

OCT 31 2022

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2 SUPERIOR COURT OF CALIFORNIA
3 COUNTY OF LOS ANGELES – NORTHEAST DISTRICT
4 DEPARTMENT X

Sherril R. Carter, Executive Officer/Clerk
BY Maria Vergerano-Nunez, Deputy
Maria Vergerano-Nunez

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6
7 GLENDALE HISTORICAL SOCIETY,
8 Plaintiff,

9 vs.

10 CITY OF GLENDALE; and CITY
11 COUNCIL OF THE CITY OF GLENDALE,
12 Defendants.

13
14 R&A HOMES, LLC; HAMLET
ZOHRABIANS; and DOES 1-10,

15 Real Parties in Interest.
16

Case No.: 21STCP01852

Hearing Date: June 27, 2022

Time: 1:30 p.m.

~~TENTATIVE~~ ORDER RE:

PETITIONER'S PETITION FOR WRIT OF
MANDATE

17
18 **PETITIONER'S WRIT OF MANDATE IS GRANTED.**

19
20 **I. INTRODUCTION**

21 On June 9, 2021, Petitioner Glendale Historical Society ("Petitioner") filed a Petition for
22 Writ of Mandamus, pursuant to Code of Civil Procedure section 1094.5 and Public Resources
23 Code section 21168 ("Petition"), against Respondents City of Glendale and City Council of the
24 City of Glendale (collectively, "Respondents"), and Real Parties in Interest R&A Homes, LLC
25 and Hamlet Zohrabians ("Real Parties in Interest"). Petitioner's Petition asserts a single cause of
26 action for "Violation of the California Environmental Quality Act", and challenges Respondents'
27 approval of a renovation and construction project in Glendale, California ("Project"), which
28 proposes the renovation of a historic residence and, furthermore, the construction of an 11-unit

1 apartment building behind and partially surrounding the historic residence. (Petition, ¶¶ 12-13,
2 22-23.) Petitioner’s Petition alleges Respondents violated the California Environmental Quality
3 Act (“CEQA”) by approving the Project a Mitigated Negative Declaration. (*Id.*, ¶¶ 22-23.)
4 Specifically, Petitioner contends Respondents were required to prepare an Environmental Impact
5 Report (“EIR”), as opposed to a Mitigated Negative Declaration, as the administrative record
6 contains substantial evidence supporting a fair argument that the Project may have a significant
7 environmental impact on the historic residence. (*Ibid.*)

8 On November 8, 2021, Petitioner dismissed Real Party in Interest Hamlet Zohrabians
9 from this action, with prejudice.

10 On April 15, 2022, Respondents filed an Answer to Petitioner’s Petition. Subsequently,
11 on April 18, 2022, Real Party in Interest R&A Homes, LLC (hereinafter, “Real Party in
12 Interest”) filed an Answer to Petitioner’s Petition. Thereafter, on April 20, 2022 and April 26,
13 2022, respectively, Petitioner filed an Opening Brief and a Request for Judicial Notice. On May
14 10, 2022, Respondents and Real Party in Interest filed a Brief in Opposition to Petitioner’s
15 Petition and a Request for Judicial Notice. On May 18, 2022, Respondents and Real Party in
16 Interest filed a Notice of Errata Re: Respondents and Real Party in Interest’s Brief in Opposition
17 to Petitioner’s Petition. On May 24, 2022, Petitioner filed a Reply Brief.

18 On June 27, 2022, Petitioner’s Petition came before the Court for hearing. Susan Brandt-
19 Hawley, Esq. of *Brandt-Hawley Law Group* appeared on behalf of Petitioner. Gillian Van
20 Muyden, Chief Assistant City Attorney, and Yvette Neukian, Senior Assistant City Attorney,
21 appeared on behalf of Respondents. Lisa Anne Weinberg, Esq. of *Gaines & Stacey LLP*
22 appeared on behalf of Real Party in Interest. The Court held oral argument and took the matter
23 under submission. The Court now renders a Statement of Decision following the one-day
24 hearing upon Petitioner’s Petition.

25
26 **II. STATEMENT OF FACTS**

27 **A. The Frank Rennsselear Liddell Residence**

1 The single-family, two-story residence which is located upon 534 N. Kenwood Avenue in
2 Glendale, California is known as the “Frank Rennslear Liddell Residence” (hereinafter,
3 “Liddell Residence”). (AR 36-37.) Pursuant to a Craftsman Survey conducted by Respondent
4 City of Glendale in 2007, as well as a South Glendale Survey conducted by Respondent City of
5 Glendale in 2017, the Liddell Residence, which was constructed in 1913, was found to be
6 historically significant and was also found eligible for designation in the Glendale Register, due
7 to the Residence’s “Aeroplane Craftsman architecture.” The Liddell Residence is additionally
8 eligible for listing in the National Register of Historic Places, due to the Residence’s direct
9 association with the life and art career of prominent artist Frank Rennslear Liddell. (AR 39.)
10 Petitioners’ request for judicial notice (“P.s RJN”), Ex.A). The Liddell Residence is also
11 considered a” historical resource” as defined in CEQA. (AR 40.)

12 The Liddell Residence is noted to have the following architectural characteristics, which
13 are attributable to an “Aeroplane Craftsman” style residence. The Liddell Residence falls within
14 the sub-type of “Aeroplane” as the Residence encompasses a set-back second floor and deep
15 overhanging eaves which suggest the wings of a plane. (AR 36; P.’s RJN, Ex. A at p. 35.) The
16 Liddell Residence qualifies as a “Craftsman” style residence as the Residence has an overall
17 horizontal orientation and asymmetrical composition, a corner-wrapped entrance porch, extended
18 decorative purlins, ridge beams and rafter tails, elaborate ornamental joinery and kneebraces at
19 porch supports, a three-part natural wood door and sidelights, a capped plaster porch base and
20 corresponding endwall chimney, an exposed keyway wood shingle cladding, wide door and
21 window casings, decorative marginal muntins, and front and side gabled, low sloping roofs and
22 deep, overhanging eaves. (AR 36; P.’s RJN, Ex. A at pp. 28-29, 38.) Additionally, the
23 Residence “generous north setback” and “north entrance porch” constitute notable characteristics
24 of a “Craftsman” style residence. (AR 36, 38.)

25 The Liddell Residence contains a single-story, four door vernacular garage (“Liddell
26 Garage”) which shares the “same style” as the Residence. (AR 36; P.’s RJN, Ex. A at p. 22.)
27 The Liddell Garage contains “deeply overhanging eaves, decorative extended rafter tails, purlins,
28 and ridgboards” which “clearly establish its Craftsman style”. (AR 38.) The Liddell Garage is

1 rectangular and faces the alley at the rear of the Liddell Residence. (AR 38.) Like the Liddell
2 Residence, the Liddell Garage includes a “rolled roofing material, which is . . . a character
3 defining feature” of the Liddell Residence and Garage. (AR 38.)

4 The Liddell Residence contains a front yard which is largely bisected by a scored
5 concrete, central walkway, which flares at the entrance porch and wraps around the Residence.
6 (AR 38.) The Liddell Residence has a flat lawn, mature trees, and plantings “which constitute its
7 immediate setting.” (AR 38.)

8 The first residents of the Liddell Residence were Laura M. and Frank Rennsselear
9 Liddell, Sr. (“Mr. Liddell”), and their two children, who began their residence in the year 1917.
10 (AR 37.) Mr. Liddell was notably a recognized, self-taught painter. (AR37.) Mr. Liddell moved
11 from Wisconsin to Los Angeles, California in the year 1883, where he began a hobby of painting
12 with oils and watercolors. (AR 37.) By the year 1890, Mr. Liddell “was a competent landscape
13 painter”, and was “represented by two art galleries.” (AR 37.) Mr. Liddell was influential in the
14 developing California art world as a “founder of the Painters’ Club and the first president of the
15 California Art Club.” (AR 37.) Mr. Liddell’s fine artwork paintings were featured in the *Los*
16 *Angeles Times* periodically, prior to Mr. Liddell’s death in 1923. (AR 37.)

17 **B. The Project Site and Proposed Project**

18 The Project concerns two neighboring, adjoining residential lots located at approximately
19 534 and 538 N. Kenwood Street in Glendale, California. (AR 104.) The Project contemplates
20 the Liddell Residence and Liddell Garage, which are located upon 534 N. Kenwood Street, as
21 well as another Craftsman style, one-story residence and detached garage, which are located
22 upon 538 N. Kenwood Street. (AR 104.) The Craftsman style, one-story residence located upon
23 538 N. Kenwood Street was determined to be *ineligible* for local listing. (AR 104.)

24 The Project proposes demolishing the Craftsman style, one-story residence and detached
25 garage located upon 538 N. Kenwood Street, demolishing the Liddell Garage located upon 534
26 N. Kenwood Street, preserving the Liddell Residence located upon 534 N. Kenwood Street, and
27 construction of a new eleven-unit, three-story residential apartment building. (AR 104.) The
28 eleven-unit, three-story residential building will have an L-shaped footprint and will be built

1 upon the rear yard (or, east of) the Liddell Residence and continue upon the northward
2 residential lot located upon 538 N. Kenwood Street, which previously housed the Craftsman
3 style, one-story residence. (AR 6, 44.) The Project, additionally, proposes removal of a Coast
4 Live Oak Tree, which is considered a protected tree under the City of Glendale's Indigenous
5 Tree Protection Ordinance. (AR 104.) The Project proposes replacing the Coast Live Oak Tree
6 with four replacement Scrub Oak Trees. (AR 104.) The Project, further, proposes construction
7 of a new one-level subterranean parking garage, which will include approximately twenty-six
8 parking spaces, and one unenclosed parking space with access from the public alleyway. (AR
9 104.)

10 **C. Administrative Approval and Adoption of Mitigated Negative Declaration**

11 On October 23, 2015, Real Party in Interest submitted a Design Review Application,
12 seeking approval for the proposed Project. (AR 180.) On May 10, 2019, after considering an
13 Initial Study prepared by the City of Glendale Community Development Department, Planning
14 Division, the Director of Community Development found the Projects, as mitigated, would not
15 have a significant effect on the environment and instructed that a Mitigated Negative Declaration
16 be prepared. (AR 54.) A Mitigated Negative Declaration was prepared and circulated for a
17 twenty-day public comment period. (AR 180.) During the twenty-day public comment period,
18 two public comment letters were submitted, one from Petitioner and another from Francesca
19 Smith ("Ms. Smith"), a historical preservation expert. (AR 180, AR 379.)

20 On August 21, 2019, Real Party in Interest modified the Project to address issues raised
21 in the two public comment letters received from Petitioner and Ms. Smith. (AR 105, 180.)
22 Subsequently, on September 12, 2019, the Project came before the Design Review Board for
23 consideration. (AR 103.) Prior to the Design Review Board hearing, Design Review Board
24 Staff prepared a report upon the Project, recommending that the Design Review Board approve
25 the Project and adopt the Mitigated Negative Declaration. (AR 111.) Following hearing upon
26 the Project and Mitigated Negative Declaration, the Design Review Board approved the Project
27 and adopted the Mitigated Negative Declaration pursuant to a three-to-one vote. (AR 5.)

28 **D. Appeal of Approval of Project and Adoption of Mitigated Negative Declaration**

1 On September 26, 2019, Petitioner filed an Appeal of the Design Review Board's
2 approval of the Project and adoption of the Mitigated Negative Declaration. (AR 221-229.) On
3 May 5, 2021, Respondent City Council of the City of Glendale heard Petitioner's Appeal,
4 following a vote of three-to-one, denied Petitioner's Appeal, and sustained the Design Review
5 Board's approval of the Project and adoption of the Mitigated Declaration. (AR 20-25.)

6 **III. REQUEST FOR JUDICIAL NOTICE**

7 Petitioner's Request for Judicial Notice, which was submitted in conjunction with
8 Petitioner's Opening Brief is GRANTED. (Evid. Code, § 452, subd. (c).)

9 Respondents' and Real Party in Interest's Request for Judicial Notice, which was
10 submitted in conjunction with the Opposing Brief, is GRANTED. (Evid. Code, § 452, subd. (c),
11 (h).)

12 **IV. LEGAL STANDARD**

13 In an action challenging an agency's decision under CEQA, the trial court reviews the
14 agency's decision for a prejudicial abuse of discretion. (Pub. Resources Code, § 21168.5.)
15 "Abuse of discretion is established if the agency has not proceeded in a manner required by law
16 or if the determination or decision is not supported by substantial evidence." (*Ibid.*; see also
17 *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40
18 Cal.4th 412, 435.) Challenges to an agency's failure to proceed in a manner required by CEQA
19 are subject to a less deferential standard than challenges to an agency's factual conclusions.
20 (*Vineyard, supra*, 40 Cal.4th at 435; see also *Citizens for the Restoration of L Street v. City of*
21 *Fresno* (2014) 229 Cal.App.4th 340, 353 ["Under this abuse of discretion standard, we
22 independently review claims that a public agency committed legal error (i.e., did not proceed in
23 the manner required by law) in conducting environmental review required by CEQA."].) In
24 reviewing these claims, the Court must "determine de novo whether the agency has employed
25 the correct procedures." (*Ibid.*; see *Dry Creek Citizens Coalition v. County of Tulare* (1999) 70
26 Cal.App.4th 20, 26.)

27 CEQA requires a governmental agency to prepare an environmental impact report
28 ("EIR") where the proposed project "may have a significant effect on the environment." (Pub.

1 Resources Code, § 21100, subd. (a) [italics added].) An EIR is a comprehensive environmental
2 document which provides public agencies with in-depth review of projects which may have a
3 significant impact on the environment. (*County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.)
4 “The EIR requirement is the heart of CEQA.” (State CEQA Guidelines, § 15003; *see County of*
5 *Inyo, supra*, 32 Cal.App.3d at 810; *see also Laurel Heights Improvement Assn. v. Regents of*
6 *University of California* (1993) 6 Cal.4th 1112, 1123 [“We have repeatedly recognized that the
7 EIR is the ‘heart of CEQA.’”].) Alternatively, a governmental agency may prepare a negative
8 declaration, as opposed to an EIR, where “a proposed project *will not* have a significant effect on
9 the environment”. (*Id.*, § 21064.) Additionally, a governmental agency may prepare a mitigated
10 negative declaration, as opposed to an EIR, where “the initial study has identified potentially
11 significant effects on the environment, but (1) revisions in the project plans . . . would avoid the
12 effects or mitigate the effects to a point *where clearly no significant effect on the environment*
13 *would occur, and (2) there is no substantial evidence in light of the whole record before the*
14 *public agency that the project, as revised, may have a significant effect on the environment.*”
15 (*Id.*, § 21064.5.)

16 A governmental agency’s decision to prepare a negative declaration or mitigated negative
17 declaration, as opposed to an EIR, may be challenged in an action pursuant to CEQA.
18 (*Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151.)
19 When challenge is brought to an agency’s determination an EIR is not required, the reviewing
20 court’s function is to determine whether substantial evidence in the record supports a *fair*
21 *argument* that the proposed project *may* have a significant environmental impact. (*Ibid.*; *see also*
22 *Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597,
23 1602.) This “‘fair argument’ test is derived from Public Resources Code section 21151.” (*Ibid.*)
24 The “fair argument” standard is a “low threshold” test, “and reflects a preference for resolving
25 doubts in favor of environmental review”. (*Ibid.*) Governmental agencies should not proscribe
26 an “unreasonable definition” to the “fair argument” standard and should not equate a “fair
27 argument” with “overwhelming or overpowering evidence, as CEQA does not impose such a
28 monumental burden”. (*Id.* at p. 152.) Rather, where “substantial evidence in the record supports

1 a 'fair argument' significant [environmental] impacts or effects *may* occur, an EIR is required,
2 and a negative declaration cannot be certified." (*Quail Botanical Gardens Foundation, Inc.*,
3 *supra*, 29 Cal.App.4th at p. 1602; *see also No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d
4 68, 75 ["[S]ince the preparation of an EIR is the key to environmental protection under CEQA,
5 accomplishment of the high objective of that act requires that preparation of an EIR whenever it
6 can be fairly argued on the basis of substantial evidence that the project may have significant
7 environmental impact."].) The burden is placed upon Petitioner to demonstrate, by citation to
8 the administrative record, that substantial evidence supports a *fair argument* that the proposed
9 project *may* have a significant environmental impact. (*Citizens for Responsible Development v.*
10 *City of West Hollywood* (1995) 39 Cal.App.4th 490,498-499.)

11 Whether an administrative record contains a fair argument sufficient to trigger
12 preparation of an EIR is a question of law, not fact, and deference to the agency's determination
13 is not appropriate. (*Stanislaus Audubon Society, Inc.*, *supra*, 33 Cal.App.4th at p. 151.) The
14 reviewing court independently reviews "the record and determine[s] whether there is substantial
15 evidence in support of a fair argument [the proposed project] may have a significant
16 environmental impact". (*Ibid.*) Substantial evidence includes "facts, reasonable assumptions
17 predicated upon facts, and expert opinion supported by facts." (State CEQA Guidelines, §
18 15384, subd. (b).) Substantial evidence does not include "[a]rgument, speculation,
19 unsubstantiated opinion or narrative, [or] evidence which is clearly erroneous or inaccurate".
20 (*Id.*, § 15384, subd. (a).) "Whether a fair argument can be made that the project may have a
21 significant effect on the environment is to be determined by examining the whole record before
22 the lead agency." (*Ibid.*)

23 V. DISCUSSION

24 Petitioner's primary contention, as alleged within the Petition, may be summarized as
25 follows. Petitioner challenges Respondents' approval of the Project, arguing Respondents'
26 adoption of a Mitigated Negative Declaration, as opposed to an EIR, constitutes an abuse of
27 discretion under the provisions of CEQA. Petitioner maintains the administrative record
28 contains substantial evidence in support of a fair argument that the Project may have a significant

1 environmental impact, particularly upon the Liddell Residence. The Court begins with a
2 recitation of the relevant, applicable provisions of CEQA, followed by an analysis of Petitioner's
3 position.

4 **A. CEQA Provisions and CEQA Guidelines Applicable to "Historical Resource"**

5 Public Resources Code section 21100, subdivision (a) provides, a lead agency must
6 prepare an EIR on any project which "*may* have a significant effect on the environment." (Pub.
7 Resources Code, § 21100, subd. (a) [italics added].) Where a project contemplates a "historical
8 resource", such as the Liddell Residence, Public Resources Code section 21084.1 specifically
9 enumerates the standard which shall be applied for the purposes of determining whether the
10 project, as proposed, "*may* have a significant effect on the environment," thereby necessitating
11 the preparation of an EIR. (*Id.*, §§ 21100, subd. (a) [italics added], 21084.1.) Public Resources
12 Code section 21084 provides, "[a] project that *may cause a substantial adverse change in the*
13 *significance of a historical resource* is a project that *may* have a significant effect on the
14 environment[.]" and constitutes a project for which an EIR shall be prepared. (*Id.*, § 21084.1
15 [italics added].)

16 State CEQA Guidelines section 15064.5 provides guidance to lead agencies for the
17 purposes of determining whether a project "may cause a substantial adverse change in the
18 significance of a historical resource". (Pub. Resources Code, § 21084.1; State CEQA
19 Guidelines, § 15064.5 [titled, "Determining the Significance of Impacts to . . . Historical
20 Resources."].) State CEQA Guidelines section 15064.5, subdivision (a) defines a "historical
21 resource", in part, as "[a] resource included in a local register of historical resources . . . or
22 identified as significant in an historical resources survey" (State CEQA Guidelines, §
23 15064.5, subd. (a).) Furthermore, and most pertinently, State CEQA Guidelines section 15064.5,
24 subdivision (b)(1) provides, a "[s]ubstantial adverse change in the significance of a historical
25 resource means *physical* demolition, destruction, relocation, or *alteration* of the resource or *its*
26 *immediate surroundings* such that the significance of an historical resource would be materially
27 impaired." (*Id.*, § 15064.5, subd. (b)(1) [italics added].) Additionally, State CEQA Guidelines
28 section 15064.5, subdivision (b)(2) provides, "[t]he significance of a historical resource is

1 materially impaired when a project . . . [d]emolishes or materially alters in an adverse manner
2 those physical characteristics of an historical resource that convey its historical significance and
3 justify its inclusion in, or eligibility for its inclusion in the California Register of Historical
4 Resources,” or alternatively, “that account[s] for its inclusion in a local register of historical
5 resources . . . or its identification in an historical resources survey” (*Id.*, § 15064.5, subd.
6 (b)(2)(A)-(C).)

7 Following a review of the above-referenced CEQA provisions and State CEQA
8 Guidelines, the Court finds the following inquiry appropriate for the purposes of determining
9 whether substantial evidence in the administrative record supports a “fair argument” that the
10 Project “may cause a substantial adverse change in the significance of” the Liddell Residence.
11 (Pub. Resources Code, § 21084.1 [italics added].) Initially, the Court must determine “those
12 physical characteristics” of the Liddell Residence which are attributable to the Residence’s
13 “historical significance”. (State CEQA Guidelines, § 15064.5, subd. (b)(2)(A)-(C).) Once the
14 defining, physical characteristics of the Liddell Residence have been identified, the Court must
15 determine whether the Project “materially alters in an adverse manner those physical
16 characteristics” of the Liddell Residence “which convey its historical significance”. (*Ibid.*)
17 Where the administrative record contains substantial evidence of a fair argument that the Project
18 *may* cause a substantial adverse change in the significance of the Liddell Residence, Petitioner
19 will have satisfied their burden upon the present Petition and have successfully demonstrated an
20 EIR would be required in such circumstances. (*Id.*, § 15064.5, subd. (b).)

21 **B. CEQA Provisions and CEQA Guidelines Applicable to Aesthetic Impacts**

22 Separate from, and in addition to, those provisions cited above concerning “historical
23 resource[s]”, “the CEQA Guidelines essentially establish a rebuttable presumption [that] any
24 substantial, negative *aesthetic effect* [caused by a proposed project] is to be considered a
25 significant environmental impact for CEQA purposes.” (*Quail Botanical Gardens Foundation,*
26 *Inc., supra*, 29 Cal.App.4th 1597,1604.) The aesthetic effects contemplated by CEQA include
27 “[aesthetic] impacts on public and private views and *on the historic character of the project site*
28 *and surrounding area.*” (*Preserve Poway v. City of Poway* (2016) 245 Cal.App.4th 560, 577;

1 *see Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129, 1145 [holding, “a project’s
2 visual impact on a surrounding officially-designated historical district is appropriate aesthetic
3 impact review under CEQA.”].) The primary consideration involves whether the proposed
4 project would have an adverse aesthetic impact upon the historic character of the surrounding
5 buildings, district, or neighborhood. (*See Protect Niles, supra*, 25 Cal.App.5th at 1146 [holding,
6 administrative record supports a fair argument that proposed residential townhome project
7 adversely impacts the aesthetic character of Niles Historic District because project was
8 incompatible with “small town character” of surrounding community]; *see also Georgetown*
9 *Preservation Society v. County of El Dorado* (2018) 30 Cal.App.5th 358, 375 [holding,
10 administrative record supports a fair argument that proposed construction of Dollar General
11 chain discount store would have a significant and negative effect on the aesthetics of the historic
12 center of Georgetown, as “the project is too big and too boxy or monolithic to blend in, such that
13 its presence will damage the look and feel of the historic center of Georgetown.”].)

14 While “aesthetic judgments are inherently subjective[,]” fact-based, personal
15 observations by residents concerning the aesthetic effect of a proposed project upon the historic
16 character of a surrounding building or neighborhood supports a fair argument that the Project
17 would have a significant adverse aesthetic effect. (*Protect Niles, supra*, 25 Cal.App.5th at p.
18 1147; *see Georgetown Preservation Society, supra*, 30 Cal.App.5th at p. 375 [“Although no two
19 cases are precisely on point, many cases, some involving aesthetics, have found lay commentary
20 on nontechnical matters to be admissible and probative, such that they can satisfy the fair
21 argument test.”].)

22 **C. Petitioner Presented Requisite “Fair Argument” Requiring Preparation of EIR**

23 Following review of the administrative record, Petitioner’s Opening Brief, Respondents’
24 and Real Party in Interest’s Opposing Brief, as well as Petitioner’s Reply, the Court finds
25 Petitioner has sufficiently demonstrated the administrative record contains substantial evidence
26 of a fair argument that the Project *may* have a significant effect on the environment, thus
27 rendering the adoption of a Mitigated Negative Declaration insufficient and requiring the
28 preparation of an EIR.

1 1. Petitioner Presents “Fair Argument” Project May Cause Substantial Adverse
2 Change in the Significance of “Historical Resource”

3 The Court finds Petitioner has demonstrated that the administrative record contains
4 substantial evidence of a fair argument that the Project may cause a substantial adverse change in
5 the significance of the Liddell Residence (a “historical resource” as defined by State CEQA
6 Guidelines, § 15064.5) as the Project contemplates the physical alteration of the Residence’s
7 immediate surroundings such that the significance of the Residence is materially impaired. (Pub.
8 Resources Code, § 21084.1; State CEQA Guidelines, §§ 15064.5, subd. (b)(1), (b)(2).)

9 (a) *North Set-Back and North Entrance Porch*

10 As more thoroughly explained in the “Statement of Facts” Section of this Court’s Order,
11 the Liddell Residence has been deemed a “historic” structure due to the certain architectural
12 characteristics which render the Liddell Residence an “Aeroplane Craftsman” style residence.
13 (AR 36.) Two character defining features of the Liddell Residence’s “Craftsman” architecture
14 include a “north entrance porch” which wraps around the side of the Residence “for a full bay”,
15 as well as the Liddell Residence’s northerly “generous setback”. (AR 36, 38.)

16 Pursuant to citation to the administrative record, Petitioner has sufficiently demonstrated
17 the Project *may* cause a substantial adverse change in the significance of the Liddell Residence—
18 particularly, an adverse change with respect to the “north entrance porch” and northerly
19 “generous set back”. Petitioner references various written submissions authored by historical
20 preservation expert, Francesca Smith (“Ms. Smith”), which demonstrate the “L”-shaped footprint
21 of the eleven-unit, three-story residential apartment building would significantly shield and alter
22 the historical “north entrance porch” and northerly “generous setback”. Specifically, in an
23 electronic letter dated September 10, 2019, Ms. Smith provides, pursuant to the architectural
24 drawings of the Project, “[t]he setback of the historic house and its character-defining wrap-
25 around porch would no longer be visible from the north parts of the block.” (AR 380.) Further,
26 in a written letter authored on May 3, 2021, Ms. Smith reiterates that the “L”-shaped residential
27 building “would abut the north side of the [Liddell Residence] and would be proposed within the
28 roofline at one corner of the wrap-around porch.” (AR 1804.) Ms. Smith states, the character

1 defining features of the Liddell Residence are “not merely embodied in the two-story house,
2 [but] . . . includes a larger setting that includes its reasonably deep setback, [as well as] the front
3 and rear yards . . .” (AR 1803.) Ms. Smith provides the character defining “north entrance
4 porch” and northerly “generous setback” would be materially altered in the event the proposed
5 Project was approved as such character defining features would be shielded and no longer visible
6 considering the proximity and placement of the eleven-unit, three-story residential building. (AR
7 1803-1804.)

8 The administrative record demonstrates that Respondents recognize the Project would
9 cause such alteration to the Liddell Residence’s “north entrance porch” and northerly “generous
10 setback”. (AR 44-45.) Respondents acknowledge, while “[t]he new building will not block the
11 visibility of the front and side facades of the Historic House, . . . the angle of visibility will be
12 slightly diminished from the north.” (AR 45.)

13 Based upon the expert opinion of Ms. Smith, as well as Respondents’ acknowledgment in
14 the administrative record, the Court finds Petitioner has sufficiently presented a fair argument
15 supporting the conclusion that the Project *may* have a significant impact on the historical
16 characteristics of the Liddell Residence.

17 *(b) Historic Setting of Liddell Residence*

18 As noted more fully in the “Statement of Facts”, the Liddell Residence contains a front
19 and rear yard, mature trees, and plantings, which constitute the “immediate setting” of the
20 “Aeroplane Craftsman” style residence. (AR 38.) The Liddell Residence’s rear yard,
21 additionally, contains a two-car, detached garage, which has been constructed “in the same
22 design as the residence,” with hinged wood garage doors (referenced above and below as
23 “Liddell Garage”). (P.’s RJN, at p. 22.)

24 Presently, Petitioner has sufficiently demonstrated the Project, as proposed, may
25 materially alter the “immediate setting” of the Liddell Residence, thereby possibly causing a
26 substantial adverse change in the significance of the Liddell Residence. Specifically, Petitioner
27 references a written letter authored by Ms. Smith, which was submitted to Respondents’ during
28 consideration of the Project. Within the written letter, Ms. Smith opines, “the character of a

1 property is clearly defined as referring to all those visual aspects and physical features that
2 comprise the appearance of a historic property.” (AR 1803.) Ms. Smith states, the “historic
3 character of the [Liddell Residence] is not merely embodied in the two-story house, it includes a
4 larger setting that includes its reasonably deep setback, the front and rear yards and the extant
5 Pre-World War I garage that each collectively contribute to the property’s overall character.”
6 (AR 1803.) Ms. Smith reminds Respondents that the Project contemplates substantially altering
7 the character-defining rear yard pursuant to building a large portion of the three-story, eleven-
8 unit residential building upon the Residence’s rear yard. (AR 1804.) Ms. Smith, additionally,
9 reminds Respondents that the Project proposes demolishing the Liddell Garage, which is located
10 upon the rear of the Residence. (AR 1807-1808.) Considering the facts of the Project, Ms.
11 Smith concludes stating, the Liddell Residence’s “larger setting would be permanently lost if the
12 [P]roject were [sic] built as currently proposed.” (AR 1803.)

13 Furthermore, Petitioner refers this Court to the testimony provided by Ms. Smith during
14 the administrative hearing concerning the Project. (AR 445-451.) Ms. Smith reiterated that the
15 Liddell Residence’s historical significance is not limited to the two-story Residence, but such
16 historical significance is further attributable to the “backyard”, “garage”, and “trees” upon the
17 Residence. (AR 446.) Referencing the “L”-shaped composition of the Project, and the
18 placement of the Project upon the rear yard of the Liddell Residence, Ms. Smith testified the
19 immediate setting of the Residence would be destroyed as the only features which would remain
20 would be the Residence itself and “maybe part of the front walk.” (AR 449.) Ms. Smith noted,
21 “[t]he garage would be demolished” and the “back . . . yard gone or altered”. (AR 449.)

22 The Court finds Ms. Smith’s testimony sufficient to satisfy the “low threshold,” “fair
23 argument” standard, demonstrating the administrative record supports a fair argument that the
24 Project may substantially alter the historical significance of the Liddell Residence. (*Protect*
25 *Niles, supra*, 25 Cal.App.5th at p. 1139.)

26 2. Petitioner Presents “Fair Argument” Project Imposes Significant Aesthetic
27 Impacts to Liddell Residence

1 Additionally, the Court finds Petitioner has demonstrated that the administrative record
2 contains substantial evidence supporting a fair argument that the Project may cause adverse
3 aesthetic impacts upon the historic *character* of the Project’s surrounding area, namely the
4 Liddell Residence . (*See Preserve Poway, supra*, 245 Cal.App.4th at p. 577 [holding, the
5 aesthetic effects contemplated by CEQA include “[aesthetic] impacts on public and private views
6 and on the historic character of the project site and surrounding area.”].)

7 The Court notes, the administrative record contains substantial evidence demonstrating
8 that a large number of residents believe the Project’s size and proximity operate to diminish the
9 historical character of the Liddell Residence. (*See e.g., Georgetown Preservation Society, supra*,
10 30 Cal.App.5th at p. 375 [holding, testimony provided by “a large number of interested [lay]
11 people” concerning the negative aesthetic effect a proposed project would have on a historical
12 neighborhood “is enough to trigger an EIR”.].) The administrative record reflects testimony
13 from Glendale resident Kathleen Clark (“Ms. Clark”), who voiced concern regarding the
14 Project’s proximity and towering height over the Liddell Residence. (AR 442-443.)
15 Specifically, Ms. Clark testified, “[t]he 500 block of North Kenwood has virtually been
16 decimated of its historic heritage,” and the proposed Project is another example of an effort to
17 “dwarf” a historic structure which remains on North Kenwood Avenue. (AR 442.) Considering
18 that the Project will effectively surround the Liddell Residence and considering that the Project
19 would be one-story greater in height than the Liddell Residence, Ms. Clark testified, “[t]he
20 project as currently designed virtually suffocates the house”, which “is a gorgeous example of
21 Craftsman architecture and the last great example on the block.” (AR 442.) Additionally, Beth
22 Brooks (“Ms. Brooks”), who lives “down the block” from the Liddell Residence, echoed Ms.
23 Clark’s concerns regarding the negative visual effect the Project would have on the historic
24 Liddell Residence. (AR 443-445.) Ms. Brook stated, the “beautiful architecture[s]” of the
25 Liddell Residence would be negatively affected by the three-story, eleven-unit residential
26 building, which constitutes a “monstrosity for this particular neighborhood.” (AR 444.)

27 The Court further recognizes testimony provided by Daniel Brotman (“Mr. Brotman”),
28 who is an economics professor at Glendale College. (AR 435-436.) Mr. Brotman noted, the

1 Liddell Residence is representative of the historical nature of North Kenwood Avenue, and the
2 proposed Project operates to threaten the historic significance of the Liddell Residence and North
3 Kenwood Avenue. (AR 435-436.) Mr. Brotman testified, he believed “the design contemplated
4 for this 1913 Craftsman property will destroy it . . . indirectly, by burying it in the shadow of a
5 gargantuan and poorly designed” residential apartment building. (AR 436.) Mr. Brotman urged
6 Respondents “to reject [the Project’s] . . . design and instruct the developer to come back with a
7 more compatible and scaled-down proposal.” (AR 436.) The sentiments of Mr. Brotman were
8 further explained by Steve Hunt (“Mr. Hunt”), a Glendale residence. (AR 436-437.) Mr. Hunt
9 testified that the historic “feel” of North Kenwood Avenue would be negatively affected in the
10 event the Project is approved. (AR 437.) Mr. Hunt explained, the Project would plainly
11 “overshadow” the Liddell Residence, due to the Project’s height and proximity to the Residence
12 and is similarly “inconsistent” with the historic character of this portion of North Kenwood
13 Avenue. (AR 437.) Mr. Hunt proposed amending the Project to ensure the Project was built “on
14 a much smaller scale surrounding” the Liddell Residence. (AR 438.)

15 Furthermore, the Court recognizes the testimony provided by Catherine Jurca (“Ms.
16 Jurca”), who observed, while the Project was proposed to be constructed upon the lot of the
17 historical Liddell Residence, the Project “is not compatible with the historic house” and “is not
18 appropriately scaled and proportioned” to ensure congruence with the Liddell Residence. (AR
19 452-453.) Ms. Jurca testified, the height and proximity of the Project causes the Project to
20 “envelop” and “overwhelm” the Liddell Residence and distract from the historic character of the
21 Liddell Residence. (AR 452-453.)

22 The Court finds the plethora of testimony recited above properly constitutes substantial
23 evidence of a fair argument that the Project have a significant effect on the environment, by way
24 of adverse aesthetic impacts upon the historic character of the Liddell Residence. (*Protect Niles*,
25 *supra*, 25 Cal.App.5th at p. 1147 [holding, personal observations on nontechnical issues, such as
26 aesthetics, are sufficient to constitute substantial evidence].)

27 **D. Cases Cited By Respondents and Real Party in Interest During Trial**

- 28 1. San Joaquin Raptor Wildlife Rescue Center v. County of Stanislaus

1 Respondents and Real Party in Interest cite to *San Joaquin Raptor Wildlife Rescue Center*
2 *v. County of Stanislaus* (1996) 42 Cal.App.4th 608, 617 (*San Joaquin*) for the proposition that,
3 Respondents’ concern about bias and lack of neutrality with respect to an expert—particularly
4 with respect to Ms. Smith—is an issue of credibility which falls squarely within Respondents’
5 discretion. (Opposing Brief, at p. 10:3-6.) Respondents and Real Party in Interest, primarily,
6 rely upon *San Joaquin*, for the purposes of persuading this Court it may disregard Ms. Smith’s
7 expert opinion as not credible. (RT 8:4-10:9.) However, the Court finds *San Joaquin*
8 distinguishable from this action, and unpersuasive for the purposes of supporting Respondents’
9 and Real Party in Interest’s averments.

10 *San Joaquin* concerned San Joaquin Raptor Wildlife Rescue Center’s (“Rescue Center”)
11 challenge of the issuance of a use permit authorizing the extraction of sand and gravel from a 20-
12 acre area located near the Tuolumne River (“Extraction Project”) by the County of Stanislaus
13 (“County”). (*San Joaquin, supra*, 42 Cal.App.4th 612.) The County conducted an initial study
14 with respect to the potential environmental impacts of the Extraction Project and concluded that
15 the Extraction Project would not have a significant adverse effect on the environment. (*Ibid.*)
16 Based upon the County’s findings, the County adopted a Negative Declaration, as opposed to an
17 EIR, and approved the Extraction Project. (*Ibid.*) Resource Center challenged County’s
18 adoption of a Negative Declaration, contending “evidence in the administrative record supports a
19 fair argument that significant environmental impacts or effect may occur.” (*Ibid.*) Resource
20 Center relied, in part, upon the testimony of Resource Center’s counsel and representative, Lydia
21 Miller (“Ms. Miller”), during which Ms. Miller stated the Extraction Project would cause a
22 “cumulative impact to resources which would be wildlife habitat, water drain, land use, other
23 industries that are competing within this river quarter, infrastructure, public health safety, [and]
24 air.” (*Id.* at p. 619.)

25 In assessing Resource Center’s argument, the Court of Appeal noted that application of
26 the “fair argument” standard “is a question of law and deference to the agency’s determination is
27 not appropriate. Rather, we independently ‘review the record and determine whether there is
28 substantial evidence in support of a fair argument [the proposed project] may have a significant

1 environmental impact, while giving [the lead agency] *benefit of a doubt on any legitimate,*
2 *disputed issues of credibility.*’ [Citations.]” (*San Joaquin, supra*, 42 Cal.App.4th at p. 617
3 [italics added].) Based upon such a principle, the Court of Appeal determined Ms. Miller’s
4 opinion was not credible, as Ms. Miller was not a qualified expert, Ms. Miller was merely a
5 representative of Resource Center, and Ms. Miller was unable to sufficiently explain the opinion
6 offered as testimony. (*Id.* at p. 620-621.)

7 *San Joaquin* is distinguishable from the present case and does not warrant a finding that
8 Ms. Smith’s expert opinion was not credible. Starkly in contrast with the facts presented in *San*
9 *Joaquin*, Ms. Smith is not the legal representative of Petitioner, but instead is a qualified expert
10 in the realm of historic preservation—which is a fact not disputed by Respondents and Real
11 Party in Interest. (AR 379; RT 7:6-9.) Further, as explained in detail above, Ms. Smith has
12 provided a plethora of factual explanation in support of her expert opinion that the Project may
13 significantly impact the historical characteristics of the Liddell Residence. While Respondents
14 contend Ms. Smith’s expert testimony should be discounted as Ms. Smith is “an advocate for
15 [historical] preservation”, as stated by City Councilmember Najarian during public hearing. (AR
16 529.) However, as stated during trial on the Petition, the Court does not find such an argument
17 meritorious and, indeed, Respondents and Real Party in Interest have failed to cite a case which
18 would discount expert opinion on the ground of such advocacy. (RT 31:17-25.) Accordingly,
19 the Court finds *San Joaquin* distinguishable from the present case.

20 2. Citizens for Responsible Development v. City of West Hollywood

21 Respondents and Real Party in Interest cite to *Citizens for Responsible Development v.*
22 *City of West Hollywood* (1995) 39 Cal.App.4th 490, 500 (*Citizens*) for the proposition that “a
23 disagreement among experts over the significance of an effect does not constitute substantial
24 evidence of significant impact.” (Opposing Brief, at pp. 5:8-10, 7:14-17.) More specifically,
25 Respondents and Real Party in Interest employ *Citizens* to persuade this Court that Ms. Smith’s
26 differing expert opinion is insufficient to constitute substantial evidence of a fair argument of a
27 significant impact. (*Ibid.*) For the reasons explained more fully below, the Court finds *Citizens*
28

1 distinguishable from the present case, and insufficient to support Respondents' and Real Party in
2 Interest's contentions.

3 *Citizens* involves Citizens for Responsible Development's ("Citizens") challenge of the
4 approval of a 40-unit low-income housing project ("Housing Project") by the City of West
5 Hollywood and the City Council of the City of West Hollywood (collectively, "City"). (*Citizens*,
6 *supra*, 39 Cal.App.4th at p. 493.) The Housing Project was to be located between 976 through
7 988 ½ Palm Avenue in the City of West Hollywood and proposed the rehabilitation and
8 restoration of two front craftsman-style buildings ("Historic Structures") located upon the
9 property. (*Ibid.*) Following public hearing concerning the Housing Project, City approved the
10 Housing Project and, upon a finding that the Housing Project would neither adversely affect the
11 significant architectural features of the Historical Structures, nor adversely affect the character of
12 the Historical Structures, chose to adopt a Negative Declaration, as opposed to an EIR for the
13 Housing Project. (*Id.* at pp. 495-497.) Citizens challenged the adoption of a Negative
14 Declaration, arguing the administrative record included substantial evidence supporting a fair
15 argument that the Housing Project may have a significant impact on the Historical Structures.
16 (*Id.* at p. 500.) Primarily, Citizens rested the argument upon the fact that varying experts who
17 provided testimony during the public hearings reached differing conclusions with respect to
18 whether or not the Housing Project may have a significant impact on the Historical Structures.
19 (*Ibid.*)

20 Upon consideration of Citizens' argument, the Court of Appeal, ultimately, concluded
21 "Citizens cannot rely on . . . a disagreement between experts over the significance of an effect as
22 substantial evidence, as indicated in the appellant's opening brief." (*Citizens, supra*, 39
23 Cal.App.4th at p. 500.) Specifically, the Court of Appeal noted that the supposed "disagreement
24 between experts" concerned issues *other than and separate from* whether the Housing Project
25 may have a significant impact on the Historical Structures. (*Ibid.*) Rather, the referenced
26 "disagreement between experts" concerned issues which are irrelevant to Citizen's Petition for
27 Writ of Mandate, including overdevelopment, congestion, traffic, loss of light and view, and
28 property devaluation. (*Ibid.* [holding, the record does not demonstrate a disagreement between

1 experts “regarding the proposed treatment of the buildings located on the property. Instead, the
2 public controversy surrounding this project, including the appeals to the City Council, focused
3 overwhelmingly on issues related to overdevelopment, congestion, traffic, loss of light and view,
4 property devaluation and the method of project procurement. Citizens has not challenged the
5 project on any of these issues and, therefore, cannot rely on such controversy to demonstrate
6 substantial evidence of a significant effect on the environment.”].)

7 The Court finds *Citizens* distinguishable from the present action as Ms. Smith’s differing
8 and conflicting expert opinion concerns *exactly* the issues presented within Petitioner’s Petition
9 for Writ of Mandate—namely, whether or not the Project may have a significant impact on the
10 Liddell Residence. It follows, the reasons for disavowing conflicting expert opinion in *Citizens*
11 is not found in the present action. Accordingly, the Court finds *Citizens* distinguishable from the
12 present action and insufficient to warrant Ms. Smith’s expert opinion insufficient.

13 Further, in the event Respondents and Real Party in Interest contend a conflicting expert
14 opinion may never, in any circumstances, warrant preparation of an EIR, such a contention is
15 wildly incorrect. The Court references State CEQA Guidelines section 15064, subdivision (g)
16 which expressly provides, “where it is not clear whether there is substantial evidence that a
17 project may have a significant effect on the environment, the lead agency shall be guided by the
18 following principle: If there is disagreement among expert opinion supported by facts over the
19 significance of an effect on the environment, the Lead Agency shall treat the effect as significant
20 and shall prepare an EIR.” (State CEQA Guidelines, § 15064, subd. (g).)

21 3. Citizen Action to Serve All Students v. Thornley

22 Respondents and Real Party in Interest cite to *Citizen Action to Serve All Students v.*
23 *Thornley* (1990) 222 Cal.App.3d 748, 755-756 (*Thornley*) for the proposition that “a lead agency
24 may reject an expert’s opinion on the ultimate question of what constitutes significance for a
25 given impact.” (Opposing Brief, p. 6:18-20.) Based upon such a legal proposition, Respondents
26 argue, as the lead agency with authority to approve the Project, Respondents were permitted to
27 disregard Ms. Smith’s expert opinion concerning the significance of the Project’s impact on the
28 historical features of the Liddell Residence. However, following a reading of *Thornley*, the

1 Court finds Respondents have misrepresented the legal principles advanced in *Thornley*, and
2 furthermore, *Thornley* is distinguishable from the present action.

3 *Thornley* concerned an ad hoc community organization’s (Citizen Action to Serve All
4 Students, or “CASAS”) challenge to the Hayward Unified School District Board of Education’s
5 (“Board”) decision to permanently close Sunset High School (“Sunset”). (*Thornley, supra*, 222
6 Cal.App.3d at p. 750.) In approving the closure of Sunset, Board conducted an initial
7 environmental study in accordance with CEQA for the purposes of determining whether the
8 closure may have a significant environmental impact, thus necessitating the composition of an
9 EIR. (*Id.* at p. 752.) Ultimately, Board concluded the closure of Sunset would not cause
10 significant environmental effects, and adopted a Negative Declaration as opposed to preparation
11 of an EIR. (*Id.* at p 752-753.) CASAS challenged Board’s adoption of a Negative Declaration,
12 arguing the administrative record included substantial evidence in support of a “fair argument”
13 that the closure of Sunset would have a significant impact on traffic patterns in the Sunset
14 neighborhood. (*Id.* p. 755.) CASAS relied upon a declaration submitted during the
15 administrative process by a certified civil and traffic engineer, Renato Martinez (“Mr.
16 Martinez”), which observed that the closure of Sunset would cause a one percent (1%) increase
17 in traffic within the Sunset neighborhood, and further opined that the one percent (1%) increase
18 constitutes a “significant” impact. (*Ibid.*)

19 The Court of Appeal in *Thornley* stated, while “[c]onflicting assertions do not ipso facto
20 give rise to substantial ‘fair argument’ evidence[,]” a “[d]isagreement of expert opinion
21 regarding significance of an environmental effect” would require preparation of an EIR where,
22 based on the conflicting expert testimony and opinion, “it is not clear whether there is substantial
23 evidence that a project may have a significant effect on the environment.” (*Ibid.*) Pursuant to
24 this legal proposition, the Court of Appeal found Mr. Martinez’s expert opinion concerning a one
25 percent (1%) increase in traffic did not equate to a “significant” impact on traffic patterns in the
26 Sunset neighborhood. (*Id.* at pp. 755-756 [“The question is whether the increase of a few cars
27 per minute in an already congested intersection would wreak a ‘significant’ impact on the
28 environment.”].)

1 Initially, the Court observes, the Court of Appeal in *Thorley* does not stand for the
2 proposition, as Respondents contend, that a lead agency may freely and outright reject an
3 expert's opinion on the question of an impact's "significance" on the environment. (Opposing
4 Brief, p. 6:18-20.) Rather, *Thornley* provides, a lead agency must engage in a thorough
5 consideration of conflicting expert opinion, determining whether such conflicting opinion
6 renders unclear whether there is substantial evidence that a project may have a significant effect
7 on the environment. (*Thornley, supra*, 222 Cal.App.4th at p. 455.)

8 Further, the Court is unpersuaded Ms. Smith's expert testimony is comparable to that of
9 Mr. Martinez's expert testimony in *Thornley*, which the Court of Appeal found did not
10 sufficiently demonstrate the closure of Sunset rendered a "significant" impact on traffic patterns
11 in the Sunset neighborhood. (*Thornley, supra*, 222 Cal.App.4th at p. 455-456.) As a preliminary
12 note, *Thornley* does not involve a historical resource, nor does *Thornley* provide insight as to
13 facts and factors which would render a change to a historical resource "significant". Rather,
14 *Thornley* addresses whether a one percent (1%) increase in traffic patterns in a particularly
15 congested neighborhood constitutes a "significant" impact. (*Thornley, supra*, 222 Cal.App.4th at
16 p. 455-456.) As noted previously, the Court of Appeal held that such expert opinion by Mr.
17 Martinez did not sufficiently connote a "fair argument" of "significance" concerning the
18 closure's potential traffic impacts upon the Sunset neighborhood. (*Ibid.*) The Court is not
19 persuaded the same may be concluded with respect to Ms. Smith's expert opinion, as Ms.
20 Smith's expert opinion does not conclude the Project would pose only a marginal, insignificant
21 change to the Liddell Residence (i.e., similar to that of a mere one percent (1%) increase in
22 traffic patterns in the Sunset neighborhood). Conversely, Ms. Smith's expert opinion, as
23 explained more fully in the preceding Section of this Court's Order, is voluminous and addresses
24 multiple facts which may render a "significant" impact on the historical aspects of the Liddell
25 Residence. In sum, the Court finds *Thornley* is distinguishable from this action.

26 **IV. CONCLUSION**

27 Based on the foregoing, the Court finds Petitioner has demonstrated the administrative
28 record supports a fair argument that the Project may have a significant effect on the environment.

1 Therefore, the Court finds, in turn, Respondents abused their discretion by merely adopting a
2 Negative Declaration with respect to the Project, as opposed to preparing an EIR. Accordingly,
3 Petitioner's Petition for Writ of Mandate is GRANTED.

4 Petitioner is ordered to give notice of this ruling.

5 IT IS SO ORDERED.

6
7
8 DATED: October 31, 2022

9
10 

11 Joel L. Lofton

12 Judge of the Superior Court