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8 KENNETH ROLAND KEY JR.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

KENNETH ROLAND KEY JR., an individual, Case No.: 26CU043755C

Petitioner,

CALIFORNIA ENVIRONMENTAL QUALITY
ACT (CEQA) CASE

v.

CITY OF SAN DIEGO; SAN DIEGO CITY
COUNCIL; and DOES 1-20, inclusive,

**FIRST AMENDED VERIFIED PETITION
FOR WRIT OF ADMINISTRATIVE
MANDAMUS**

Respondents,

[Code Civ. Proc., § 1094.5; Pub. Resources
Code, §§ 21167, 21168]

VERTICAL BRIDGE LANDCO, LLC, a
limited liability company; D.R. HORTON LOS
ANGELES HOLDING COMPANY, INC., a
California corporation; and ROES 1-20,
inclusive,

Assigned for All Purposes to: Hon. Gregory W.
Pollack, Dept. C-71

Real Parties in Interest.

Petitioner KENNETH ROLAND KEY JR. ("Petitioner" or "Key") petitions this Court for a writ of administrative mandamus against Respondents CITY OF SAN DIEGO and SAN DIEGO CITY COUNCIL (collectively, the "City"), and alleges as follows:

I. INTRODUCTION

1. This action challenges the San Diego City Council's July 7, 2026 final quasi-judicial decisions denying an administrative appeal and affirming approval of the Emerald Hills residential development, Project No. PRJ-1107880 (the "Project"), at 5702 Old Memory Lane in the Encanto Neighborhoods Community Planning Area. The challenged final actions include Council Resolution No. R-316869/R-2027-10, concerning the Project permits, and Council Resolution No. R-316870/R-2027-11, concerning Vesting Tentative Map No. PMT-3262907.

2. The Project authorizes subdivision of an approximately 31.18-acre site into 130 lots, including 123 single-dwelling residential lots, 13 of which are designated affordable units, and seven private open-space lots, together with public and private streets, grading, retaining walls, utilities, brush-management areas, and related improvements.

3. The City's adopted findings identify the Project site as located within a Very High Fire Hazard Severity Zone ("VHFHSZ").

4. The approved circulation configuration does not use Old Memory Lane as an ordinary Project entrance. Ordinary Project circulation is directed through the Project's Street "A" connection toward 60th Street. The separate connection between the Project and Old Memory Lane is designated for emergency vehicle access ("EVA") and is gated against ordinary vehicular circulation while providing access for emergency responders.

5. Petitioner does not contend that the City prepared no Project-specific technical studies. Nor does Petitioner contend that CEQA requires an evacuation study bearing any particular title, any particular computer model, or a quantitative evacuation-clearance-time analysis in every case. The City's Project materials include, among other documents, a Local Mobility Analysis, Vehicle Miles Traveled analysis, and technical studies addressing various aspects of the Project.

1 6. The issue presented is narrower. Petitioner alleges that the City failed adequately to
2 determine, analyze, disclose, and support from the administrative record whether the Project's
3 addition of 123 households and associated vehicles to an existing VHFHSZ circulation network
4 will itself exacerbate wildfire-evacuation or emergency-response conditions under the particular
5 circulation configuration the City approved.
6

7 7. During a wildfire or other fast-moving emergency, vehicles associated with the Project
8 may seek outbound movement simultaneously with evacuation traffic generated by surrounding
9 existing neighborhoods, while fire apparatus, ambulances, law-enforcement vehicles, and other
10 responders may require inbound movement toward the hazard.
11

12 8. That Project-generated effect is analytically different from whether proposed buildings
13 satisfy fire codes, whether adequate fire flow and hydrants will be provided, whether structures
14 employ fire-resistant construction, whether brush-management zones are maintained, or whether
15 emergency apparatus can physically enter the Project.
16

17 9. The City was entitled to rely on programmatic environmental review and applicable
18 CEQA streamlining provisions to the extent their statutory conditions were satisfied. Petitioner
19 does not contend that every site-specific development contemplated by a program EIR
20 automatically requires a new project EIR.
21

22 10. Rather, Petitioner challenges whether, under Public Resources Code sections 21083.3 and
23 21166 and CEQA Guidelines sections 15162, 15164, 15168, and, to the extent applicable, 15183,
24 the City properly determined that no further environmental analysis was required for this
25 particular Project-generated evacuation and emergency-response effect.
26

27 11. Petitioner seeks an order setting aside the challenged environmental determination and
28 Project approvals only to the extent required by law and directing the City to reconsider them

1 under the correct CEQA and administrative-law standards. Petitioner does not ask the Court to
2 predetermine whether a subsequent EIR, supplemental EIR, another form of environmental
3 review, additional analysis, additional findings, different mitigation, or no different ultimate
4 Project decision will be appropriate after remand.

5 6 **II. PARTIES AND STANDING**

7 12. Petitioner KENNETH ROLAND KEY JR. is an individual residing in the Emerald Hills
8 neighborhood of southeastern San Diego, adjacent to and directly affected by the Project site.

9 13. Petitioner participated in the administrative proceedings concerning the Project, objected
10 to Project approval, and raised concerns concerning wildfire evacuation, Project access,
11 emergency response, public safety, and the adequacy of environmental review.

12 14. Petitioner's interests in neighborhood evacuation, access to and use of local roadways and
13 infrastructure, emergency response, his real property, and neighborhood environmental quality
14 are directly affected by the challenged decisions. Petitioner is beneficially interested in the
15 challenged decisions and has standing to seek writ relief. (Code Civ. Proc., § 1086.) Petitioner's
16 compliance with CEQA's exhaustion requirements is separately alleged below.

17 15. Respondent CITY OF SAN DIEGO is a California charter city and the lead agency for
18 the Project under CEQA.

19 16. Respondent SAN DIEGO CITY COUNCIL is the City's elected legislative body and
20 rendered the final administrative decisions challenged herein after the July 7, 2026 public appeal
21 hearing.

22 17. Real Party in Interest VERTICAL BRIDGE LANDCO, LLC is identified in the City's
23 final Project approvals as the owner of the Project property and has a direct interest in the validity
24 of the challenged approvals.
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1 18. Real Party in Interest D.R. HORTON LOS ANGELES HOLDING COMPANY, INC. is
2 the Project applicant, permittee and/or subdivider identified in the Project record and is a
3 beneficiary of the challenged approvals.

4 19. Petitioner does not presently know the true names and capacities of Respondents sued as
5 DOES 1 through 20 or Real Parties in Interest sued as ROES 1 through 20. Petitioner will amend
6 this Petition to allege their true names and capacities when ascertained.
7

8 **III. JURISDICTION AND VENUE**

9 20. This Court has jurisdiction pursuant to Code of Civil Procedure section 1094.5 and
10 Public Resources Code section 21168. The challenged final actions followed administrative
11 proceedings in which a hearing was provided, evidence and public testimony were received, and
12 discretion was vested in the decision-making body.
13

14 21. Under Code of Civil Procedure section 1094.5, subdivision (b), the Court's inquiry
15 includes whether Respondents proceeded without or in excess of jurisdiction, whether there was a
16 fair trial, and whether there was prejudicial abuse of discretion. Abuse of discretion is established
17 where the agency has not proceeded in the manner required by law, its decision is not supported
18 by its findings, or its findings are not supported by the evidence.
19

20 22. Venue is proper in San Diego County because the Project, property, Respondents,
21 administrative proceedings, challenged decisions, and environmental effects at issue are located
22 in San Diego County.
23

24 **IV. TIMELINESS, AMENDMENT, AND EXHAUSTION**

25 23. The City Council took final action on the Project on July 7, 2026.
26

27 24. The City thereafter filed a Notice of Determination concerning the Project with the San
28 Diego County Clerk on July 9, 2026.

1 25. Under Public Resources Code section 21167, including subdivisions (b) and (e), the
2 CEQA claims pleaded herein are subject to a 30-day limitations period measured from the filing
3 of the Notice of Determination. The thirtieth day following July 9, 2026 fell on Saturday, August
4 8, 2026. Under Code of Civil Procedure sections 12 and 12a, the period extended through
5 Monday, August 10, 2026.
6

7 26. Petitioner diligently attempted to commence judicial review before expiration of that
8 period.
9

10 27. On August 7, 2026, Petitioner, then acting without counsel in connection with the initial
11 filing, caused a signed and verified petition for writ relief to be electronically submitted through
12 the Court-authorized electronic filing system.

13 28. The August 7 petition challenged the same July 7, 2026 governmental approvals at issue
14 here; challenged the same Emerald Hills Project; named the City and City Council as respondents
15 and D.R. Horton as a real party in interest; raised fire-hazard-zone access and evacuation
16 concerns; and alleged that the City's reliance upon earlier CEQA review was inadequate with
17 respect to Project fire-related effects.
18

19 29. The clerk returned the August 7 submission without filing based upon a defect in the
20 format of the case-initiating document, including the absence from the top of the first page of the
21 required contact information for an attorney or self-represented party.
22

23 30. Petitioner thereafter retained the undersigned counsel. The petition was substantially
24 revised, narrowed, and reformatted. Petitioner does not allege that the later petition was merely
25 the identical August 7 document with a corrected caption.
26

27 31. On August 10, 2026, at approximately 11:34 p.m., before expiration of the CEQA
28 limitations period, Petitioner caused a revised Verified Petition for Writ of Administrative

1 Mandamus and associated initiating documents to be electronically transmitted through the
2 Court-authorized electronic filing system. The electronic filing system recorded the submission as
3 Envelope No. 24755955.

4 32. A further submission was electronically transmitted at approximately 11:39 p.m. and
5 recorded as Envelope No. 24755976.
6

7 33. The electronic filing system generated electronic records reflecting receipt of the August
8 10 submissions before midnight on August 10, 2026.

9 34. Code of Civil Procedure section 1010.6, subdivision (e)(3), provides that a document
10 received electronically by a trial court between 12:00 a.m. and 11:59:59 p.m. on a court day is
11 deemed filed on that court day. Subdivision (e)(4)(A) requires the court, electronic filing service
12 provider, or filing manager first receiving the document to generate a confirmation identifying the
13 date and time of receipt. Section 1010.6 separately recognizes that electronic transmission and
14 receipt precede the clerk's processing, review, and entry of the document into the official court
15 record, and provides for notice when a document is thereafter rejected for noncompliance with
16 filing requirements. (Code Civ. Proc., § 1010.6, subds. (a)(1)(D), (e)(4)(C).)
17

18 35. On August 11, 2026, the August 10 filing was returned with reviewer comments
19 identifying defects in the electronic presentation of the filing materials, including that the request
20 for preparation of the administrative record had been included with the Petition instead of
21 submitted as a separate filing and that attorney information was missing from the FW-001
22 application for an initial waiver of court fees.
23

24 36. Those identified defects did not concern the substantive sufficiency of the CEQA cause
25 of action contained in the revised Petition.
26
27
28

1 37. Petitioner and counsel promptly undertook corrective submissions. A corrected
2 submission was accepted and electronically filed on August 11, 2026 at approximately 6:59 p.m.
3 as Envelope No. 24772069 and assigned Case No. 26CU043755C. Petitioner's application for an
4 initial waiver of court fees was thereafter granted.

5
6 38. Government Code section 68634, subdivisions (b) and (c), requires an application for an
7 initial fee waiver to be accepted for filing and provides that an applicant who has filed an initial
8 fee-waiver application shall be permitted to file accompanying pleadings or papers immediately
9 without payment of fees. The statute further provides that an incomplete initial fee-waiver
10 application may not be used as a basis to refuse to file accompanying pleadings merely because
11 the fee has not been paid.
12

13 39. Petitioner alleges that the August 10 submission timely commenced this proceeding
14 under the timely-presentment principles stated in *United Farm Workers of America v.*
15 *Agricultural Labor Relations Board* (1985) 37 Cal.3d 912, 918–919. There, the California
16 Supreme Court held that a petition for writ review timely delivered to the clerk within the
17 governing filing period was not rendered untimely by the clerk's rejection for a curable technical
18 defect where the defect was promptly corrected. Petitioner relies upon *United Farm Workers* for
19 that timely-presentment principle, together with the electronic receipt evidence and the statutes
20 governing electronic filing applicable here.
21
22

23 40. Petitioner alleges that the electronic receipt records required by Code of Civil Procedure
24 section 1010.6 establish timely presentation and receipt of the revised Petition on August 10,
25 2026, and that the subsequently identified filing defects were promptly corrected.
26

27 41. Petitioner's timeliness contention does not depend upon the special tolling provision in
28 Code of Civil Procedure section 1010.6, subdivision (e)(4)(E), applicable by its terms to a

1 rejected "complaint or cross complaint." Petitioner instead relies upon timely electronic receipt
2 and presentation, the nature of the identified defects, prompt correction, and the timely-
3 presentment doctrine articulated in *United Farm Workers*, together with all other applicable law.

4 42. Alternatively, if the Court determines that the August 7 verified petition was effectively
5 presented or filed for limitations purposes notwithstanding its technical rejection, the subsequent
6 revised petition and this First Amended Petition arise from the same general set of facts, attack
7 the same governmental approvals, and assert the same core CEQA controversy concerning fire,
8 access, and evacuation. Under *Concerned Citizens of Palm Desert, Inc. v. Board of Supervisors*
9 (1974) 38 Cal.App.3d 257, 269–270, an amended CEQA mandate pleading arising from the same
10 general set of facts relates back to the original pleading.
11

12 43. This First Amended Petition does not challenge a different Project or a different
13 governmental decision and does not add a new category of environmental effect. It further
14 particularizes and narrows the wildfire-evacuation and emergency-response theory already raised
15 in the timely filing effort and operative controversy.
16
17

18 44. To the extent no answer, demurrer, or motion to strike has been filed before this First
19 Amended Petition is filed, Petitioner amends once as of right pursuant to Code of Civil Procedure
20 section 472.
21

22 45. Independently of the CEQA limitations issue, the non-CEQA administrative-mandamus
23 claims stated in the Second Cause of Action challenge the City's July 7, 2026 final land-use
24 decisions and were commenced within 90 days of those decisions. To the extent Government
25 Code sections 65009 and 66499.37 apply, Petitioner will comply with the commencement and
26 service requirements imposed by those statutes within the applicable statutory periods.
27
28

1 46. The Chollas Valley Community Planning Group timely appealed the Planning
2 Commission's action.

3 47. Petitioner personally participated in administrative Project proceedings before final City
4 action. The wildfire-evacuation, Project-access, emergency-response, public-safety, and
5 environmental-review issues alleged herein were raised orally and/or in writing by Petitioner
6 and/or other participants before the close of the administrative proceedings.
7

8 48. Petitioner therefore alleges exhaustion of the issues pleaded herein to the extent required
9 by Public Resources Code section 21177, Government Code section 65009, subdivision (b), and
10 other applicable law.
11

12 **V. FACTUAL AND REGULATORY BACKGROUND**

13 **A. The Project and Its Actual Access Configuration**

14 49. The Project site consists of approximately 31.18 acres at 5702 Old Memory Lane in the
15 Emerald Hills neighborhood.
16

17 50. The Project replaces existing radio-transmission facilities with a residential subdivision
18 containing 123 single-dwelling residential lots and associated infrastructure.
19

20 51. The City's findings identify the Project site as located within a VHFHSZ. Wildfire
21 conditions and emergency movement therefore form part of the existing physical environmental
22 setting in which the Project will operate.
23

24 52. Under the approved Project design, Street "A" connects toward 60th Street and serves as
25 the regular Project entrance.

26 53. The approved Vesting Tentative Map separately includes an EVA connection to Old
27 Memory Lane. The approved condition employs gates restricting ordinary vehicular circulation
28 while allowing emergency-responder access.

1 54. The distinction between an ordinary public access route and a gated emergency-vehicle
2 route is environmentally relevant to the effect pleaded here. The environmental question is not
3 merely whether emergency vehicles can physically enter the subdivision.

4 55. During a wildfire evacuation, vehicles generated by 123 additional households may be
5 attempting to travel outward while surrounding existing residents are also evacuating and
6 emergency personnel are traveling inward.

8 56. Whether the incremental Project demand creates or exacerbates a significant
9 environmental effect depends upon evidence concerning the actual roadway system, routes
10 available to civilians under emergency conditions, gate operations, existing evacuation demand,
11 roadway and intersection constraints, emergency-management assumptions, and the interaction of
12 outbound evacuation with inbound responder movement.

14 B. The 2015 Program EIR and CEQA Streamlining Framework

15 57. In 2015, the City certified Program Environmental Impact Report No. 386029, SCH No.
16 2014051075, for the Southeastern San Diego and Encanto Neighborhoods Community Plan
17 Updates (the “2015 PEIR”).

19 58. CEQA permits programmatic environmental review. A program EIR may provide the
20 environmental foundation for later site-specific activities where those activities and their relevant
21 environmental effects fall within the scope of the program review and the requirements governing
22 later activities are satisfied. (Cal. Code Regs., tit. 14, § 15168.)

24 59. Petitioner does not contend that the 2015 PEIR violated CEQA merely because it did not
25 contain detailed site-specific analysis of a development project that had not yet been proposed.
26 *Committee for Tiburon LLC v. Town of Tiburon* (2026) 118 Cal.App.5th 259 recognizes that a
27
28

1 program-level EIR need not prematurely conduct site-specific analysis where no concrete site-
2 specific project is yet before the agency.

3 60. The present dispute instead concerns the review required when this concrete 123-unit
4 Project, with its actual VHFHSZ setting and its particular Street "A"/60th Street and gated Old
5 Memory Lane circulation configuration, came before the City for discretionary approval.
6

7 61. For this Project, the City prepared Addendum No. 1107880 rather than a subsequent or
8 supplemental EIR or another circulated project-level CEQA document.
9

10 62. Guidelines section 15168 requires a later activity within a program to be examined in
11 light of the program EIR to determine whether the later activity and its environmental effects
12 were adequately covered by the program document or whether additional environmental review is
13 required.
14

15 63. Public Resources Code section 21083.3 and Guidelines section 15183 provide separate
16 but related streamlining principles for qualifying projects consistent with zoning or a community
17 plan for which an EIR was certified.
18

19 64. Guidelines section 15183 limits further environmental review for a qualifying project to,
20 among other matters, effects peculiar to the project or parcel that were not addressed as
21 significant effects in the prior EIR, significant effects not analyzed as significant in the prior EIR,
22 previously undiscussed potentially significant offsite or cumulative effects, and previously
23 identified significant effects shown by substantial new information to be more severe than
24 previously described.
25

26 65. As explained in *Hilltop Group, Inc. v. County of San Diego* (2024) 99 Cal.App.5th 890,
27 Guidelines section 15183 constitutes a streamlining or partial-exemption mechanism. It does not
28 mean that the presence of one project-specific effect automatically deprives a qualifying project

1 of all streamlining. Rather, additional review is limited to those environmental effects falling
2 within the categories section 15183 preserves for further examination.

3 66. *Hilltop* further explains that an effect is not considered peculiar to a project if uniformly
4 applied development policies or standards were previously adopted based upon substantial
5 evidence that those policies or standards will substantially mitigate the environmental effect when
6 applied to later projects. (Cal. Code Regs., tit. 14, § 15183, subd. (f).)

8 67. Public opposition, speculation, and unsubstantiated opinion do not themselves constitute
9 substantial evidence establishing a technical environmental effect. Petitioner does not rely upon
10 community concern alone to establish a CEQA violation.

12 68. To the extent the City instead proceeded under Public Resources Code section 21166 and
13 Guidelines sections 15162 and 15164, the determination that no subsequent or supplemental EIR
14 was necessary must be sustained, if at all, under the subsequent-review framework described by
15 *Friends of the College of San Mateo Gardens v. San Mateo County Community College Dist.*
16 (2016) 1 Cal.5th 937, 951–953.

18 69. Under *Friends of the College of San Mateo Gardens*, an agency's determination
19 regarding the continued informational value of an earlier environmental document and the
20 existence of conditions requiring subsequent review involves substantial-evidence review, while
21 courts independently determine whether the agency complied with CEQA's procedural
22 requirements.

24 70. Guidelines section 15164 authorizes an addendum when changes or additions are
25 necessary but none of the conditions described in Guidelines section 15162 requiring preparation
26 of a subsequent EIR has occurred. The agency's determination must be supported by substantial
27 evidence in the administrative record. Guidelines section 15168, subdivision (c)(2), employs the
28

1 section 15162 criteria in determining whether a later site-specific activity is within the scope of a
2 program EIR such that no new environmental document is required. (*IBC Business Owners for*
3 *Sensible Development v. City of Irvine* (2023) 88 Cal.App.5th 100, 118–119.)

4 C. Project-Generated Wildfire and Evacuation Effects

5
6 71. CEQA generally does not require an agency to analyze an existing environmental hazard
7 solely because that hazard may adversely affect future project users.

8 72. CEQA does, however, encompass circumstances in which a project itself may exacerbate
9 an existing environmental condition or hazard. (*California Building Industry Assn. v. Bay Area*
10 *Air Quality Management Dist.* (2015) 62 Cal.4th 369, 377–378, 385.)

11
12 73. The environmental effect pleaded here is Project-generated. Petitioner does not merely
13 contend that future Project residents will face wildfire because they will reside in a VHFHSZ.

14
15 74. Petitioner alleges that the Project itself adds 123 households, associated vehicles, and
16 evacuation and emergency-response demand to an existing neighborhood circulation system
17 during wildfire or other fast-moving emergencies.

18 75. *League to Save Lake Tahoe Mountain Area Preservation Foundation v. County of Placer*
19 (2022) 75 Cal.App.5th 63, 136–141, recognizes the environmental relevance of increased
20 population and development in a high-fire-hazard setting and illustrates an evidence-based
21 wildfire-evacuation analysis considering additional population, evacuation planning, available
22 routes, and emergency access.

23
24 76. The significance of *League to Save Lake Tahoe* is not that every later project must
25 replicate its methodology. Rather, it confirms that the incremental evacuation consequences of
26 adding development within a high-fire-hazard setting can constitute a CEQA environmental issue
27 capable of meaningful analysis.
28

1 77. Similarly, *People ex rel. Bonta v. County of Lake* (2024) 105 Cal.App.5th 1222, 1230–
2 1234, confirms that where development itself may exacerbate an existing wildfire hazard, CEQA
3 requires meaningful analysis of that project-generated effect rather than conclusory treatment of
4 the issue.

5
6 78. An environmental analysis is not required to achieve technical perfection or employ any
7 particular methodology. But where CEQA requires analysis of an environmental impact, the
8 agency must provide enough information and analysis to permit meaningful consideration by
9 decision makers and meaningful judicial review. (*Sierra Club v. County of Fresno* (2018) 6
10 Cal.5th 502, 512–516.)

11
12 D. The City's Project Review and Approvals

13 79. On November 20, 2025, the San Diego Planning Commission adopted Addendum No.
14 1107880 and approved the Project through Planning Commission Resolution No. PC-5363.

15
16 80. The approvals included Site Development Permit No. PMT-3262906, Neighborhood
17 Development Permit No. PMT-3273605, Neighborhood Use Permit No. PMT-3286476, and
18 Vesting Tentative Map No. PMT-3262907.

19
20 81. The Chollas Valley Community Planning Group appealed the Planning Commission's
21 action.

22 82. On July 7, 2026, the City Council conducted the final appeal hearing, received oral
23 testimony and written material, denied the appeal, and affirmed the Project approvals through
24 Council Resolution Nos. R-316869/R-2027-10 and R-316870/R-2027-11.

25
26 83. The City's Project findings address multiple fire-protection subjects, including brush-
27 management zones, fire-flow and hydrant requirements, application of building and fire codes,
28 and emergency-apparatus access.

1 84. The City's Project documents also identify Street "A"/60th Street as the regular Project
2 entrance and the Old Memory Lane connection as a separate gated emergency-access route.

3 85. On the face of Addendum No. 1107880, however, the City's discussion of emergency
4 access and wildfire protection does not itself provide a project-specific analysis of the
5 incremental civilian evacuation demand generated by 123 additional households under the
6 approved circulation configuration.
7

8 86. In particular, on the face of the Addendum, the environmental discussion does not itself
9 meaningfully analyze evacuation clearance or queueing associated with the Project; simultaneous
10 evacuation demand from existing surrounding neighborhoods; the interaction of outbound Project
11 and neighborhood traffic with inbound emergency responders; or the operational circumstances
12 under which the gated Old Memory Lane EVA would or would not be available to civilian
13 evacuees.
14

15 87. Petitioner acknowledges that the absence of such analysis from the Addendum alone is
16 not necessarily dispositive if the administrative record contains substantial evidence that actually
17 analyzes the relevant environmental effect and supports the City's determination under the legally
18 applicable CEQA framework.
19

20 88. On information and belief, however, and subject to completion and review of the certified
21 administrative record, the whole record does not contain substantial evidence adequately
22 connecting the Project's additional households and vehicles, actual available evacuation routes
23 and gate operations, existing neighborhood evacuation demand, roadway and intersection
24 constraints under emergency conditions, and simultaneous emergency ingress to the City's
25 conclusion that the Project creates no new, peculiar, or substantially more severe significant
26 wildfire-evacuation or emergency-response effect requiring further CEQA review.
27
28

1 89. To the extent the City relies upon a Local Mobility Analysis, VMT analysis, or other
2 transportation material prepared principally for ordinary traffic conditions, that material
3 constitutes substantial evidence concerning emergency evacuation only to the extent the analysis
4 and assumptions actually address the relevant emergency conditions. The fact that a study
5 concerns transportation does not by itself establish that it analyzes wildfire evacuation.
6

7 90. Likewise, evidence concerning brush management, fire flow, hydrants, building
8 construction, and emergency-apparatus access is relevant to the disputed environmental effect
9 only to the extent it actually supports the conclusion that the Project's incremental civilian
10 evacuation and emergency-movement effects are adequately mitigated or were already adequately
11 analyzed.
12

13 91. *Save Our Access v. City of San Diego* (2025) 115 Cal.App.5th 388 reinforces the
14 distinction between legitimately relying upon prior programmatic analysis and merely carrying
15 forward conclusions from a PEIR that did not actually consider environmental consequences of
16 the later governmental action at issue.
17

18 92. Petitioner does not contend that *Save Our Access* eliminates statutory streamlining
19 applicable to qualifying projects. Rather, it reinforces the requirement that reliance upon
20 programmatic review correspond to environmental effects actually addressed by that review and
21 that an agency analyze later environmental consequences to the extent CEQA's governing tiering,
22 streamlining, or subsequent-review provisions require.
23

24 ///

25 ///

26 ///

27 ///

FIRST CAUSE OF ACTION

**Violation of CEQA — Failure to Proceed in the Manner Required by Law and Lack of
Substantial Evidence Supporting the City's Later-Review Determination**

(By Petitioner KENNETH ROLAND KEY JR. Against Respondents CITY OF SAN DIEGO
and SAN DIEGO CITY COUNCIL; Real Parties in Interest Named as Beneficiaries of the
Challenged Approvals)

93. Petitioner incorporates by reference paragraphs 1 through 92 as though fully set forth
herein.

94. Under Public Resources Code sections 21083.3 and 21166 and CEQA Guidelines
sections 15162, 15164, 15168, and, to the extent applicable, 15183, the City was required to
support its decision to rely upon the 2015 PEIR and Addendum No. 1107880 with substantial
evidence demonstrating that the Project-generated wildfire-evacuation and emergency-response
effect was adequately addressed under the CEQA framework legally applicable to the Project.

95. If Guidelines section 15183 applies, further environmental review remains required for
effects falling within the categories preserved by section 15183, subdivision (b), subject to the
provisions concerning prior analysis and uniformly applied development policies or standards.

96. If Public Resources Code section 21166 and Guidelines sections 15162 and 15164
govern, the City's determination that no subsequent or supplemental EIR was required must be
supported by substantial evidence under CEQA's subsequent-review framework. (*Friends of the
College of San Mateo Gardens*, supra, 1 Cal.5th at pp. 951–953.)

97. On information and belief, and subject to completion and review of the certified
administrative record, the record does not contain substantial evidence addressing the specific
environmental mechanism at issue here: how the additional residents and vehicles generated by

1 123 residential units in a VHFHSZ will function during a wildfire evacuation or other fast-
2 moving emergency under the Project's actual circulation design.

3 98. In particular, on information and belief, the administrative record lacks an adequate
4 evidentiary analysis addressing one or more of the following interrelated subjects:
5

6 a. Evacuation Route Capacity and Functionality.

7 Whether Project residents would evacuate solely through Street "A" toward 60th Street; whether
8 another route would be available under wildfire conditions; the capacity and operational
9 constraints of the route or routes actually available; and whether the Project-generated evacuation
10 load can be accommodated together with existing neighborhood evacuation demand.
11

12 b. Operation of the Gated Old Memory Lane EVA.

13 Whether and under what circumstances the Old Memory Lane EVA would remain closed to
14 civilian traffic, be opened for civilian evacuation, or be reserved for responder access; who would
15 control its operation; and how the timing and operation of the gate affects the routes actually
16 available to civilians during an emergency.
17

18 c. Simultaneous Civilian Egress and Emergency-Responder Ingress.

19 Whether the roadway network can accommodate outbound Project and neighborhood evacuation
20 traffic while fire apparatus, ambulances, law-enforcement vehicles, and other responders
21 simultaneously require inbound access toward the hazard.
22

23 d. Emergency Traffic Loading and Queueing.

24 Whether Project-generated traffic under wildfire or other emergency conditions materially affects
25 roadway or intersection queueing, bottleneck formation, congestion propagation, or other
26 emergency-condition circulation constraints that are not necessarily reflected in analyses of
27 ordinary daily traffic, VMT, or routine intersection operations.
28

1 e. Network-Level Evacuation Performance.

2 Whether, considering the Project together with existing surrounding development and the routes
3 actually available during an emergency, the addition of 123 households causes or materially
4 exacerbates an evacuation or emergency-response effect not adequately analyzed in the 2015
5 PEIR.
6

7 99. Petitioner does not allege that CEQA categorically requires a particular computer model,
8 evacuation-clearance-time calculation, simulation, or technical report bearing a particular title.
9 The alleged deficiency is the absence of substantial evidence addressing the relevant
10 environmental mechanisms sufficiently to support the City's ultimate later-review determination.
11

12 100. These subjects are material because they bear directly upon whether the Project itself
13 creates or exacerbates an environmental effect by adding vehicles and emergency demand to an
14 existing VHFHSZ transportation network during the same period in which existing residents may
15 evacuate and emergency personnel may move toward the hazard.
16

17 101. Without substantial evidence addressing the routes actually available under emergency
18 conditions, the operational role of the gated EVA, simultaneous inbound and outbound
19 movement, and the relevant emergency-condition capacity of the surrounding circulation system,
20 the City's conclusion that no further CEQA review was required rests, on information and belief,
21 upon an incomplete evidentiary foundation.
22

23 102. The City's reliance upon fire-code compliance, brush management, fire flow, hydrants,
24 structure protection, and physical emergency-vehicle access does not by itself resolve the distinct
25 environmental effect alleged here.
26

27 103. Those measures may materially reduce ignition risk, structural exposure, suppression
28 difficulty, or responder-access problems. But they constitute substantial evidence concerning

1 civilian evacuation only to the extent the record establishes a reasoned evidentiary connection
2 between those measures and the Project-generated evacuation and emergency-movement effect at
3 issue.

4 104. Likewise, ordinary-operation transportation analyses concerning VMT, routine
5 circulation, or non-emergency intersection conditions constitute substantial evidence of wildfire-
6 evacuation performance only to the extent their data, assumptions, or analysis meaningfully
7 address the emergency conditions presented by the Project.
8

9 105. Petitioner therefore alleges that the City's later-review determination failed adequately
10 to determine and support whether the Project-generated effect: (a) was already adequately
11 analyzed as a significant effect in the 2015 PEIR; (b) is peculiar to the Project or parcel within the
12 meaning of Guidelines section 15183; (c) presents a previously unanalyzed potentially significant
13 offsite or cumulative effect; (d) constitutes an effect shown by substantial new information to be
14 substantially more severe; or (e) is substantially mitigated by uniformly applicable policies or
15 standards within the meaning of the CEQA provisions upon which the City relies.
16
17

18 106. To the extent confirmed by the certified administrative record, the City's reliance upon
19 Addendum No. 1107880 without the further environmental analysis required by the governing
20 CEQA framework constitutes a prejudicial failure to proceed in the manner required by law
21 and/or a determination unsupported by substantial evidence. (Pub. Resources Code, §§ 21005,
22 21083.3, 21166, 21168; Cal. Code Regs., tit. 14, §§ 15162, 15164, 15168, 15183.)
23

24 107. The alleged failure was prejudicial because it potentially deprived the City's decision
25 makers and the public of material environmental information necessary to determine whether
26 reliance upon the 2015 PEIR and Addendum was appropriate or whether additional
27 environmental review, analysis, findings, or mitigation was required.
28

1 108. Petitioner is therefore entitled to a writ directing the City to set aside its CEQA
2 determination and related approvals to the extent required by law and to reconsider the Project
3 under the CEQA standards applicable to the complete administrative record.

4 109. Nothing in this Cause of Action asks the Court to determine in advance the ultimate
5 environmental significance of the Project or to prescribe a particular environmental document or
6 technical methodology. The issue presented is whether the City's determination was reached in
7 the manner CEQA requires and is supported by substantial evidence addressing the relevant
8 Project-generated environmental effect.
9

10 SECOND CAUSE OF ACTION

11 Administrative Mandamus — Prejudicial Abuse of Discretion; Findings Unsupported 12 by Evidence and Failure to Bridge the Analytic Gap 13

14 (By Petitioner KENNETH ROLAND KEY JR. Against Respondents CITY OF SAN DIEGO
15 and SAN DIEGO CITY COUNCIL; Real Parties in Interest Named as Beneficiaries of the
16 Challenged Approvals)
17

18 110. Petitioner incorporates by reference paragraphs 1 through 109 as though fully set forth
19 herein.
20

21 111. Code of Civil Procedure section 1094.5, subdivision (b), provides that abuse of
22 discretion is established where an agency has not proceeded in the manner required by law, its
23 decision is not supported by its findings, or its findings are not supported by the evidence.
24

25 112. *Topanga Association for a Scenic Community v. County of Los Angeles* (1974) 11
26 Cal.3d 506, 515 requires administrative findings sufficient to bridge the analytic gap between the
27 raw evidence and the ultimate administrative decision so that a reviewing court can determine
28

1 whether the agency proceeded according to law and whether substantial evidence supports its
2 decision.

3 113. Petitioner's *Topanga* claim is distinct from his reliance upon *Hilltop*. *Hilltop* addresses
4 the scope and substantial-evidence requirements of Guidelines section 15183. *Topanga* separately
5 governs the adequacy of administrative findings necessary for meaningful judicial review under
6 Code of Civil Procedure section 1094.5.

8 114. Petitioner acknowledges that the City's Project resolutions contain substantial Project-
9 specific material, and does not allege that the City's findings are wholly generic or boilerplate.

11 115. The alleged defect is narrower: to the extent the City was required to resolve the
12 Project-generated evacuation and emergency-response issue presented by the Project's VHFHSZ
13 setting and approved access configuration, the final findings and materials properly incorporated
14 into or relied upon by those findings do not adequately disclose the analytic connection between
15 the relevant evidence and the City's ultimate determinations.

17 116. Government Code section 66474 requires denial of a tentative map upon specified
18 findings, including where the site is not physically suitable for the proposed type of development,
19 the site is not physically suitable for the proposed density, or the design of the subdivision or
20 type of improvements is likely to cause serious public health problems. (Gov. Code, § 66474,
21 subds. (c), (d), (f).)

23 117. The City also made findings required for the Site Development Permit and related
24 discretionary approvals concerning, among other matters, applicable development regulations and
25 public health, safety, and welfare.

27 118. Where the administrative record contains evidence and objections concerning whether
28 the addition of 123 households and associated vehicles may exacerbate emergency evacuation or

1 conflict with emergency ingress, findings addressing brush management, structural fire
2 protection, fire flow, hydrants, and emergency-apparatus access do not necessarily resolve the
3 analytically distinct civilian-evacuation issue.

4 119. The City is not required to adopt Petitioner's interpretation of conflicting evidence. It is,
5 however, required to make findings supported by substantial evidence and sufficiently specific to
6 permit meaningful judicial review under the legal standards applicable to its decisions.

8 120. On information and belief, and subject to completion and review of the certified
9 administrative record, the City's final resolutions and the materials properly incorporated into or
10 relied upon by those resolutions do not supply the necessary evidentiary and analytic connection
11 regarding the Project-generated wildfire-evacuation and emergency-response issue.

13 121. In particular, to the extent the City's ultimate land-use findings depend upon
14 assumptions concerning the adequacy of the Project's emergency circulation configuration, the
15 findings do not adequately identify the evidentiary basis resolving the material questions
16 concerning routes actually available for evacuation, operation of the gated Old Memory Lane
17 EVA, simultaneous civilian egress and responder ingress, and the incremental effect of Project-
18 generated emergency traffic upon the surrounding roadway network.

20 122. To the extent the Vesting Tentative Map and related discretionary approvals depend
21 upon factual findings unsupported by substantial evidence concerning that issue, or upon an
22 environmental determination that failed lawfully to resolve that issue, the City prejudicially
23 abused its discretion under Code of Civil Procedure section 1094.5.

25 123. Accordingly, to the extent established by the certified administrative record, the July 7,
26 2026 decisions reflected in Council Resolution Nos. R-316869/R-2027-10 and R-316870/R-
27 2027-11 must be set aside and remanded for further proceedings in accordance with law.
28

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays for judgment as follows:

1. For issuance of a peremptory writ of administrative mandamus pursuant to Code of Civil Procedure section 1094.5 and Public Resources Code section 21168 commanding Respondents to set aside and vacate, to the extent required by law, the challenged July 7, 2026 decisions reflected in Council Resolution Nos. R-316869/R-2027-10 and R-316870/R-2027-11, Planning Commission Resolution No. PC-5363, Addendum No. 1107880, Site Development Permit No. PMT-3262906, Neighborhood Development Permit No. PMT-3273605, Neighborhood Use Permit No. PMT-3286476, and Vesting Tentative Map No. PMT-3262907;

2. For an order pursuant to Public Resources Code section 21168.9 directing Respondents to take such actions as are necessary to bring their environmental review and reconsideration of the challenged approvals into compliance with CEQA, while preserving all discretion lawfully vested in Respondents concerning the form and substance of proceedings on remand;

3. For such temporary, preliminary, or interim relief as may be authorized by Public Resources Code section 21168.9 and Code of Civil Procedure section 1094.5, subdivision (g), upon the factual findings and showing required by applicable law;

4. For a determination, to the extent necessary to adjudication of this proceeding, that Petitioner timely commenced judicial review within the limitations period prescribed by Public Resources Code section 21167, including upon the timely electronic presentation and receipt of the revised Petition on August 10, 2026;

5. For the Court to retain jurisdiction as authorized by Public Resources Code section 21168.9 to ensure compliance with any writ issued;

6. For costs of suit;

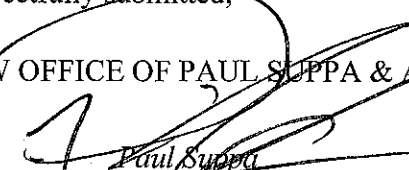
1 7. For reasonable attorneys' fees pursuant to Code of Civil Procedure section 1021.5 to the
2 extent Petitioner establishes entitlement thereto; and

3 8. For such other and further relief as the Court deems just and proper.

4 Dated: August 20, 2026

5 Respectfully submitted,

6
7 LAW OFFICE OF PAUL SUPPA & ASSOCIATES

8
9 By:  _____

10 PAUL SUPPA, ESQ.

11 Attorney for Petitioner

12 KENNETH ROLAND KEY JR.

1
2
3 **VERIFICATION**
4

5 I, KENNETH ROLAND KEY JR., declare:

6 I am the Petitioner in this action. I have read the foregoing First Amended Verified Petition
7 for Writ of Administrative Mandamus and know its contents. The matters stated in it are true of
8 my own personal knowledge except for matters stated on information and belief, and as to those
9 matters I believe them to be true.
10

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

13 Executed on 8/20/2026, 2026, at San Diego, California.

14 *Kenneth R. Key*
15

16 KENNETH ROLAND KEY JR., Petitioner
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