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CITY OF CERRITOS

8  
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

11 CITY OF CERRITOS, a municipal  
12 corporation,

13 Petitioner,

14 v.

15 CITY OF ARTESIA, CITY OF ARTESIA  
CITY COUNCIL; and DOES 1 TO 20,  
16 Inclusive,

17 Respondents.

18 CORNERSTONE ARTESIA  
19 DEVELOPMENT, LLC; AND DOES 21-40,

20 Real Parties in Interest.

Case No.

**PETITION FOR WRIT OF MANDATE**

**(Code of Civil Procedure §§ 1085, 1094.5;  
California Environmental Quality Act, Pub.  
Res. Code §21000 *et seq.* and California  
State Planning and Zoning Law,  
Government Code 65000 *et seq.*)**

21  
22 Petitioner CITY OF CERRITOS (“Cerritos” or “Petitioner”) alleges through this Petition  
23 for Writ of Mandate (“Petition”) as follows:

24 **INTRODUCTION**

25 1. Petitioner challenges CITY OF ARTESIA and CITY OF ARTESIA CITY  
26 COUNCIL’s (collectively “Artesia” or “Respondents”) approval of land use entitlements,  
27 amendments to city planning and zoning requirements, and corresponding mitigated negative  
28 declaration (collectively, the “Project Approvals”) to accommodate a seven-story residential and





1 commercial building proposed to be located at 18600 Gridley Road in Artesia (the “Project”). The  
2 Project is located directly on Cerritos’ border.

3           2.       The Artesia Live II development, as the Project is called, is a case of the tail wagging  
4 the dog. This Project has been allowed to dictate changes to Artesia’s planning and zoning  
5 requirements rather than being developed in a manner harmonious with the surrounding community  
6 and consistent with Artesia’s General Plan, as the law requires. As approved, the Project’s high-rise  
7 scale and density make it grossly out of proportion with the surrounding one and two-story residential  
8 and commercial developments in Artesia and Cerritos. As a direct result of this physical  
9 incompatibility and inconsistency with existing long-term planning objectives, the construction and  
10 operation of the Project will lead to substantial adverse impacts in its surrounding community,  
11 including the City of Cerritos, particularly with regard to traffic, vehicle circulation and safety,  
12 parking, and aesthetics. These potentially significant environmental impacts were not adequately  
13 analyzed in the mitigated negative declaration prepared for the Project, nor were they adequately  
14 mitigated.

15           3.       The Project is inconsistent with the policies and objectives of the City of Artesia  
16 General Plan 2030, most notably in its incompatible development scale and density. Moreover,  
17 Artesia spot zoned in order to accommodate the Project. In granting the Project Approvals, Artesia  
18 carved out less restrictive development standards that will apply only to the property occupied by the  
19 Project. By affording the Project alone greater development rights than have been given to  
20 surrounding properties (i.e. allowing much greater density and building height with reduced parking  
21 requirements), Artesia illegally and impermissibly spot zoned to allow the Project.

22           4.       The Project received final approvals by the Artesia City Council on March 12, 2018.  
23 The seven-story structure is proposed to be located on a 1.3 acre parcel immediately adjacent to  
24 Cerritos and would measure approximately 85 feet in height. It would be mixed-use in nature,  
25 accommodating 130 residential condominium units, 3,605 square feet of retail use, and 20,211 square  
26 feet of restaurant use. The Project would be located directly adjacent to an existing two-story  
27 residential townhouse development in Artesia to the east, a one story commercial building to the

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1 north, and a one-story bank building to the south. A shopping center in the City of Cerritos is located  
2 directly across the street to the west.

3 5. Petitioner requests that the Court vacate, set aside, rescind and void all of the Project  
4 Approvals, actions, ordinances, resolutions, and findings related to the Project, as well as the mitigated  
5 negative declaration adopted by Respondents, including rescinding any authorizations to proceed with  
6 construction. The basis for this request is that Respondents failed to comply with the provisions of the  
7 California Environmental Quality Act, Public Resources Code section 21000, *et seq.* (“CEQA”) and  
8 State Planning and Zoning Law, Government Code section 65000, *et seq.* and therefore prejudicially  
9 abused its discretion in approving the Project.

10 6. This Petition seeks a stay of any actions to carry out the Project and a peremptory writ  
11 of mandate under California Code of Civil Procedure sections 1085 and/or 1094.5 directing  
12 Respondents to: (1) vacate, set aside, rescind and void all Project Approvals; (2) comply with CEQA  
13 with respect to the Project Approvals by preparing an environmental impact report (“EIR”); and (3)  
14 develop the Project consistent with the requirements of the Artesia General Plan 2030, after  
15 complying with all other legal requirements of CEQA and State Planning and Zoning Law. This  
16 Petition also seeks an award of attorneys’ fees and costs.

17 **PARTIES**

18 7. Petitioner Cerritos is, and at all times herein mentioned was, a municipal corporation  
19 and charter city duly organized and validly existing under the laws of the State of California. Cerritos  
20 was legally incorporated as of April 24, 1956.

21 8. Respondent Artesia is, and at all times herein mentioned was, a municipal corporation  
22 and general law city duly organized and validly existing under the laws of the State of California.  
23 Artesia was legally incorporated as of May 29, 1959. Artesia is, and at all relevant times was,  
24 responsible for administering and carrying out its laws and all applicable federal and State laws,  
25 including CEQA and the State Planning and Zoning Law, in exercising its discretion to approve the  
26 Project.

27 9. Respondent City of Artesia City Council is, and at all times mentioned herein was, the  
28 duly elected legislative body of Respondent City of Artesia. As the decision-making body for the





1 Project, the City Council was charged with the ultimate responsibility for considering and approving  
2 the mitigated negative declaration and the Project in its entirety.

3 10. Real Party in Interest Cornerstone Artesia Development, LLC (“Real Party in Interest”)  
4 is the landowner, applicant, and/or developer and proponent of the Project.

5 11. Petitioner does not know the true names and capacities of the respondents and real  
6 parties in interest listed in the caption as DOES 1 through 40. Petitioner is informed and believes, and  
7 alleges on the basis of such information and belief, that each DOE respondent is in some way  
8 responsible for, participated in, or contributed to the wrongs of which Petitioner complains and has  
9 legal responsibility to comply with CEQA and the State Planning and Zoning Law with respect to the  
10 Project. Upon learning the names of any of these respondents, Petitioner will file an amendment to  
11 the Petition identifying such respondent by name.

12 **JURISDICTION AND VENUE**

13 12. This Court has jurisdiction over this action pursuant to sections 1085 and 1094.5 of the  
14 California Code of Civil Procedure, and sections 21167, 21168 and 21168.5 of the California Public  
15 Resources Code.

16 13. Venue is proper in Los Angeles County under section 394 of the California Code of  
17 Civil Procedure as the county in which the real property on which the Project is to be developed is  
18 located and as the county in which Cerritos and Artesia are both located.

19 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

20 14. Petitioner has performed any and all conditions precedent to filing this action and has  
21 fully exhausted its administrative remedies. (Cal. Pub. Res. Code §21177(a).)

22 15. Petitioner has satisfied each and every exhaustion of remedies requirement that must be  
23 satisfied in order to maintain this action. In particular:

24 a. The violations of law challenged in this action were identified for Respondents  
25 orally or in writing by Petitioner, as well as by private citizens, prior to the close of the public hearing  
26 on the Project, as required by California Public Resources Code section 21177, subdivision (a).

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1           24.     Presently, the Project site is developed with an existing 17, 216 square foot one-story  
2 commercial building occupied by a discount furniture store/showroom and associated surface parking  
3 lot.

4           25.     The Project site is a 1.3 acre property located at 18600 Gridley Road, immediately east  
5 of Cerritos' municipal boundary. The site is directly adjacent to an existing two-story residential  
6 townhouse development which is only 35 feet in height. Additionally, the site is across from an  
7 existing two-story apartment complex and one-story office use to the north and a one-story bank use  
8 to the south. The Los Cerritos Center, a regional commercial center with a variety of retail and office  
9 uses, is located directly to the west of the Project site on Gridley Road in Cerritos.

10          26.     Gridley Road is a major arterial street that experiences high traffic volumes generated  
11 by local commercial business in the cities of Artesia and Cerritos.

12          27.     The Project proposes to remove the existing furniture store building and associated  
13 surface parking lot. In its place, Real Party in Interest would construct a seven-story mixed use  
14 building measuring approximately 85 feet in height, for the accommodation of 130 residential  
15 condominium units, 3,605 square feet of retail use, and 20,211 square feet of restaurant use.

16          28.     As proposed, the Project did not comply with Artesia General Plan or Municipal Code  
17 requirements pertaining to permitted uses, density, parking and building height. Therefore, the Project  
18 included adoption of the "Artesia LIVE II Specific Plan," rezoning the Project site from General  
19 Commercial to "Artesia LIVE II Specific Plan" and amending the Land Use Element of the Artesia  
20 General Plan 2030 to allow for mixed-use developments and residential development intensity/  
21 density standards of up to 95 dwelling units per acre in the Commercial-General General Plan  
22 designation. The Project also required approval of a tentative tract map to subdivide the site into 130  
23 residential condominium lots and approval of a development agreement between Artesia and Real  
24 Party.

25     **B.     Environmental Review**

26           29.     The City of Artesia prepared an initial study/proposed mitigated negative declaration  
27 for the Project ("IS/MND") and circulated the document for review and comment between March 6,  
28 2017 and April 4, 2017.



1           30.     On April 3, 2017, Cerritos submitted a letter to Artesia containing comments regarding  
2 the document. The comment letter raised various traffic, vehicle circulation and safety, parking and  
3 aesthetic concerns with respect to the Project, specifically related to the following:

- 4           a.     Inadequacy of analysis of vehicle trips at Gridley/186th intersection;
- 5           b.     Unsafe modification to left-turn pocket located in City of Cerritos;
- 6           c.     Inadequacy of analysis of vehicle trips at Gridley/184th intersection;
- 7           d.     Impacts caused by truck haul route through residential neighborhood;
- 8           e.     Unsubstantiated captive/shared parking deduction;
- 9           f.     Erroneous assumption regarding future rail station;
- 10          g.     Shade impacts to adjacent two-story residential uses;
- 11          h.     Parking-related traffic impacts caused by tandem parking without mandatory  
12 valet;
- 13          i.     Unsafe traffic conditions posed by turn-in parking spaces between the two  
14 project driveways; and
- 15          j.     Traffic hazards proposed by drop-off lane on major arterial street.

16           31.     Artesia subsequently revised the IS/MND and re-circulated the document, issuing a  
17 Notice of Intent to Adopt a Mitigated Negative Declaration (Recirculated) on July 7, 2017.

18           32.     Cerritos retained Linscott Law & Greenspan Engineers (“LLG”) to conduct an  
19 independent peer review of the revised traffic impact analysis (“Revised TIA”) for the Project. The  
20 LLG study found numerous deficiencies in the Revised TIA for the Project, including that the Revised  
21 TIA used outdated software and methodology and underestimated the traffic and trip generation  
22 impacts of the Project.

23           33.     On August 8, 2017, Cerritos submitted a comment letter regarding the recirculated  
24 IS/MND. The comment letter included a copy of the LLG peer review analysis identifying the  
25 deficiencies in the Revised TIA for the Project. The August 8, 2017 comment letter raised the  
26 following specific concerns with respect to the Project:

- 27           a.     Inadequacy of Analysis of Vehicle Trips at Gridley/ 186<sup>th</sup> Intersection: The  
28 Revised TIA used two different software systems and two different methodologies to evaluate the





1 traffic impacts of intersections studied, despite it being customary to use only one methodology for all  
2 intersections. Moreover, the methodologies used are out of date and, as a result, underestimate the  
3 traffic impacts of the Project. For example, the TIA estimates a level of service (“LOS”) B for the  
4 Gridley/186<sup>th</sup> Intersection during p.m. peak hours, and based on this analysis, a less than significant  
5 impact. Using current traffic impact analysis methodology, however, a LOS F is estimated for the  
6 same intersection during p.m. peak hours, which is a significant impact.

7           b.       Outdated Trip Reduction Methodology: The Revised TIA underestimated the  
8 number of trips to be generated by the Project because it used an outdated methodology to calculate  
9 trip reduction to account for the mix of land uses proposed on the Project site.

10           c.       Inadequate Information Regarding Drop-Off Lane: The re-circulated IS/MND  
11 provides inadequate information regarding a proposed drop-off lane to be located within the public  
12 right-of-way on Gridley Road. A drop-off lane located within the public right of way could create  
13 potential safety hazards posed by vehicles entering and exiting the drop-off lane and potentially  
14 conflict with on-coming traffic. The re-circulated IS/MND did not provide basic factual information  
15 related to the drop-off lane such as line-of-sight study findings, width and length dimensions, vehicle  
16 capacity, proposed uses (whether by residents, customers, and/or for deliveries), and ADA  
17 accessibility.

18           d.       Other LLG peer review comments: The Revised TIA did not include a sight  
19 line analysis at the Project driveway to verify that a driver’s line of sight is not obstructed and does not  
20 threaten vehicular or pedestrian safety; and the TIA did not include a truck turning analysis to ensure  
21 that a small service/delivery truck, a trash truck, and a fire truck could properly access and circulate  
22 through the Project site.

23           e.       Inadequate Gridley/186<sup>th</sup> Intersection Alternative: The re-circulated IS/MND  
24 proposed three alternatives for modifying the intersection of Gridley Road and 186<sup>th</sup> St. Each would  
25 modify the existing center median on Gridley Road and create left-turn pockets in the City of Cerritos.  
26 Such a modification would result in unsafe conflicts between eastbound left-turning vehicles exiting  
27 the Los Cerritos Center driveway turning north onto Gridley Road and southbound left-turning  
28 vehicles turning east onto 186th Street.



1 f. Height Incompatibility with Adjacent Two-Story Residential Uses: Artesia  
2 improperly used City of Los Angeles standards for evaluating the significance of shade/shadow  
3 impacts and improperly concluded that the placement of a seven-story mixed use building adjacent to  
4 existing two-story residential buildings is less than significant. Notably, the use of the City of Los  
5 Angeles standard contradicted the City's past practice of objecting to the compatibility of locating  
6 three-story residential uses in the vicinity of existing two-story residential uses because of impacts. In  
7 addition, the comment letter expressed that the building orientation and height should be re-designed  
8 so as not to impact the privacy of nearby residential properties. The Project scope should be reduced  
9 in order to mitigate these impacts to less than significant.

10 **C. Project Denial By The Planning Commission**

11 34. On August 15, 2017, the Artesia Planning Commission ("Planning Commission") held  
12 a hearing to consider the Project. At the hearing, the Planning Commission continued consideration of  
13 the Project to its next meeting on September 19, 2017.

14 35. On September 19, 2017, the Planning Commission held a continued hearing to consider  
15 the Project. Among the topics discussed during the hearing were the Project impacts associated with  
16 the scale of the Project, traffic congestion on nearby streets, and parking and vehicular access to the  
17 Project.

18 36. At the next meeting of the Planning Commission on October 17, 2017, the Planning  
19 Commission received further public testimony and continued deliberation to the meeting of  
20 November 21, 2017.

21 37. On November 21, 2017, the Planning Commission voted to recommend denial of the  
22 Project and Project Approvals. The Planning Commission determined the entitlements proposed for  
23 the Project were inconsistent with City plans and policies and should not be recommended to the City  
24 Council as presented. The Planning Commission further found that it could not approve the  
25 applications for a Conditional Use Permit and Design Review.

26 38. The Planning Commission could not and did not make any findings that would support  
27 any of the proposed entitlements. As pertinent to this Petition, the Planning Commission based its

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1 decision on evidence in the record as articulated in Artesia Planning Commission Resolution No.  
2 2017-33P, including but not limited to the following:

3 a. “[T]he proposed seven-story urban scale development is incompatible with the  
4 surrounding two-story suburban-scale apartments and single-family residences in height, bulk and  
5 architecture.” (Section 8(A).)

6 b. “[T]he proposed seven-story Project will generate unacceptable shading of  
7 adjacent property, depriving residents of afternoon sunlight.” (Section 8(B); 9(B).)

8 c. “[T]he Project’s height and massing exceed the capacity of the site and preclude  
9 publicly visible landscaping, as evidenced by the Project’s minimal setbacks from adjacent residential  
10 development and from 186<sup>th</sup> Street and Gridley Road.” (Section 8(C); 9(C).)

11 d. “[T]he Gridley Road/186<sup>th</sup> Street intersection configuration cannot adequately  
12 serve the Project because it does not permit direct southbound left-turns from Gridley Road into  
13 eastbound 186<sup>th</sup> Street, and will not be modified with Project construction.” (Section 8(D); 9(D).)

14 e. “(1) [E]stablishing residential units in the Commercial General designation  
15 requires a General Plan amendment, and (2) the proposed residential density is 95 dwelling units per  
16 acre, substantially exceeding the General Plan 2030 high-density residential density of 19-24 dwelling  
17 units per acre.” (Section 9(A).)

18 f. “[T]he proposed Project departs from the established suburban character of  
19 surrounding development because the proposed Project’s residential density and seven-story height  
20 exceed adjacent single and multi-family residential development by 65 units per acre and five stories,  
21 and the Project’s urban architectural style does not exist in the vicinity.” (Section 10(A).)

22 g. “[T]he proposed seven-story structure will cast excessive shade, block  
23 afternoon sunlight, and will negatively affect adjacent residents’ privacy.” (Section 10(B).)

24 **D. Appeal And Project Approval By The Artesia City Council**

25 39. Real Party in Interest appealed the Planning Commission’s denial of the Project to the  
26 Artesia City Council. The Artesia City Council considered the appeal on February 12, 2018 and  
27 March 12, 2018.

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1 **Inadequate Analysis of The Project's Environmental Effects**

2 53. CEQA requires that a mitigated negative declaration provide sufficient analysis to  
3 support a finding that the Project would not have a significant effect on the environment. However,  
4 the re-circulated IS/MND for the Project provides an inadequate and outdated analysis of the Project's  
5 potentially significant environmental effects, including impacts related to increases in traffic, vehicle  
6 circulation and safety, inadequate parking and aesthetics.

7 54. The traffic analysis in the document relies on a traffic impact analysis for the proposed  
8 Project which was prepared using an outdated software system and does not reflect the up-to-date  
9 industry standards for conducting the assessment. Street intersections were analyzed in an  
10 inconsistent manner, using two different software and two different methodologies, both of which are  
11 outdated, for different intersections. Additionally, the calculated trip generation for the Project was  
12 prepared using outdated information.

13 55. Using current traffic impact modeling, at least one intersection (Gridley Road and 186<sup>th</sup>  
14 St.) yields a level of service "F" during the p.m. peak hour at the opening year of the Project, which is  
15 a significant impact. By contrast, the Revised TIA prepared by Artesia concludes that the same  
16 intersection will have a level of service "B" and that there is a less than significant impact.

17 56. There is no meaningful analysis of potential traffic safety hazards resulting from the  
18 Project. In particular, there was no analysis conducted regarding the safety traffic hazards posed by  
19 the proposed drop-off lane located within the public right-of-way on Gridley Avenue. Additionally,  
20 there was no sight line analysis at the Project driveway on 186<sup>th</sup> St. to verify that a driver's clear line  
21 of sight would not be obstructed and does not threaten vehicular or pedestrian safety. No truck  
22 turning analysis was conducted to ensure that a fire truck could properly access and circulate through  
23 the Project site.

24 57. The parking analysis is inadequate and unsupported by substantial evidence. There is  
25 no analysis of the potential environmental impacts caused by the Project's parking deficit relative to  
26 current Artesia residential and commercial parking requirements and resulting traffic congestion and  
27 pedestrian safety hazards. The re-circulated IS/MND fails to account for the environmental impacts  
28 resulting from inadequate parking -- that residents and visitors to the Project will need to park their

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1 vehicles off-site due to the shortage in parking spaces for the Project, the location and capacity of the  
2 off-site parking, and that there is no analysis regarding whether existing pedestrian infrastructure and  
3 signage is adequate to safely accommodate people walking from their vehicles to the Project.  
4 Furthermore, the Project relies, without supporting substantial evidence, on a 10% reduction of  
5 required commercial parking spaces to account for captive and shared parking demand in order to  
6 meet parking requirements.

7 58. The aesthetic and shade/shadow impacts on surrounding properties caused by the high-  
8 rise scale of the Project were not adequately analyzed. Respondents used City of Los Angeles  
9 standards for evaluating the significance of shade/shadow impacts, which is not an appropriate  
10 measure and inconsistent with Respondents' past practice.

11 **Use of Improper Threshold of Significance**

12 59. Artesia improperly used and relied on the City of Los Angeles' threshold of  
13 significance for analyzing whether shade and shadow impacts caused by the Project would pose a  
14 potentially significant impact to the environment.

15 60. Artesia has not adopted its own thresholds of significance for analyzing shade and  
16 shadow impacts, nor does it have specific protocols for evaluating such impacts. For analyzing the  
17 shade and shadow impacts of the Project, Artesia borrowed City of Los Angeles thresholds of  
18 significance. The use of this threshold of significance for this Project is improper and inconsistent  
19 with Artesia's own past practices and concerns expressed related to shade and shadow impacts caused  
20 by multi-story buildings.

21 **Inadequate Mitigation of Significant Environmental Effects**

22 61. CEQA requires that a mitigated negative declaration must include mitigation measures  
23 that reduce the Project's identified significant environmental effects to the point where "clearly no  
24 significant effects on the environment would occur." (Pub. Res. Code §21080(c)(2).)

25 62. Respondents violated CEQA by proposing mitigation measures in the re-circulated  
26 IS/MND which are legally insufficient to ensure that the significant traffic impacts which will result  
27 from the Project will be reduced to a less than significant level.

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1 *Supervisors* (1981) 126 Cal.App.3d 698, 704.) Additionally, general plans also must be “vertically”  
2 consistent, such that specific plans (Gov. Code §65454), zoning ordinances (Gov. Code §65860(a)(2)),  
3 and any decision of the Respondents affecting land use and development, including issuance of a  
4 conditional use permit (*Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d  
5 1176, 1182-86), are consistent with the general plan.

6 69. The Project, specifically Resolution No. 17-2679, amended the Land Use Element of  
7 the Artesia General Plan 2030 to allow for mixed-use developments and residential development  
8 intensity/ density standards of up to 95 dwelling units per acre in the Commercial-General general  
9 plan designation. The development density standard allowing up to 95 dwelling units per acre is also  
10 reflected in the Artesia Live II Specific Plan, which was adopted by Resolution 17-2680. Artesia’s  
11 Zoning Code was amended by Ordinance No. 17-859 to adopt the Artesia Live II Specific Plan as a  
12 land use designation.

13 70. The General Plan amendment adopted by the City, Resolution No. 17-2679, adding  
14 residential intensity/ density standards for the Commercial-General land use designation of up to 95  
15 dwelling units per acre, is internally inconsistent with the General Plan. Allowing density of up to 95  
16 dwelling units per acre does not further the objectives and policies of the General Plan, but instead  
17 obstructs the attainment of its objectives and policies.

18 71. The Artesia Live II Specific Plan and zoning designation is inconsistent with the  
19 General Plan in that proposed allowable residential density of up to 95 dwelling units per acre is  
20 inconsistent with the General Plan.

21 72. Prior to the approval of the Project, the high end of residential density allowed in  
22 Artesia was 30 dwelling units per acre in high density residential areas, the city center mixed use area,  
23 and the Pioneer Boulevard Commercial area. (Artesia Housing Sub-Element, Table H4-1.) Up to 40  
24 dwelling units per acre is allowed in the city center mixed use area “upon development of a strong  
25 retail base business subject to City’s approval.” (*Id.*)

26 73. Allowing up to 95 dwelling units per acre in Commercial General land use designations  
27 is inconsistent with the City of Artesia General Plan 2030 because it will conflict with General Plan

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1 goals, policies and policy action items, including but not limited to the following in the Land Use sub-  
2 element:

3 a. ensuring mixed use developments are integrated with surrounding uses  
4 (Community Policy LU-1.4);

5 b. protecting residential areas from the effects of potentially incompatible uses  
6 (Community Policy LU-2.1);

7 c. maintaining standards for circulation, noise, setbacks, buffer areas, landscaping  
8 and architecture to ensure compatibility between different uses (Action LU-2.1.1);

9 d. ensuring the distinct character of Artesia's neighborhoods are preserved and  
10 reflected in new development (Community Policy LU-2.4); and

11 e. encouraging new development to be similar in scale to the adjoining residential  
12 neighborhood (Action LU-2.4.1).

13 74. Additionally, allowing up to 95 dwelling units per acre in Commercial General land  
14 use designations is inconsistent with the City of Artesia Housing sub-element. Housing Element  
15 Action HE 1.3a, Mixed Use Overlay, contemplated adoption by Artesia of a mixed use overlay to  
16 permit mixed-use development within the "City Center Mixed Use" land use designation. Action HE  
17 1.3a further provided that "[a] project may be allowed increased density up to 40 du/ac if the project  
18 provides for a strong retail-based development, subject to the City's approval." Table B1-2 lists  
19 various properties designated as "Commercial General" which could potentially be designated as  
20 "Mixed Use Overlay" and would be permitted to have up to 40 dwelling units per acre. Artesia's  
21 approval of a General Plan amendment allowing up to 95 dwelling units per acre for the Project is  
22 inconsistent with the Housing Element's mixed-use density limitation of 40 dwelling units per acre in  
23 Commercial General designated areas.

24 75. Artesia's sudden departure from its General Plan objectives and development standards  
25 and creating extremely less restrictive zoning for the single parcel of property on which only the  
26 Project will be located constitutes impermissible and illegal spot zoning.

27 76. The Artesia Live II Specific Plan creates a one-parcel zoning island with drastically  
28 less restrictive development standards than are applicable to surrounding properties, which all have



1 more restrictive zoning requirements. The Project has less stringent development restrictions  
2 compared with surrounding properties for various standards including, but not limited to, density,  
3 building height, lot coverage, and parking requirements. Not only are the development standards  
4 included in the Artesia Live II Specific Plan not comparable whatsoever to those applicable to  
5 properties surrounding the Project, they are not at all comparable to development standards anywhere  
6 else in the City of Artesia.

7 77. No rational reason in the public benefit exists for allowing the relaxed zoning scheme  
8 and reduced development restrictions contemplated by the Project, particularly with regard to allowing  
9 density up to 95 dwelling units per acre, height up to 85 feet, and reduced parking requirements.  
10 Allowing the Project greater development rights than those afforded to surrounding properties is not in  
11 the public interest, nor is there any substantial need for allowing the Project these excessive greater  
12 development rights than surrounding properties.

13 78. As a result of the foregoing defects, Respondents did not proceed in the manner  
14 required by State Planning and Zoning Law and prejudicially abused its discretion by adopting the  
15 Project Approvals inconsistent with the City of Artesia General Plan 2030 and by impermissibly spot  
16 zoning to accommodate the Project. Accordingly, approval of the Project must be set aside.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, the Petitioner prays for entry of judgment as follows:

- 19 1. On the First Cause of Action:
- 20 a. For a stay, preliminary and/or permanent injunction restraining Respondents  
21 and Real Party in Interest from taking action to carry out construction of the Project and/or taking any  
22 action to otherwise carry out the Project Approvals.
- 23 b. For a peremptory writ of mandate directing that Respondents immediately  
24 vacate and set aside the Project Approvals.
- 25 c. For a peremptory writ of mandate directing that Respondents and Real Party in  
26 Interest immediately suspend all activities in furtherance of the Project, including, but not limited to,  
27 issuing grading permits, building permits, certificates of occupancy and/or engaging in any  
28 construction in furtherance of the Project Approvals.

1           d.       For a peremptory writ of mandate directing that Respondents prepare an  
2 environmental impact report, and to otherwise comply with CEQA in any subsequent action taken to  
3 approve the Project.

4           2.       On the Second Cause of Action:

5           a.       For a peremptory writ of mandate directing that Respondents immediately  
6 vacate and set aside the Project Approvals, and that the Project be developed consistent with the  
7 requirements of the Artesia General Plan 2030, after all other legal requirements of CEQA and State  
8 Planning and Zoning Law have been met.

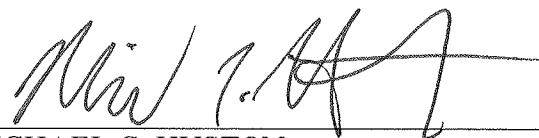
9           3.       For its costs of suit.

10          4.       For an award of attorney fees pursuant to Code of Civil Procedure section 1021.5,  
11 Government Code section 800, or other applicable law.

12          5.       For such other and further relief as the Court may deem just and proper.

13 DATED: April 9, 2018

ALESHIRE & WYNDER, LLP  
MARK W. STERES  
JUNE S. AILIN  
MICHAEL C. HUSTON

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17 By:   
18 MICHAEL C. HUSTON  
19 Attorneys for Petitioner  
20 CITY OF CERRITOS

21 DEEMED VERIFIED PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 446  
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ALESHIRE &  
WYNDER, LLP  
ATTORNEYS AT LAW



# **EXHIBIT A**



**ALESHIRE &  
WYNDER** LLP  
ATTORNEYS AT LAW

ORANGE COUNTY | LOS ANGELES | RIVERSIDE | CENTRAL VALLEY

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(949) 250-5433

18881 Von Karman Avenue,  
Suite 1700  
Irvine, CA 92612  
P (949) 223-1170  
F (949) 223-1180

AWATTORNEYS.COM

April 2, 2018

City of Artesia  
Office of the City Clerk  
c/o Pradeep Elayath, Interim City Clerk  
18747 Clarkdale Avenue  
Artesia, CA 90701

Re: Notice of Intent to File CEQA Petition In Connection with Artesia Live II Project Approvals

Dear Mr. Elayath:

Please take notice that on or before April 12, 2018, the City of Cerritos will file a petition for writ of mandate in Los Angeles County Superior Court challenging actions of the City of Artesia and City of Artesia City Council approving various entitlements and a mitigated negative declaration (collectively, the "Project Approvals") in connection with the proposed Artesia Live II development. Cornerstone Artesia Development, LCC will be named as a Real Party in Interest.

The City of Cerritos will challenge the Project Approvals on the grounds that, among other things, the City failed to comply with the California Environmental Quality Act ("CEQA") (Cal. Pub. Res. Code §21000 *et seq.*) by not preparing an environmental impact report. Cerritos will also allege violations of State Planning and Zoning Law (Cal. Gov. Code §65000 *et seq.*). The petition will request, among other relief, a peremptory writ of mandate directing that the various approvals for the Artesia Live II project be vacated and set aside and that Artesia be ordered to prepare an environmental impact report, and otherwise proceed as required by CEQA and State Planning and Zoning Law. The petition will also request Petitioner's costs and attorney fees. This notice is given pursuant to Public Resources Code section 21167.5.

Very truly yours,

ALESHIRE & WYNDER, LLP

Michael C. Huston

MCH:cd  
cc: Xavier Becerra, Attorney General (via mail)

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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF ORANGE**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Orange, State of California. My business address is 18881 Von Karman Avenue, Suite 1700, Irvine, CA 92612.

On April 2, 2018, I served true copies of the following document(s) described as **LETTER TO CITY OF ARTESIA, OFFICE OF THE CITY CLERK, C/O PRADEEP ELAYATH, INTERIM CITY CLERK, RE NOTICE OF INTENT TO FILE CEQA PETITION IN CONNECTION WITH ARTESIA LIVE II PROJECT APPROVALS** on the interested parties in this action as follows:

City of Artesia  
Office of the City Clerk  
c/o Pradeep Elayath, Interim City Clerk  
18747 Clarkdale Avenue  
Artesia, CA 90701

Xavier Becerra, California Attorney General  
State of California  
Department of Justice  
Office of the Attorney General  
300 S. Spring Street, Suite 1702  
Los Angeles, CA 90013

**BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the practice of Aleshire & Wynder, LLP for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred. The envelope was placed in the mail at Irvine, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 2, 2018, at Irvine, California.



Carla Durkee

**ALESHIRE &  
WYNDER, LLP**  
ATTORNEYS AT LAW



# **EXHIBIT B**





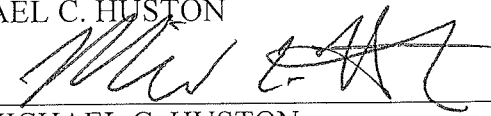
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**TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that pursuant to Public Resources Code section 21167.6, Petitioner City of Cerritos hereby notifies the City of Artesia that it elects to prepare the administrative record in the above-entitled action.

DATED: April 9, 2018

ALESHIRE & WYNDER, LLP  
MARK W. STERES  
JUNE S. AILIN  
MICHAEL C. HUSTON

By:   
MICHAEL C. HUSTON  
Attorneys for Petitioner CITY OF CERRITOS

ALESHIRE &  
WYNDER LLP  
ATTORNEYS AT LAW

