income households per housing element law. If located in a commercially zoned area, the project may be up to 40 units per acre, and a height of one story above the maximum height applicable to that parcel.

This legislation would make building affordable housing easier, faster, and less expensive for faith-based institutions and nonprofit colleges in a broad range of communities across California. Many of these institutions are already community anchors, and this will help them build stable, safe, affordable housing for local residents and families.

SUPPORT

- **Non-Profit Housing Association of Northern California (NPH) (Sponsor)**
- **Southern California Association of Non-Profit Housing (SCANPH) (Sponsor)**
- **Jewish Public Affairs Committee of California (JPAC) (Sponsor)**
- **California Conference of Carpenters (Sponsor)**
- **Inner City Law Center (Sponsor)**
- United Way of Greater Los Angeles
- Los Angeles Family Housing
- Housing Action Coalition
- Many Mansions
- Abundant Housing Los Angeles
- Peninsula Solidarity Cohort
- Making Housing and Community Happens
- Move LA
- East Bay Housing Organizations
- East Bay Asian Local Development Corporation
- MidPen Housing Corporation
- Firm Foundation Community Housing
- San Pedro United Methodist Church
- San Francisco Foundation
- YIMBY Action
- Grow the Richmond
- Mountain View YIMBY
- Napa-Solano for Everyone
- Northern Neighbors
- Peninsula for Everyone
- Progress Noe Valley
- San Francisco YIMBY
- Santa Cruz YIMBY
- Santa Rosa YIMBY
- SLOCo YIMBY
- South Bay YIMBY
- South Side Forward
- Urban Environmentalists
- People for Housing Orange County
- How to ADU
- Generation Housing
- PATH (People Assisting the Homeless)
- City of Emeryville
- City of Berkeley
- Muslim Public Affairs Council
- Multi-Faith Action Coalition
- St. Francis Center of Redwood City
- San Francisco Bay Area Planning and Urban Research Association (SPUR)
- Santa Monica Forward
- Active San Gabriel Valley
- Merritt Community Capital Corporation
- Walnut Creek Homeless Task Force
- Union Station Homeless Services
- Jewish Free Loan Association
- IKAR
- Venice Community Housing Corporation
- Jewish Family & Community Services East Bay
- Hadassah Southern California
- South District of the California-Pacific Annual Conference of the United Methodist Church
- Multifaith Voices for Peace and Justice
- First Congregational Church of Berkeley, United Church of Christ
- Claremont United Church of Christ

SB 4 Fact Sheet – 1.5.23