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November 19, 2020

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Planning and Land Use Management (PLUM) Committee

c/o Office of the City Clerk
Los Angeles City Hall, Room 395
Los Angeles, California 90012

Re: CF 20-1383-S1
CPC-2014-4705-ZC-HD-DB-MCUP-SPR-1A
ENV-2014-4706-EIR

Dear Honorable Members of the PLUM Committee:

On October 2, 2020, the City Planning Commission (CPC) recommended approval of a Zone Change and Height District change, and approved a Density Bonus Compliance Review, a Master Conditional Use permit for alcohol sales, a Conditional Use to allow live entertainment and dancing, and a Site Plan Review (CPC-2014-4705-ZC-HD-DB-MCUP-CU-SPR) in connection with the 6220 Yucca Project (Project) proposal. The Project involves the construction and operation of a mixed-use development, with up to 316,948 square feet of floor area, within a new 30-story tower (Building 1) and two existing one- and two-story single-family buildings (1765 and 1771 Vista Del Mar Avenue) on an approximately 1.16-acre (net area) site. Building 1 would include up to 269 multi-family residential units (17 of which would be set aside for Very Low Income households) and approximately 7,760 square feet of commercial/restaurant uses. The residence at 1771 Vista Del Mar Avenue would remain as a single-family use and the residence at 1765 Vista Del Mar Avenue, which currently contains three residential units, will be restored and converted back to a single-family use. Five levels of subterranean and above-ground automobile parking would be located within the podium structure of Building 1 and surface parking would be provided for the two single-family residences. Four existing residential buildings containing 40 residential units would be removed from the Project Site. The Project is an Environmental Leadership Development Project (ELDP).

On October 15, 2020, an appeal was filed by Susan Hunter on behalf of the LA Tenants Union – Hollywood Local and the Yucca Argyle Tenants Association (LATU-YATA) primarily regarding Q-condition No. 14 of the Zone Change. On October 23, 2020, a second appeal was filed by J.H. McQuiston from the entirety of the Commission's decision. This report serves to respond to the points raised in these two appeals.

Project Background

In its August 19, 2020 decision, the Advisory Agency adopted findings relating to the certification of the Environmental Impact Report (EIR), and approved a Vesting Tentative Tract Map for the merger and resubdivision of four lots into one master ground lot for condominium purposes and five airspace lots on an approximately .90-acre (39,375 square foot) portion of the overall 1.16-acre site, and a Haul Route for the export of 23,833 cubic yards of soil.

Three separate appeals of VTT-73718 were filed in a timely manner on September 1 and September 2, 2020. The appeals were filed by LA Tenants Union, AIDS Healthcare Foundation, and J.H.McQuiston.

The Department of City Planning responded to the appeals (VTT-73718-1A) in an Appeal Response Recommendation Report. The Appeal Response Recommendation Report and associated documents were presented to the City Planning Commission at its meeting on September 24, 2020. In addition, a separate Recommendation Report was submitted to the CPC for initial consideration and action on other related entitlements for the Project under concurrent case CPC-2014-4705-ZC-HD-DB-MCUP-CU-SPR.

On October 2, 2020, the City Planning Commission, following its consideration of the materials before them during the hearing of September 24, 2020, issued its determination to deny the appeals, thereby sustaining the actions of the Advisory Agency in certifying the EIR and approving the Vesting Tentative Tract Map. The City Planning Commission also issued its determination for the related case for the project, approving the environmental clearance, recommending that the City Council approve the Zone Change and Height District Change requests, and approving a Density Bonus Compliance Review, a Master Conditional Use permit for alcohol sales, a Conditional Use to allow live entertainment and dancing, and a Site Plan Review for the Project.

On October 9, 2020, a second-level appeal was filed on the Vesting Tentative Tract Map (CF 20-1383) by Kate Unger on behalf of the Aids Healthcare Foundation (AHF). On October 15, 2020, an appeal was filed by Susan Hunter on behalf of the LA Tenants Union – Hollywood Local and the Yucca Argyle Tenants Association, and on October 23, 2020 an appeal was filed by J.H. McQuiston, both on CPC-2014-4705-ZC-HD-DB-MCUP-CU-SPR. Both the Tract Map appeal (Council File 20-1383) and CPC case appeal (Council File 20-1383-S1) will be heard by the Planning and Land Use Management (PLUM) Committee of the City Council on December 3, 2020.

Scope of CPC Case Appeals

Regarding the Zone Change and Height District Change entitlements, pursuant to LAMC Section 12.32 D, if the Planning Commission recommends disapproval of an application, in whole or in part, the *applicant* may appeal that decision to the City Council by filing an appeal with the Planning Commission that made the initial decision. Since the City Planning Commission recommended approval of the Zone Change and Height District Change entitlements, the Commission's recommendations on the entitlements then proceed to City Council for consideration and a decision. The Commission's *recommendation* for approval is not appealable. Rather, the City Council considers the Commission's recommendation, together with public testimony, including any testimony related to the proposed conditions of approval, and then issues a decision on the Zone Change and Height District Change requests.

Regarding the Density Bonus entitlements, pursuant to LAMC Section 12.22 A.25(g)(2)(f), only an applicant or any owner or tenant of a property abutting, across the street or alley from, or

having a common corner with the subject property may appeal a Density Bonus entitlement. The appellants' addresses listed on their appeal application forms demonstrate that neither appellant is an owner or tenant of an abutting property. Therefore, the only actions of the City Planning Commission which are appealable by the two parties under case CPC-2014-4705-ZC-HD-DB-MCUP-CU-SPR are the Master Conditional Use permit for alcohol sales, the Conditional Use to allow live entertainment and dancing, and the Site Plan Review.

The following represents a summary and responses to the appeals filed on October 15, 2020 and October 23, 2020:

APPELLANT 1: SUSAN HUNTER, LA TENANTS UNION AND YUCCA ARGYLE TENANTS ASSOCIATION (LATU/YATA)

The Appellant states in their application that they are appealing Site Plan Review condition 1.a, which limits the development to 271 dwelling units and up to 7,760 square feet of retail and restaurant uses and Zone Change Q-Condition 14d, related to requirements that the project applicant demonstrate that on-site qualified existing tenants were offered a private agreement for 1) the ability for the tenant to return to a comparable unit within the project; and, 2) during construction of the project, funding of the difference in rent from the current unit to a comparable unit during the tenant's relocation for the duration of project construction.

However, as stated above, pursuant to LAMC Section 12.32 D, Q-condition 14.d is not appealable, but the recommended Q-condition language is being considered by the City Council as part of their consideration of the Zone Change request. Only the applicant may appeal a zone change recommendation by the City Planning Commission. Since the City Planning Commission recommended approval of the Zone Change and Height District Change entitlements, those entitlements, and recommended Q conditions, are not appealable. The appellant has not raised any specific issues regarding the Master Conditional use permit for alcohol sales, the Conditional Use to allow live entertainment and dancing, or the Site Plan Review entitlements, apart from stating that they are appealing the Site Plan Review condition describing the number of dwelling units and commercial floor area and comments related to consistency with land use plans. Additionally, the appellant provides no new information or substantial evidence to demonstrate that the City's EIR and findings are inadequate. However, within their appeal documentation, the Appellant raised the following issues.

Summary of issues raised in appeal documentation:

- *Lack of transparency regarding the current condition for approval under Condition 14 (d)*
- *The Project will result in a net loss of affordable housing*
- *Request for modified condition language for "right of return"*
- *The Project conflicts with the State laws and City plans related to affordable housing*
- *The EIR fails to recognize other economic and population impacts.*
- *The EIR is not supported by substantial evidence and uses outdated data related to population, traffic, and geology and soils.*

LATU/YATA Comment 1:

The Appellant asserts that the Applicant has stated it would enter into a "Right of Return" agreement with the current tenants on the Property but has not yet done so, and that such a requirement should be made a condition of approval here, as has been done with the Crossroads Hollywood Project.

Response to LATU/YATA Comment 1:

A "right of return" is not required by any law applicable to the Project. The Ellis Act and the City's Rent Stabilization Ordinance (RSO) apply when existing rental units are removed from the rental market and demolished to make way for newly constructed rental units. The City's RSO is set forth in LAMC Sections 151.00 *et seq*., and governs the process of Ellis Act evictions, including the provision of notice to affected tenants, the payment of cash relocation assistance, and a "cash for keys" program in lieu of an Ellis eviction and relocation payments. The reference to the Crossroads Hollywood project refers to a separate project that was approved by the City in January 2019 and that is unrelated to this Project and is therefore not relevant to the appeal or the Project. The "Right of Return" condition in the separate and unrelated Crossroads Hollywood project was a voluntary condition requested and agreed to by the Crossroads Hollywood project Applicant.

The Appellant's claims with respect to this comment are virtually identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency in approving the Tract Map. A more detailed and comprehensive response can be found in the *Staff Response to LA Tenants Union Appeal Point 1* on p. A-3 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

Consistent with the Appellant's request, the City Planning Commission imposed Condition of Approval 14d (Q Condition 14d) upon the Project. Q Condition 14d states the following:

> "Prior to the issuance of a demolition permit, the Applicant or successor shall provide certified mailing receipts of proof of service, to the Department of City Planning Major Projects Section demonstrating that existing qualified tenants were provided an offer to enter into a private agreement with the applicant (or successor) that includes the following terms: 1) the ability for the tenant to return to a comparable unit within the project; and, 2) during construction of the project, funding of the difference in rent of a comparably-sized unit between the tenant's rental rate immediately prior to the demolition of the building and the tenant's new rental rate, until the ability to return, if accepted, is exercised. The Applicant (or successor) shall provide a copy of the signed agreement(s) with, or written rejection from, the tenant(s). Where the Applicant (or successor) is not able to enter into an agreement with the tenant(s), the Applicant (or successor) shall submit a written declaration, under penalty of perjury, that best faith efforts have been made to enter into a private agreement with the tenant(s). The applicant (or their successor) shall also submit to the Department of City Planning Major Projects Section, concurrent with certified mailing receipts of proof of service signed under penalty of perjury, the rent roll of occupied units at the time the offer is commenced."

As Zone Change Condition Q-14.d is not within the purview of the appeals to the Master Conditional Use, Conditional Use, and Site Plan Review, this appeal point should be denied. Nonetheless, the City Council may consider any public testimony related to the recommended Zone Change and requested changes to the Q conditions at its meeting.

LATU/YATA Comment 2:

The Appellant expresses its concern "with the lack of transparency" regarding Q Condition 14.d for Case No. CPC-2014-4705-ZC-HD-MCUP-CU-SPR. Specifically, Appellant requests that Q Condition 14.d also include the following text: "No part of the agreement will allow for a reduction of short-term or long-term rights of the tenants; or prevent tenants from bringing a lawsuit should the developer fail to uphold any part of the agreement. Tenants cannot be coerced into signing an agreement they do not agree with. Any use of harassment, intimidation, or refusal to do repairs

in order to obtain a signed agreement will render the agreement void, and that the condition will not have been met."

Response to LATU/YATA Comment 2:

The Appellant provides a general statement about the lack of transparency regarding Q Condition 14.d, but does not provide any specifics as to how the City has obfuscated public participation regarding the Zone Change process or how the condition is not transparent. Q Condition 14.d was introduced by Council District 13 Planning Director Craig Bullock and read into the record at the City Planning Commission hearing. As written, the condition requires that the Applicant submit certified mailing receipts of proof of service sent to all building tenants of a right—of-return offer, documentation under penalty of perjury related to the tenants' acceptance or rejection letters, and documentation for the current rent roll. This documentation must be presented to the Department of City Planning prior to effectuation of the Zone Change and will be included in the case file for the project, which will be part of the public administrative record. As such, documentation of compliance with the condition will be part of the public record and subject to a transparent process.

The Appellant requests further modification of the condition. As Zone Change Condition Q-14.d is not within the purview of the appeals to the Master Conditional Use, Conditional Use, and Site Plan Review, this appeal point should be denied. Nonetheless, the City Council may consider any public testimony related to the recommended Zone Change and requested changes to the Q conditions at its meeting.

LATU/YATA Comment 3:

The Appellant asserts that the Project will result in a net loss of affordable housing. The Appellant further claims that the City does not have justification to allow for the net loss of affordable housing in order to develop market-rate housing.

Response to LATU/YATA Comment 3:

"Affordable units" are units covenanted to be affordable to households of moderate, low-, or very-low income levels, as defined in the applicable statutes and determined by HCIDLA. (See Gov't Code §§ 65915; Health & Safety Code §§ 50105, 50079.5, 50093). Currently, there are no affordable units at the Project Site. Accordingly, the development of the Project would not result in the demolition of any affordable units.

The Project would remove 43 existing RSO units and replace them with 252 RSO units. The Project would thus result in a net *increase* of 209 RSO units, creating a notable increase in the number of RSO units in the City. Further, by providing 17 units covenanted for Very Low-Income households, the Project would result in a net increase of 17 covenanted affordable units.

As there would be a net increase and not a net loss of affordable housing, the appeal point should be denied.

LATU/YATA Comment 4:

The Appellant asserts that the City must consider all alternatives to the Project, "including the fact that replacement housing is not under the jurisdiction of the Ellis Act," and suggests that the City "overlay a new Certificate of Occupancy over old ones to preserve RSO [sic] the lower rental rates for existing tenants, while creating new units to meet our housing needs."

Response to LATU/YATA Comment 4:

Alternatives to the Project were fully analyzed and addressed in Section V. Alternatives of the Draft EIR. The Appellant has not appealed the approval of Vesting Tentative Tract Map 73718-1A, or the certification of the EIR and adoption of the associated documents. The Appellant's statements constitute expressions of their opinions, not substantial evidence. (CEQA Guidelines §§ 15064(f)(5), 15384(a).) The comment does not raise any specific issue with respect to the content or adequacy of the EIR's analysis of the Project's potential environmental effects or analysis of alternatives, and does not identify any specific deficiency in the information, facts, or analysis in the EIR. The Appellant's claims with respect to this comment are identical to those previously raised by the Appellant, and are fully responded to in the Final EIR, Chapter 2, Response to Comment No. FORM 1-6.

In addition, the Appellant requests that the City overlay a new Certificate of Occupancy over old units to preserve RSO at the existing rates. It is unclear from the Appellant's statements why a new Certificate of Occupancy would be required by the City for units that are to be demolished or how that could function as a vehicle to preserve RSO at existing rates. As previously mentioned, the Project would remove 43 existing RSO units and replace them with 252 RSO units and 17 units covenanted for Very Low-Income households. Any newly constructed units will require a new Certificate of Occupancy. As such, it's unclear how the Appellant's suggestion would serve to create RSO units or preserve affordability, as the Project will already include RSO units. As the appeal point failed to demonstrate how the Commission erred or abused their discretion in approving the Master Conditional Use, Conditional Use, and Site Plan Review, this appeal point should be denied.

LATU/YATA Comment 5:

The Appellant asserts that the City Planning Commission should adopt its proposed modification to Q Condition 14d, and further asserts that the City should codify a "Right of Return Plan" in the Los Angeles Municipal Code for future projects.

Response to LATU/YATA Comment 5:

See Response to LATU/YATA Comment 1, above. The Appellant's statement that the City should codify a "Right of Return Plan in the Los Angeles Municipal Code for future projects" is a statement of the Appellant's opinion that is not related to the Project or the entitlement appeals. The Appellant 's statements constitute expressions of its opinions, not substantial evidence The comment does not raise any specific issue with respect to how the Commission erred or abused their discretion in approving the Master Conditional Use, Conditional Use, and Site Plan Review or the content or adequacy of the EIR or the Project's potential environmental effects.

LATU/YATA Comment 6:

The Appellant asserts its opinion that the EIR's population figures, which are based on SCAG projections, are invalid because they do not account for the effects of population decline in Hollywood caused by the COVID-19 pandemic, and, therefore, that the EIR uses "incomplete data" in its analysis in reaching its conclusions.

Response to LATU/YATA Comment 6:

Under CEQA, the "baseline" conditions under which a Project is analyzed consist of the existing physical conditions in place at the time the Notice of Preparation for the Draft EIR is issued, which occurred in December 2015. The EIR is not required by CEQA to analyze any subsequent

changes to baseline population conditions resulting from the ongoing COVID-19 pandemic. Based on the applicable standard, the Draft EIR's reliance on SCAG and US Census population data published in 2016 is supported by substantial evidence, and constitutes a conservative approach to understanding the potential population and housing impacts of the Project.

The Appellant's claims with respect to this comment are identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to LA Tenants Union Appeal Point 2* on pp. A-3 and A-4 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

LATU/YATA Comment 7:

The Appellant contends that the Project's CEQA analysis fails to account for "financial discrimination" caused by the removal of what the Appellant calls "affordable" rent stabilized units, and failing to analyze alternatives to preserve RSO units on the property as well as deed restricted affordable units.

Response to LATU/YATA Comment 7:

See Response to LATU/YATA Comment 3, above. Contrary to the Appellant's claims, there are no affordable units at the Project Site. Therefore, development of the Project would not result in the demolition of any affordable units. The Project would remove 43 existing RSO units and replace them with 252 RSO units, resulting in a net increase of 209 RSO units at the Project Site, in the Hollywood Community and in the City. Further, by including 17 units covenanted for Very Low-Income households, the Project would result in a net increase in affordable units at the Project Site, in the Hollywood Community and in the City.

The Appellant also argues that: (1) the RSO and Ellis Act do not apply to withdrawn units that are demolished where new rental units are built, and (2) that the City must force the Applicant to preserve the existing on-site units and build around them, or otherwise require the Applicant to provide the tenants a Right of Return to the Project once constructed. Contrary to the statement in the Appeal, the RSO and the Ellis Act apply when existing rental units are removed from the rental market and demolished to make way for newly constructed rental units. LAMC § 151.28 and Gov't Code § 7060.2(d) state "If the accommodations are demolished, and new accommodations are constructed on the same property, and offered for rent or lease within five years of the date the accommodations were withdrawn from rent or lease, the newly constructed accommodations shall be subject to any system of controls on the price at which they would be offered on the basis of a fair and reasonable return on the newly constructed accommodations, notwithstanding any exemption from the system of controls for newly constructed accommodations." As proposed, 252 of the new units would be offered as RSO units and 17 units would be deed restricted for Very Low-Income residents.

In addition, the City has reviewed and analyzed alternatives to the Project which would include full preservation of the existing on-site units, including Alternative 1: No Project/No Build Alternative in Section V. Alternatives of the Draft EIR. As demonstrated in the EIR analysis and supported by substantial evidence and findings in the record, the Environmentally Superior Alternative was Alternative 2, and therefore the City proceeded with approval of Modified Alternative 2 and an adoption of a Statement of Overriding Considerations. In addition, the City included Q Condition 14.d to require that the Applicant demonstrate a good-faith effort for a right-of-return agreement with existing tenants. As such, the Appellant has failed to demonstrate how the Commission erred or abused its discretion and the appeal point should be denied.

The Appellant's claims with respect to this comment are identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to LA Tenants Union Appeal Point 3* on pp. A-4 and A-5 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

LATU/YATA Comment 8:

The Appellant contends that the Project fails to comply with affordable housing requirements and that the EIR fails to analyze the required levels of affordable housing needed in the Hollywood Redevelopment Plan area and, more generally, affordable housing requirements correlating with housing needs in the City and in Los Angeles County.

Response to LATU/YATA Comment 8:

The Appellant asserts that the Project fails to comply with and analyze the affordable housing requirements contained in California Health & Safety Code § 33413(2)(A)(i) and the Hollywood Redevelopment Plan, which requires that "[p]rior to the time limit on the effectiveness of the redevelopment plan…at least 15 percent of all new and substantially rehabilitated dwelling units developed within a project area under the jurisdiction of an agency by public or private entities or persons other than the agency shall be available at affordable housing cost to, and occupied by, persons and families of low or moderate income…." However, the statute imposes these affordability requirements on the redevelopment plan area, not on individual projects. Therefore, the provision of the new 17 units for Very Low-Income residents that the Project provides will help meet the area wide goal.

With respect to the Hollywood Redevelopment Plan, the Project is consistent with the applicable provisions of that Plan, as discussed on pages IV.H-38 through IV.H-41 of Section IV.H, *Land Use and Planning*, of the Draft EIR. The Appellant does not provide evidence that the EIR fails to comply with CEQA or any applicable law or plan. The Hollywood Redevelopment Plan's requirements regarding affordable housing units apply to the Redevelopment Plan area as a whole, not to individual projects. Furthermore, like the requirements in California Health & Safety Code, Section 33413(b)(2)(A(i), the Hollywood Redevelopment Plan's affordable housing requirements must be met within the lifetime of the Plan, which extends until 2027. (See also, Topical Response No.3, on pages 2-11 to 2-14 of Chapter 2, *Responses to Comments*, of the Final EIR.) As such, the appeal point should be denied.

The Appellant's claims with respect to this comment are identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to LA Tenants Union Appeal Point 4* on p. A-5 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

LATU/YATA Comment 9:

The Appellant contends that the EIR makes an unsubstantiated projection of positive impacts on the community without disclosing its methodology.

Response to LATU/YATA Comment 9:

The Appellant fails to identify the unsubstantiated positive impact projections that the Appellant believes the EIR makes, and in addition fails to support its assertion that the EIR's impact projections are unsubstantiated with any facts or evidence. As such, the Appellant's statement

constitutes "[a]rgument, speculation, unsubstantiated opinion or narrative…," not substantial evidence. (CEQA Guidelines §§ 15064(f)(5), 15384(a).) The appeal point should be denied.

The Appellant's claims with respect to this comment are similar to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to LA Tenants Union Appeal Point 5* on pp. A-5 through A-7 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

LATU/YATA Comment 10:

The Appellant contends that the EIR falsely claims that the Project supports the City's housing goals, because the Project conflicts with the Housing Element of the General Plan and the Hollywood Community Plan.

Response to LATU/YATA Comment 10:

The Appellant asserts that the Project is inconsistent with the Housing Element of the General Plan and the Hollywood Community Plan, arguing in part that the EIR does not adequately analyze the loss of affordable units and RSO units. As discussed in the Response to LATU/YATA Comment 3, above, since the Project Site does not contain any existing affordable units and would replace 43 RSO units with 252 RSO units, the Project would not result in the loss of either affordable units or RSO units, but would instead result in a net increase in both types of units.

Further, as discussed in the Final EIR's Responses to Comments, with respect to conflicts with existing land use plans, "CEQA does not require a lead agency to establish that a project achieves perfect conformity with each and every component of such applicable plans, which often serve a variety of different and sometimes competing interests. Rather, a project must generally be compatible with plans' relevant overall applicable objectives, policies, goals, use restrictions, and requirements related to environmental issues." (See Response to Comment No. ORG 2B-32 on page 2-80 of Chapter 2, *Responses to Comments*, of the Final EIR.) The EIR fully analyzes the Project's consistency with local plans and applicable plan policies under the applicable CEQA standard, including those set forth in the Housing Element of the General Plan and the Hollywood Community Plan, and concludes that the Project would be consistent with both. The Appellant does not provide substantial evidence that the EIR erroneously determined that the Project was consistent with the Housing Element of the General Plan and the Hollywood Community Plan, or address the substantial evidence relied on in the EIR, or make any attempt to show the substantial evidence relied on in the EIR does not support the its conclusions. In addition, the CPC case findings further demonstrate how the Project supports the goals and policies of the General Plan and Community Plan (See pages F-1 to F-10 of Staff Recommendation Report prepared for the September 24, 2020 City Planning Commission hearing) The Appellant has failed to demonstrate how the Commission erred or abused its discretion in approving the Project and the appeal point should be denied.

The Appellant's claims with respect to this comment are identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to LA Tenants Union Appeal Point 6* on pp. A-7 and A-8 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

LATU/YATA Comment 11:

The Appellant contends that the EIR findings are not supported by substantial evidence in the record, are self-conflicting, and use outdated data not reflective of current issues including population, traffic, geology and soils. Further, the Appellant contends that the EIR fails to conduct a "Cradle to the Grave" analysis, thus making the EIR inadequate. Finally, the Appellant adopts all other objections to the Project that have been submitted.

Response to LATU/YATA Comment 11:

The Appellant states that the findings in the EIR are not supported by substantial evidence. However, the Appellant gives no explanation and provides no data or analysis in support of this assertion. As such, these statements constitute "[a]rgument, speculation, [and] unsubstantiated opinion or narrative," not substantial evidence. (See CEQA Guidelines §§ 15064(f)(5), 15384(a).)

The Appellant asserts that the EIR "conflicts with itself" in analyzing conformance with State and local laws and goals, but fails to identify the specific laws or goals or the analyses the Appellant claims are internally inconsistent. The Appellant also generally asserts that the EIR uses outdated data not reflective of current issues regarding population, traffic, geology and soils, but again fails to identify any outdated data or particular issues of concern. As such, these statements constitute "[a]rgument, speculation, [and] unsubstantiated opinion or narrative," not substantial evidence. (See CEQA Guidelines, §§ 15064(f)(5),15384(a).)

The Appellant further asserts that the EIR's failure to provide a complete "Cradle to the Grave" analysis renders the EIR inadequate, but does not provide any context or details related to this claim. The EIR was completed in full compliance with CEQA and the vague claim provided by the Appellant has failed to demonstrate otherwise.

Finally, the Appellant asserts that the Appellant adopts all other objections to the Project submitted by all other parties. Since this comment fails to identify any issue with sufficient specificity to enable the City to prepare a good faith and reasoned response, no further response is possible or warranted. The appeal point should be denied.

The Appellant's claims with respect to this comment are virtually identical to those previously raised by the Appellant in its appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to LA Tenants Appeal Point 7* on p. A-8 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

APPELLANT: J.H. McQuiston

Summary of Appeal Points

- *Denied due process to participate in the Commission hearing*
- *Planning relied on invalid assertions*
- *Planning incorrectly asserted that no active earthquake fault exists*
- *Planner/Commission violated Public Resources Code regarding damage to structures, city liability*
- *Planner/Commission failed to analyze environmental impacts from non-conforming buildings*
- *Planner/Commission failed to set forth best alternative*

The appeal again claimed that the Project EIR failed to comply with CEQA and that proper entitlement findings could not be made. The appeal relies on the same arguments and information as presented in the appellants' previous letters to the City. The City has already adequately provided detailed and full responses to each of those letters, supported by substantial evidence in the record, including in the Draft EIR, dated April 2020, the Final EIR, dated August 2020, the Recommendation Report to City Planning Commission, dated September 2020, and other documents in the administrative case file. The appellant continues to fail to present any new information or substantial evidence to dispute the City's certification of the EIR and adoption of required findings in connection with the approvals and recommendations of approval for the Project.

McQuiston Appeal Point 1:

The Appellant asserts that the "City falsely-alleged participation in its hearings was 'free of charges.'" In support of this assertion, the Appellant states that he was required to make payments to AT&T, a third-party telephone service company, in order to participate in the Project's public hearings.

Response to McQuiston Appeal Point 1:

The City is not responsible for costs charged to Appellant's third-party telephone service company, which the Appellant used to participate by telephone in the City Planning Commission's public hearing. The City did not charge any person in order to attend or participate in the public hearing for the Project.

A noticed public hearing for the Project was held by the Deputy Advisory Agency and Hearing Officer on behalf of the City Planning Commission on August 19, 2020. Thereafter, a noticed public hearing for the Project was held by the City Planning Commission on September 24, 2020. Consistent with the Governor's Executive Order No. N-29-20, both hearings were conducted telephonically. Executive Order No. N-29-20 does not impose any requirement on the City to ensure that a third-party telephone company provides free telephone services to the Appellant, nor has the Appellant identified any such requirement.

The appeal point does not identify any abuse of discretion on the part of the City Planning Commission, and should be denied.

McQuiston Appeal Point 2:

The Appellant asserts that the City has violated the Appellant's constitutional rights. In support of this assertion, the Appellant states that the Appellant's participation in hearings was subject to a "poll tax," since the Appellant was required to pay bills to AT&T, a third-party telephone service company.

Response to McQuiston Appeal Point 2:

The Appellant argues that the City violated his constitutional rights by imposing a "poll tax" on the Appellant, because Appellant was required to pay a third-party telephone company to participate by telephone in the City Planning Commission hearing. However, the City is not a party to any agreement the Appellant has with his telephone service provider. Moreover, the reference to a "poll tax" is inapposite. The City's hearing on the Project was not an election, no voting occurred, and the City did not charge the Appellant or anyone else to participate.

The appeal point does not identify any abuse of discretion on the part of the City Planning Commission, and should be denied.

McQuiston Comment 3:

The Appellant disagrees with the EIR's conclusion that there is no active fault underlying the Project Site. In support of this assertion, the Appellant states that the State Mining and Geology Board released in 2018 an official map showing the "fault zone encompassing this project…" The Appellant further argues that because the Project Site is within an Earthquake Fault Zone, the City may not approve the Project.

Response to McQuiston Comment 3:

The Appellant disagrees with the EIR's conclusion, which is based on substantial evidence, that there is no active fault under the Project Site and argues that because the Project Site is within an Earthquake Fault Zone, the City may not approve the Project. The EIR, including its technical reports and studies, fully complies with the requirements of the Alquist-Priolo Act and CEQA. As the Alquist-Priolo Act requires and the EIR describes, the Project Site was investigated by qualified, licensed geologists who performed site-specific fault studies, which found no active faulting below the Project Site. Therefore, the Appellant's general assertions that the City "wrote a false statement claiming that there is not an active fault near the project," which is not supported by any facts, constitutes "[a]rgument, speculation, [and] unsupported opinion and narrative," not substantial evidence. (CEQA Guidelines §§ 15064(f)(5), 15384(a).)

The Project is located within an Earthquake Fault Zone for the Hollywood Fault Zone. The California Geological Survey issued the Earthquake Fault Zone map on November 6, 2014, prior to the completion of the geologic fault studies. This Earthquake Fault Zone Map depicts two, presumed active, fault traces in the area of the Project Site. (See Figures IV.E-2 and IV.E-4 in the Draft EIR.) One trace is depicted as running east to west roughly parallel to the north side of Yucca Street. (See Figure IV.E-2 in Section IV.E, *Geology and Soils*, in the Draft EIR.) The second trace is depicted as running roughly east to west. (See Figures IV.E-2 and IV.E-4 in Section IV.E, *Geology and Soils*, in the Draft EIR.) Notably, the California Geological Survey's November 6, 2014 Earthquake Fault Zone map for the Hollywood Fault Zone has not subsequently been updated, and therefore the Appellant's reference to an updated Earthquake Fault Zone 2018 map in the comment does not present accurate information.

The geologic fault studies performed at the Project Site are dated February 12, 2015 and April 10, 2015. The City's approval of the geologic fault studies was issued April 23, 2015. (See Appendix F-2 in the Draft EIR.) Therefore, the City was aware of the location and the official Alquist-Priolo Earthquake Fault Zoning prior to its approval of the fault studies for the Project Site. A recently-issued United States Geological Survey report does analyze potential fault lines in the vicinity of the Project Site utilizing data collected in 2018, but this study does not identify any evidence of new active fault lines on the Project Site, or present any information that alters the conclusions of the 2015 and 2016 studies relied on by the City in its approval letter in its environmental analysis of potential seismic impacts in the EIR. (See Catchings, R.D., Hernandez, J., et al., *2018 U.S. Geological Survey – California Geological Survey Fault-Imaging Surveys Across the Hollywood and Santa Monica Faults, Los Angeles County, California*, Open File Report 2020-1049. https://pubs.usgs.gov/of/2020/1049/ofr20201049.pdf. Accessed November 2020)

The fault studies performed to evaluate the fault activity below the Project Site indicate that there is no evidence of Holocene fault activity. The Appellant incorrectly asserts that if a project is within an Earthquake Fault Zone, "the City must prohibit it unless it complies with the minimal construction PRC and Regs allow." When there is site-specific evidence of no active faulting

below a project site, the local regulatory agency (in this case, the City) has jurisdiction under the Alquist-Priolo Act to determine the approval of a project within the Alquist-Priolo Earthquake Fault Zone. (Chapter 7.5, Division 2 of the California Public Resources *Code.)* The Project Site approval for new development within an Alquist-Priolo Earthquake Fault Zone was performed under the jurisdiction of the City, as the law requires. As the Appellant has failed to provide evidence demonstrating the inadequacy of the EIR or how the Commission erred or abused its discretion in approving the project, the appeal point should be denied.

The Appellant's statements with respect to this comment are similar to his comments on the Draft EIR, to which the City responded in the Final EIR; see Comment No. 4-5, and Response to Comment No. 4-5, in Chapter 2, *Responses to Comments*, of the Final EIR. The Appellant's claims with respect to this comment are also similar to those previously raised by the Appellant in his appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to McQuiston Appeal Point 11* on pp. A-35 through A-36, and in *Supplemental Response No. 5 Related to Seismic Issues* of the Supplemental Responses provided in Appendix F of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

McQuiston Comment 4:

The Appellant states his opinion that the Project's compliance with the City's Building Code would not ensure the safety of the Project. In support of this assertion, the Appellant argues that the Project and City have not offered evidence that buildings constructed in accordance with the City's Building Code could withstand potential earthquakes.

Response to McQuiston Comment 4:

The Appellant disagrees with the EIR's conclusion, which is based on substantial evidence, that development on the Project Site would be safe, given compliance with applicable building codes. Under CEQA, a lead agency may rely on regulatory schemes that give "adequate assurance that seismic impacts will be mitigated through engineering methods known to be feasible and effective." (*Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 912.)

The Appellant's assertions that the EIR's technical reports and studies are insufficient is unsupported and does not constitute substantial evidence, is not supported by any facts, and therefore constitutes "[a]rgument, speculation, [and] unsupported opinion and narrative," not substantial evidence. (CEQA Guidelines §§ 15064(f)(5), 15384(a).)

If approved, the Project will be designed to meet the latest seismic safety design criteria requirements of the latest building codes, based on much improved science and engineering to address the seismic hazards of a significant earthquake. With the application of these requirements, under CEQA, the risk to life and property is reduced to a less than significant level. The reduction of risk achieved when proper seismic design is appropriately applied to structures is demonstrated by the resilience of structures around the world that have remained structurally standing following large earthquakes and surface fault rupture events. Accordingly, the State and City regulations in place to reduce the potential impacts of the natural geologic hazard of earthquakes and fault rupture are adequately addressed for the Project.

Section IV.E, *Geology and Soils*, of the Draft EIR and Appendices F-1 through F-4 of the Draft EIR, together with Section 3 of Chapter 3, *Revisions, Clarifications and Corrections*, of the Final EIR, contain extensive seismic and geotechnical feasibility analyses for the Project, based on which substantial evidence the EIR concludes that the Project would not be developed on a

Project Site subject to unsafe conditions, including, without limitation, seismic-related conditions. As such, the appeal point should be denied.

The Appellant's statements with respect to this comment are similar to his comments on the Draft EIR, to which the City responded in the Final EIR; see Comment Nos. 4-2, 4-4, and 4-5 and Response to Comment Nos. 4-2, 4-4, and 4-5, in Chapter 2, *Responses to Comments*, of the Final EIR. The Appellant's claims with respect to this comment are also similar to those previously raised by the Appellant in his appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to McQuiston Appeal Point 11* on pp. A-35 through A-36, and in Supplemental Response No. 5 Related to Seismic Issues of the *Supplemental Responses* provided in Appendix F of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

McQuiston Comment 5:

The Appellant asserts that under the Alquist-Priolo Act, the City does not have the authority to determine "whether or not an active fault exists," and that "only the [State Mining and Geology] Board and State Geologist have that power." The Appellant thus asserts that the EIR's conclusion that there is no fault underlying the Project Site is false. In support of this assertion, the Appellant vaguely asserts that it was improper for the City to rely on Public Resources Code Section 2621.7 and "cases from Berkeley."

Response to McQuiston Comment 5:

The Appellant disagrees with the EIR's conclusion, which is based on substantial evidence, that there is no active fault under the Project Site and argues that the City does not have the authority to determine whether or not an active fault exists. See Response to McQuiston Comment 3, above.

The EIR, including its technical reports and studies, fully complies with the requirements of the Alquist-Priolo Act and CEQA. As the Alquist-Priolo Act requires and the EIR describes, the Project Site was investigated by qualified, licensed geologists who performed site-specific fault studies, which found no active faulting below the Project Site. Therefore, the Appellant's general assertions that there is an active fault under the Project Site is not supported by any facts, and therefore constitutes "[a]rgument, speculation, [and] unsupported opinion and narrative," not substantial evidence. (CEQA Guidelines §§ 15064(f)(5), 15384(a).)

As outlined in the Alquist-Priolo Earthquake Fault Zone Act (Chapter 7.5, Division 2 of the California Public Resources *Code),* the State has designated the State Mining and Geology Board to provide the location of active fault zones that require geologic studies for evaluation of faulting recency below a project. The State Mining and Geology Board does not establish the site-specific location of active faults. The site-specific location of active faults is investigated by State-licensed geologists. The investigation findings are presented in a geologic study report, which is then reviewed by the local regulatory agency. In the case of the Project, the local regulatory agency is the City. Thus, the discretion to allow the development of project in an established Alquist-Priolo Earthquake Fault Zone lies with the City following their review of the geologic studies. The geologic fault studies performed at the Project Site concluded there is no active faulting below the Project Site, as previously discussed in Response to McQuiston Comment 3, above.

With respect to the Appellant's statements that "PRC 2621.7 deals with rebuilding historic or Northern California properties, so Planners were wrong in using it and cases from Berkeley as applicable for this new project," these statements fail to identify any issue with sufficient specificity

to enable the City to prepare a good faith and reasoned response, so no further response is possible or warranted. As such, the appeal point should be denied.

The Appellant's statements with respect to this comment are similar to his comments on the Draft EIR, to which the City responded in the Final EIR; see Comment No. 4-5 and Response to Comment No. 4-5, in Chapter 2, *Responses to Comments*, of the Final EIR. The Appellant's claims with respect to this comment are also similar to those previously raised by the Appellant in the appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to McQuiston Appeal Point 11* on pp. A-35 through A-36, and in *Supplemental Response No. 5 Related to Seismic Issues* of the Supplemental Responses provided in Appendix F of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

McQuiston Comment 6:

The Appellant generally asserts his opinion that City has violated the Alquist-Priolo Act by approving the "unsafe and life threatening" Project, and "demands" that the City Council "forbid" the Project.

Response to McQuiston Comment 6:

See Responses to McQuiston Comments 3 and 5, above. As discussed, the EIR, including its technical reports and studies, fully complies with the requirements of the Alquist-Priolo Act and CEQA. As the Alquist-Priolo Act requires and the EIR describes, the Project Site was investigated by qualified, licensed geologists who performed site-specific fault studies, which found no active faulting below the Project Site. As discussed in Response to McQuiston Comment 3, above, the published Earthquake Zones of Required Investigation was issued prior to the completion of the Fault Studies performed at the Project Site, and all State and City regulations have been thoroughly addressed during the investigation and report review process as outlined in the Alquist Priolo Act (Chapter 7.5, Division 2 of the California Public Resources Code). Therefore, the Appellant's general assertions that the City has violated the Alquist-Priolo Act are not supported by any facts. and these statements constitute "[a]rgument, speculation, [and] unsupported opinion and narrative," not substantial evidence. (CEQA Guidelines §§ 15064(f)(5), 15384(a).)

The Appellant's demand that the City Council "forbid" this Project does not constitute substantial evidence. The Appellant's opinions do not raise an environmental issue under CEQA, do not raise any specific issue with respect to the content or adequacy of the EIR or the Project's potential environmental effects, do not identify any specific deficiency in the information, facts, or analysis in the EIR, and do not identify any abuse of discretion on the part of the Deputy Advisory Agency or the City Planning Commission.The appeal point should be denied.

McQuiston Comment 7:

The Appellant asserts that the City's alleged violation of the Alquist-Priolo Act would result in a "probable cost" or liability to the City of $7,418,158,200.00, according to an accounting in the Project file not previously addressed in the Advisory Agency's analysis, there would be a General Plan Fund Impact, and that the City Council must reject the City Planning Commission's report and the Project.

Response to McQuiston Comment 7:

The Appellant purports to calculate the City's liability regarding the Project's future buildings based on violations of the Alquist-Priolo Act, should such buildings fail in an earthquake. The

comment is speculative and addresses economic issues, not the environmental effects of the Project recognized by CEQA. The comment does not identify any specific issues related to the Project or the content or accuracy of the EIR or provide any specific facts or substantial evidence to support the Appellant's general concerns. As such, these statements constitute "[a]rgument, speculation, [and] unsupported opinion and narrative," not substantial evidence. (CEQA Guidelines §§ 15064(f)(5), 15384(a).)

Based on the substantial evidence provided, the EIR concludes that development on the Project Site would not overlay the Hollywood Fault and would not be unsafe. Section IV.E, *Geology and Soils*, of the Draft EIR and Appendices F-1 through F-4 of the Draft EIR, together with Section 3 of Chapter 3, *Revisions, Clarifications and Corrections*, of the Final EIR, contain extensive seismic and geotechnical feasibility analyses for the Project, based on which substantial evidence the EIR concludes that the Project would not be developed on a Project Site subject to unsafe conditions, including, without limitation, seismic-related conditions. Those analyses fully meet the requirements of the Alquist-Priolo Act, among other requirements, and the Appellant's comment fails to identify any specific defect in those analyses or in the technical reports that render the EIR in violation of the Act.

The Appellant's demand that the City Council reject this Project does not constitute substantial evidence. The Appellant's opinions do not raise an environmental issue under CEQA, do not raise any specific issue with respect to the content or adequacy of the EIR or the Project's potential environmental effects, do not identify any specific deficiency in the information, facts, or analysis in the EIR, and do not identify any abuse of discretion on the part of the Deputy Advisory Agency or the City Planning Commission. The appeal point should be denied.

The Appellant's claims with respect to this comment are similar to his comments on the Draft EIR, to which the City responded in the Final EIR; see Comment Nos.ORG 4-1, 4-2, and 4-7 and Response to Comment Nos. ORG 4-1, 4-2, and 4-7, in Chapter 2, *Responses to Comments*, of the Final EIR. The Appellant's claims with respect to this comment are also virtually identical to those previously raised by the Appellant in the appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to McQuiston Appeal Point 10* on pp. A-34 through A-35, and in *Supplemental Response No. 5 Related to Seismic Issues* of the Supplemental Responses provided in Appendix F of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

McQuiston Comment 8:

The Appellant states his opinion that under the Alquist Priolo Act, the "EIR should have analyzed possible paths for the Hollywood Fault, to determine if the project's disrupting surface movement will cause damage to adjacent and important existing structures in Hollywood's environment." In support of this assertion, the Appellant argues that the EIR did not analyze whether the construction of the Project could disrupt the integrity of nearby buildings and structures. The Appellant again demands that the City Council decline to approve the Project.

Response to McQuiston Comment 8:

See Responses to McQuiston Comments 3, 5 and 6, above. The EIR, including its technical reports and studies, fully complies with the requirements of the Alquist-Priolo Act and CEQA. The Alquist-Priolo Earthquake Fault Zone is an area within which there is presumed to be active faulting; however, the active faults exist within the Zone only where and to the extent as defined through site specific fault studies. As such, if no Holocene-active faulting is present below a project site, as evaluated by the geologic study, then the regulatory agency (here the City) may allow new development of the project at its discretion.

As the Alquist-Priolo Act requires and the EIR describes, the Project Site was investigated by qualified, licensed geologists who performed site-specific fault studies, which found no active faulting below the Project Site. Although Appellant argues that the EIR should have studied whether the construction of the Project could disrupt the integrity of nearby buildings, the Appellant provides no support for this assertion. Therefore, the Appellant's opinions that the "EIR should have analyzed possible paths for the Hollywood Fault, to determine if the project's disrupting surface movement will cause damage to adjacent and important existing structures in Hollywood's environment" is not supported by any facts. As such, these statements constitute "[a]rgument, speculation, [and] unsupported opinion and narrative," not substantial evidence. (CEQA Guidelines §§ 15064(f)(5), 15384(a).) In addition, the EIR adequately studied the Project's construction impacts which may affect adjacent buildings, including those impacts related to geology and soils, noise, and vibration. As the Appellant has failed to demonstrate any deficiency in the EIR, the appeal point should be denied.

The Appellant's statements with respect to this comment are similar to his comments on the Draft EIR, to which the City responded in the Final EIR; see Comment No. 4-5, and Response to Comment No. 4-5, in Chapter 2, *Responses to Comments*, of the Final EIR. The Appellant's claims with respect to this comment are also similar to those previously raised by the Appellant in the appeal of the decision of the Deputy Advisory Agency. A more detailed and comprehensive response can be found in the *Staff Response to McQuiston Appeal Point 11* on pp. A-35 through A-36, and in Supplemental Response No. 5 Related to Seismic Issues of the *Supplemental Responses* provided in Appendix F of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

McQuiston Comment 9:

The Appellant states his opinion that the "highest and best Plan" for the Project Site is "not a tall building but a two-story Hall and Field for Recreation." The Appellant also asserts that the City Council should require this alternative.

Response to McQuiston Comment 9:

The Appellant's assertion that the "highest and best" use of the Project Site is a "two-story Hall and Field for Recreation" constitutes "[a]rgument, speculation, [and] unsubstantiated opinion and narrative," not substantial evidence. (CEQA Guidelines §§ 15064(f)(5), 15384(a).) Further, the Appellant has not appealed the denial of his appeal of the certification of the EIR. As discussed in Response to Comment No. ORG 5-20 in Chapter 2, *Responses to Comments*, in the Final EIR, the EIR analyzes a reasonable range of feasible alternatives that would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant impacts of the Project. The Appellant has not identified any significant impact of the Project that the Appellant's suggested alternative would avoid or substantially lessen and how it would attain most of the basic objectives of the Project. The appeal point should be denied.

McQuiston Comment 10:

The Appellant asserts that the City's General Plan requires local and community parks at a rate of "one acre of local park per 1000 people and one acre of community park per 1000 people," and that the Project's payment of parks fees is an inadequate solution. The Appellant further asserts that the Hollywood Community Plan requires 105 additional five-acre parks in the Hollywood Community Plan area. Accordingly, the Appellant argues that the City should obtain the Project Site in order to develop park space.

Response to McQuiston Comment 10:

There is no requirement for 105 additional five-acre parks in the Hollywood Community Plan area. Therefore, the Appellant's unsupported statements constitute "[a]rgument, speculation, [and] unsubstantiated opinion or narrative," and does not constitute substantial evidence. (CEQA Guidelines §§ 15064(f)(5), 15384(a).) The Appellant's statements and opinions about parks are inaccurate and disregard the analysis of the Project's potential impacts on parks and recreation set forth in Section IV.K.4, *Public Services -- Parks and Recreation,* of the Draft EIR, which is supported by substantial evidence. That analysis concludes that the Project's potential impacts would be less than significant.

Furthermore, the Department of Recreation and Parks (RAP) is a member of the Subdivision Committee pursuant to LAMC Section 17.04. As such, RAP is required to submit a report that "shall contain recommendations, approved by the Board of Recreation and Park Commissioners, specifying the land to be dedicated, the payment of fees in lieu thereof, or a combination of both for the acquisition and development of park or recreational sites and facilities to serve the future inhabitants of such subdivision, all in accordance with the limitations specified in Section 17.12." Conditions of approval were imposed on the tract map which would require the payment of Quimby fees be based on the R3 and C2 zone, which provides an in lieu payment for park or recreational purposes. As such, the appellant has not demonstrated how the Commission erred or abused its discretion in approving the Project.

The Appellant's claims with respect to this comment are also virtually identical to those previously raised by the Appellant in his appeal of the decision of the Deputy Advisory Agency. A response can be found in the *Staff Response to McQuiston Appeal Point 4* at p. A-31 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

McQuiston Comment 11:

The Appellant asserts in generally that the City is violating state law under *City of Los Angeles v. State of California*, 138 Cal.App.3d 526 (1982), which the Appellant asserts prohibits the City from "allowing haphazardly projects conflicting with its General Plan and zoning and Code," and orders cities to "cease their haphazard zoning practices." The Appellant argues that the City "continues to ignore Court orders, including with this project, allowing projects haphazardly."

Response to McQuiston Comment 11:

The Appellant provides no factual or legal support for his statements that the City continually violates State law by "allowing projects haphazardly." The Appellant's general assertions in this comment are addressed to any particular factual situation or project, and thus constitute "[a]rgument, speculation, [and] unsupported opinion and narrative," not substantial evidence. (CEQA Guidelines §§ 15064(f)(5), 15384(a).) Further, the Appellant's unsupported opinions and narrative do not raise an environmental issue under CEQA, do not raise any specific issue with respect to the content or adequacy of the EIR or the Project's potential environmental effects, do not identify any specific deficiency in the information, facts, or analysis in the EIR, and do not identify any abuse of discretion on the part of the Deputy Advisory Agency or the City Planning Commission. As such, the appeal point should be denied.

The Appellant's statements with respect to this comment are similar to his comments on the Draft EIR, to which the City responded in the Final EIR; see Comment No. 4-8, and Response to Comment No. 4-8, in Chapter 2, *Responses to Comments*, of the Final EIR. The Appellant's claims with respect to this comment are also similar to those previously raised by the Appellant in the appeal of its decision of the Deputy Advisory Agency. A response can be found in the *Staff*

Response to McQuiston Appeal Point 8 on pp. A-33 through A-34 of the Appeal Report prepared for the September 24, 2020 City Planning Commission hearing.

McQuiston Comment 12:

The Appellant also provides personal information, that moving from his unit would be "massively disruptive" and "will threaten [the] continuation" of Appellant's organization.

Response to McQuiston Comment 12:

This comment provides background to the Appellant and his educational, vocational, and civic experiences. The comment does not raise any specific issue with respect to the content or adequacy of the EIR or the Project's potential environmental effects, does not identify any specific deficiency in the information, facts, or analysis in the EIR, and does not identify any abuse of discretion on the part of the Deputy Advisory Agency or the City Planning Commission. As such, the appeal point should be denied.

Conclusion

The appeals and referenced comment letters address specific concerns regarding the adequacy of the EIR and entitlement findings. Upon careful consideration of the appellants' points, the appellants have failed to adequately disclose how the City erred or abused its discretion. In addition, no new substantial evidence was presented that the City has erred in its actions relative to the EIR and the associated entitlements. The appellants have repeatedly failed to raise new information to dispute the Findings of the EIR or the City's actions on this matter. Therefore, the appeals should be denied and the actions of the City Planning Commission should be sustained.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning

Alan Como, AICP
City Planner

VPB:LI:MZ:AC

Enclosures
none

c: Craig Bullock, Planning Director, Council District 13