



Havenhurst Drive  
looking north to Sunset  
where "project's" driveways  
will let out cars... trucks...  
turn arounds + add to this  
traffic

#6+7

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Havenhurst DRIVE  
looking south to Fountain  
on a normal day at rush hr

#6t7

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5460-5 22 in x 28 in • 4.3 ft<sup>2</sup>  
55.9 cm x 71.1 cm • 39.7 dm<sup>2</sup>



PACON CORP., Appleton, WI 54913-8865  
MADE IN THE U.S.A. / HECHO EN E.E.U.U.  
FABRIQUE AUX ETATS-UNIS





Former director of planning,  
Michael LoGrande looking at  
project from across the street  
declaring that it is ~~too tall~~  
should not be higher than 8000  
Sunset (4 stories) - (2 pm in the  
afternoon - traffic on Sunset)

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# Councilman David Ryu: Oppose 8150 Sunset Blvd.

#67

**CONSTITUENTS MATTER:** Over 1,000 constituents, the Neighborhood Council, and West Hollywood are on record in opposition to the controversial **8150 Sunset Boulevard project**. You pledged to support communities. **Honor your pledge.**

**SIZE MATTERS.** There is a huge difference between a **35% density bonus** for affordable housing and a discretionary **300% density bonus**. Just look at how incompatible this project is with its neighbors.



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**LAWS MATTER:** The project violates city and state laws that protect the public. Please oppose 8150 Sunset's **tripling** its square footage, closing the southbound turn-lane at Sunset and Crescent Heights, and using public property (8118 Sunset) for free.

**SAFETY MATTERS:** The EIR says this project will **slow LAFD first responders**. Don't let that happen.

Sincerely,

**SAVE SUNSET BLVD.**

**SEND AN EMAIL to David.Ryu@lacity.org.**

*Copy this message into your email:*

*Dear Councilman Ryu: Protect the quality of life in our neighborhood.  
Oppose 8150 Sunset Boulevard.*

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## 8150 SUNSET X FRANK GEHRY

8150 Sunset will be the new home of a Frank Gehry-designed mixed-use project. Located at the corner of Sunset and Crescent Heights, connecting Los Angeles and West Hollywood and the entrance to the Sunset Strip, the project will replace the outdated strip mall currently on the site.

The project will include:

- 249 residences, including 28 affordable housing units
- 65,000 square feet of restaurants and neighborhood-serving retail

Numerous changes have been made to this project as a result of community input. To learn more and get involved in the project, please sign up at [www.8150sunset.com](http://www.8150sunset.com) or email us at [8150sunsetblvd@gmail.com](mailto:8150sunsetblvd@gmail.com).

TO LEARN MORE AND SUPPORT THIS PROJECT, PLEASE VISIT  
[WWW.8150SUNSET.COM](http://WWW.8150SUNSET.COM) OR EMAIL US AT [8150SUNSETBLVD@GMAIL.COM](mailto:8150SUNSETBLVD@GMAIL.COM)

PLACE  
STAMP  
HERE

#647

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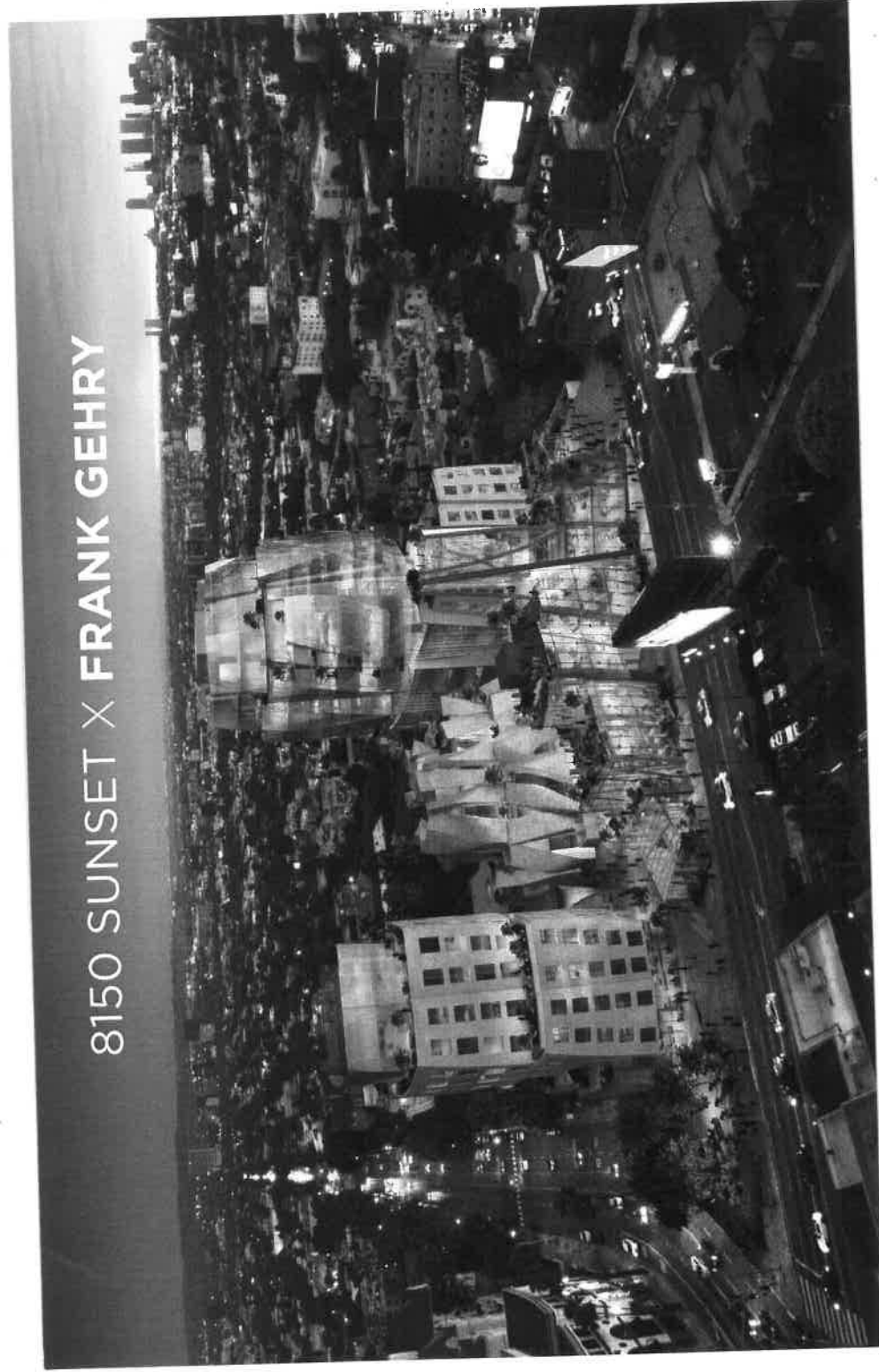
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8150 SUNSET X FRANK GEHRY



COUNCILMEMBER • DISTRICT 4

DAVID RYU

SERVING OUR NEIGHBORHOODS



**ITEM 6,7:** VTT-72370-CN-1A, CPC-2013-2551-MCUP-DB-SPR

**Council District:** 4 – Ryu

**CEQA:** ENV-2013-2552-EIR, SCH#2013091044

**Plan Area:** Hollywood

**Location:** 8148 – 8182 W. SUNSET BOULEVARD, 1438 – 1486 N.  
HAVENHURST DRIVE, 1435 – 1443 N. CRESCENT HEIGHTS  
BOULEVARD

**Council District 4 Concerns:**

The Councilmember requests that the Commission consider the height and size of adjacent buildings and buildings in the neighborhood as it makes its decision as to whether the Site Plan Review Findings can be met on the project as currently proposed.

The Commission is required today to look at whether this project is in substantial conformance with the General Plan as well as compatible with existing or future development on adjacent or neighboring properties.

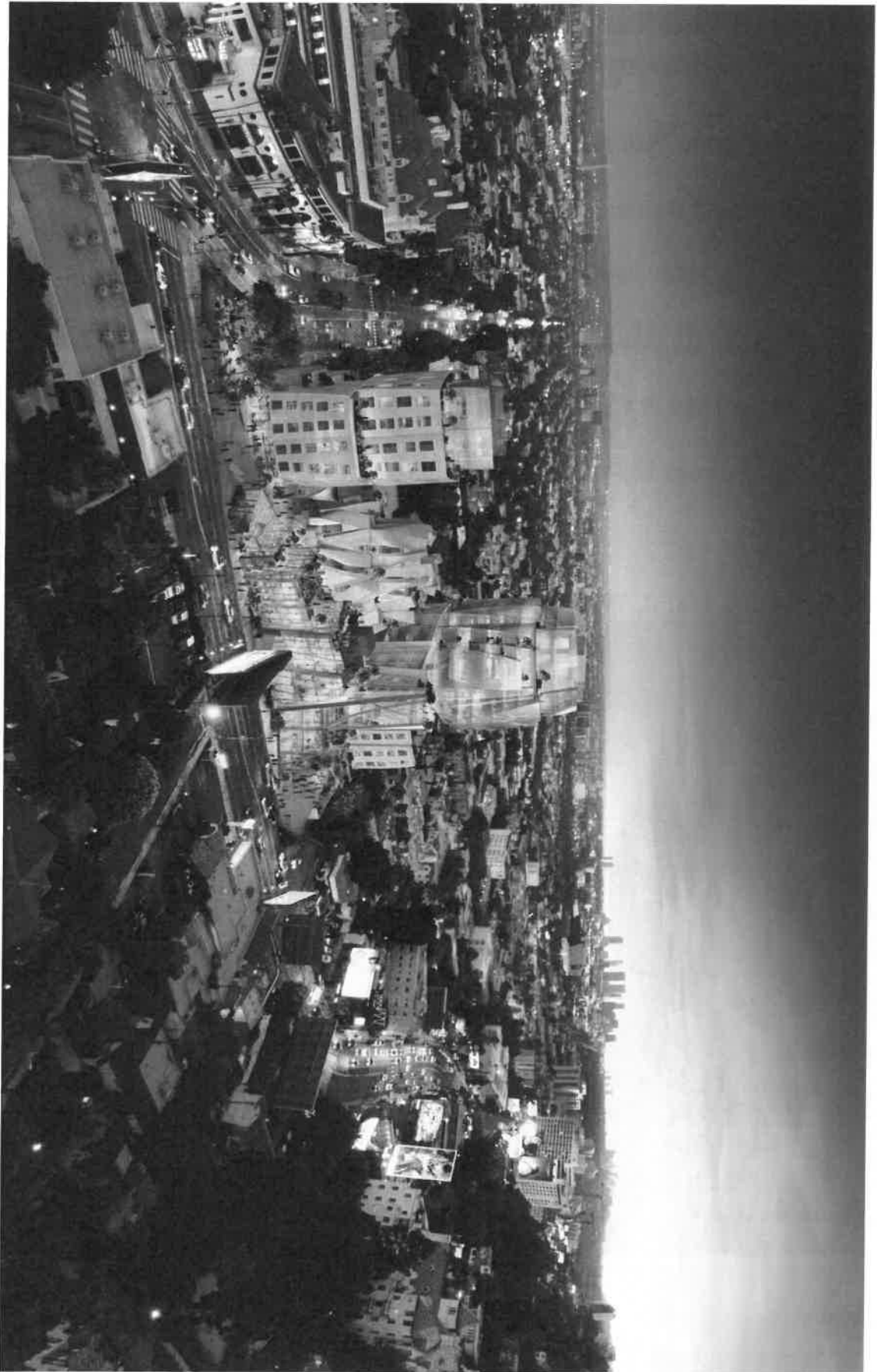
The project as proposed requests two towers of 15 and 11 stories, 234 and 174 feet respectively.

The Council Office disagrees that there is evidence to support the assertion in the Staff Report that the character of the project vicinity is highly urbanized and built out. The existing land use pattern in the vicinity as documented below shows neighborhood office commercial. Many of the structures are no more than 30 feet in height. We do not understand why the staff report references buildings such as St James Hotel which is under construction in West Hollywood or the Sierra Towers in West Hollywood as examples of neighboring buildings. They are in the city of West Hollywood and part of a completely different neighborhood. No one living in this neighborhood believes those examples are part of their neighborhood. They are in a different jurisdiction and under different land use regulations.

We are concerned that the massing, set-backs and placement of structures do not mitigate the incompatibility of the height as proposed and request that the Commission examine this issue further.

The adjacent property which must be considered as part of your discussion of the Findings is the Trader Joes at 8000 Sunset – a building of 4 to 5 stories at a height of about 60 feet. In addition, just east of the proposed site The Directors' Guild at 7920 Sunset Boulevard is about 78 feet. Just Northwest of the site Chateau Marmont is 7 stories. We are not aware of the building referenced in the Staff Report as 10 stories. The surrounding commercial sites have the D Limitation which is also part of the zooming for the proposed project, this limitation means that the FAR is limited to 1:1. The residential zones are zoned R2-1 XL with a 30 foot height limit and a Low Medium I Residential land use designation. The residential properties to north are zoned R1-1 with a 33 foot height limit and a Low II Residential land use designation.

The Council Office does not understand why the applicant did not request a zone change which is essentially what they are trying to accomplish through the application of SB1818. We want to make sure that the application of the law to this project does not set a precedent for other projects that limits the Commission or Council's discretion as to how these zoning regulations and Density Bonus regulations should be applied.





Examples of buildings in the area that are **higher than 30 feet** include the following:

- 1) **Directors Guild, 7920 Sunset Boulevard** – 8 stories
- 2) **7950 W. Sunset Boulevard** – 6 stories
- 3) **Trader Joe's, 8000 Sunset Blvd** – 4/5 stories
- 4) **The Colonial House 1416 Havenhurst Ave.** – 7 stories & **Sunset Tropical** – 2 stories
- 5) **Savoy Plaza 1360 N Crescent Heights Blvd** – 6/7 stories
- 6) **Granville Towers 1424 Crescent Heights** – 8 stories

- 1) **Directors Guild, 7920 Sunset Boulevard**– 8 stories



**2) 7950 W. Sunset Boulevard – 6 stories**



3) Trader Joe's, 8000 Sunset Blvd – 4/5 stories



4) **The Colonial House 1416 Havenhurst Ave. – 7 stories & Sunset Tropical – 2 stories**





5) Savoy Plaza 1360 N Crescent Heights Blvd – 6/7 stories



**6) Granville Towers 1424 Crescent Heights – 8 stories**



Examples of buildings in the area that are **lower than or equal to 30 feet** include the following:

1) 1308 Havenhurst



2) 1401 Havenhurst



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JDR Grant, LLC

**PROPOSED FINDINGS TO DENY DENSITY BONUS INCENTIVES**

CPC-2013-2551-MCUP-DB-SPR

8148-8182 W. Sunset Boulevard; 1438-1486 N. Havenhurst Drive;

1435-1443 N. Crescent Heights Boulevard

The City Planning Commission hereby denies the following Off-Menu Affordable Housing Incentives:

1. Pursuant to LAMC Section 12.22-A,25(g)(3), an Off-Menu Incentive to allow the lot area including any land to be set aside for street purposes to be included in calculating the maximum allowable floor area, in lieu of as otherwise required by LAMC Section 17.05; and
2. Pursuant to LAMC Section 12.22-A,25(g)(3), an Off-Menu Incentive to allow a 3:1 Floor Area Ratio for a Housing Development Project located within 1,560 feet of a Transit Stop, in lieu of the 1,500 foot distance specified in LAMC Section 12.22-A,25(f)(4)(ii);

Based on the following findings under *Government Code* §65915:

1. Applicant has failed to demonstrate that the incentives are required in order to provide for affordable housing at the Subject Site.
2. The incentives would have specific adverse, unmitigatable impacts on the neighborhood, as reflected in the Environmental Impact Report including: (i) the permanent loss of Lytton Savings and Loan Association Bank Building, a great cultural loss for the community; (ii) unmitigatable noise and transportation/circulation impacts during construction; and (iii) unmitigatable traffic impacts to the Havenhurst Avenue/Fountain Avenue intersection during operations.

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# 6/7

CITY PLANNING DEPT.  
**FIX THE CITY AFFORDABLE HOUSING COMMISSION**  
**TESTIMONY ON 150 SUNSET, JULY 28, 2016**

Good Morning President Ambroz and Commissioners Laura Lake for Fix the City.

There are several serious problems which Staff has repeatedly ignored throughout this process. Staff recommends denying our appeal but fails to inform you that there is a development limitation of 1:1 FAR on this property which disqualifies it from an on-menu bonus of 3:1 FAR.

Staff has recommended that you deny our appeal. That would be a mistake because of the Development Limitation and SB 1818 cannot be used to remove it.

Our appeal clearly states that the current FAR is 1:1. This Development limitation can only be changed through a Height District Amendment under LAMC 12.32.F. As it stands, it does not qualify for a density bonus because it is not in HD 1, 1XL, IVL or 1L, which all have an FAR of 1.5:1. Distance from a major transit stop is a red herring.

Instead of a Height District Amendment, the Applicant is asking for an off-menu incentive. But off-menu incentives are not consolation prizes for failing to qualify for on-menu incentives. Even the title of that section makes it clear: it is for incentives that are NOT on menu. In addition, off-menu incentives cannot be used if there are other discretionary applications required (LAMC 12.22A.25(g)(3)(i)). Spoiler Alert: there are many such requests on the table today: A VTT, CUB, SPR. Approving any off-menu bonus would be *ultra vires*.

There is also another problem, paving over a busy street Crescent Heights southbound turn-lane in order to colonize 8118 Sunset, a city property. This parcel is designated for affordable housing in the Housing Element of the General Plan.

Closing the turn lane to vehicles requires a Street Vacation. That cannot happen through a B or R permit. It requires a Street Vacation and due process under state law to vacate not just the city's vehicular easement, but the private easements of every property owner in the original 1905 Crescent Heights tract. This property right is guaranteed under CSHC 8353(b). (See *Danielson v. Sykes*, *Hocking v. Title Insurance and Trust Co.*, and *Tract Development Services, Inc. v. Kepler*). This point was fully explored when we challenged the Smedra Sunken Movie Mall in Westwood Village, which failed to vacate Glendon Avenue.

Government Code 65589.5 (d)(1) allows the City to disapprove this project due to its Housing Element. The Los Angeles Housing Element 2013-2021 identifies sufficient properties in the Hollywood Community Plan area to meet its portion of the City's Regional Housing Share. In addition, the state permits denial because a state law (street vacation) is violated, and because there is a specific adverse impact (traffic at Havenhurst and Fountain).

We feel very strongly that this project is seriously flawed and that it cannot be approved. We are fully prepared to litigate if necessary. It needs to go back, deal with the Development limitation and eliminate the colonization of the affordable housing triangle and then bring it back with a request to vacate the Highway with findings.

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# Councilman David Ryu Items 6 & 7

BASE CASE - FAR = 3.0, 249 UNITS, 28 AFFORDABLE, 820 PARKING SPACES, 14.96% RETURN

Development Program						
Land Area	Per Unit	Total	Gross Sq Ft			
Gross Building Area (GSF)		111,339	333,303			
FAR		333,303	88.10%			
Rentable Area - Residential (NSF)		2.99				
Rentable Area - Commercial (NSF)		168,170	190,885.358			
Sellable Area - Residential (NSF)		65,000	73,779.796			
Parking		61,144	69,402.951			
Studio & 1 Bedroom		820	334,068.104			
2 and 3 Bedroom	1	188	188			
4 Bedroom	2	59	118			
Residential Parking	2.5	2	5			
Retail			311			
			509			
Unit Mix						
Market Rate	Units	Sq Ft	Rent/Sq Ft	Mo Rent	Total Mo Rent	
Studio	48	480	\$6.40	\$3,072.00	\$147,456.00	25%
1 Bedroom	116	775	\$6.25	\$4,843.75	\$561,875.00	61%
2 Bedroom	17	1150	\$6.10	\$7,015.00	\$119,255.00	9%
3 Bedroom	10	1400	\$6.50	\$9,100.00	\$91,000.00	5%
Total	191				\$919,586.00	19%
Affordable	Units	Sq Ft	Rent/Sq Ft	Mo Rent	Total Mo Rent	
Studio	6	480	\$0.96	\$460.80	\$2,764.80	21%
1 Bedroom	18	775	\$0.67	\$519.25	\$9,346.50	64%
2 Bedroom	3	1150	\$0.50	\$575.00	\$1,725.00	11%
3 Bedroom	1	1400	\$0.45	\$630.00	\$630.00	4%
Total	28				\$14,466.30	28%
Condominium	Units	Sq Ft	Rent/Sq Ft	Mo Rent	Total Mo Rent	
2 Bedroom	15	1500	\$1,650.00	\$2,475,000.00	\$37,125,000.00	
3 Bedroom	13	2200	\$1,450.00	\$3,190,000.00	\$41,470,000.00	
4 Bedroom	2	5022	\$2,100.00	\$10,546,200.00	\$21,092,400.00	
Total	30				\$99,687,400.00	
Total Units	249					
Land Acquisition						
					\$34,000,000.00	
Construction	Unit	Price per Unit/Space				
Hard Construction-Buildings (weighted average for all components)	333,303	\$331.00			\$110,323,293.00	
Hard Construction-Subt. Parking (per space)	820	\$42,500.00			\$34,850,000.00	
Hard Construction-Sitework (x Excavation Cu. Yard)	58,500	\$75.00			\$4,387,500.00	
Hard Construction-Site Improvements (x Open Area SF)	83,453	\$50.00			\$4,172,650.00	
Tenant Improvements Allowance (x Retail NSF)	65,000	\$50.00			\$3,250,000.00	
Hard Cost Contingency (x Subtotal)	5%	\$156,983,443.00			\$7,849,172.15	
Subtotal Construction					\$164,832,615.15	
Soft Costs						
Design, Engineering & Consulting Services (x Hard Costs)	14%				\$23,076,566.12	
Permits & Fees (x Hard Costs)	4%				\$6,593,304.61	
Taxes, Insurance, Legal & Accounting (x Hard Costs)	3%				\$4,944,978.45	
Development Management (x Hard Costs)	4%				\$6,593,304.61	
Tenant Buyouts					\$5,100,000.00	
EIR, Legal, & Public Outreach					\$2,700,000.00	
Leasing Commissions					\$1,965,250.00	
Soft Cost Contingency (x Subtotal) 3.0%	3%				\$1,529,202.11	
Subtotal Soft Costs					\$52,502,605.90	
Construction Financing Costs						
Land + Hard Costs + Soft Costs						
Loan to Cost Ratio					\$251,335,221.05	
Construction Loan Principal			80%		\$201,068,176.84	
Loan Fees (%)					\$4,021,363.54	
Interest Rate	2%					
Outstanding Principal Balance	60%					
Term (years)	2					
Construction Period (months)	30					
Construction Loan Interest					\$18,096,135.92	

<b>Permanent Loan Points</b>					
Subtotal Construction Loan			2%		\$4,463,713.53
Total Development Cost (TDC)					\$26,581,212.98
Sales - Residential					\$277,916,434.03
Less: Marketing and COS					
Less: HOA Fees Through Full Building Absorption		10%			\$99,687,400.00
Less: Warranties					-\$9,968,740.00
		30	\$1,000.00		-\$270,000.00
NOI					-\$30,000.00
					\$89,418,660.00
Gross Apartment Rental Income					
Market Rate Apartments					
Affordable Rate Apartments		191	\$4,891.00		\$11,210,172.00
Misc Revenue		28	\$518.00		\$174,048.00
Gross Income					\$149,400.00
Less: Vacancy Allowance					\$11,533,620.00
Effective Gross Income (EGI)			5%		-\$560,508.60
Less: Annual Operating Exp (x EGI)					\$10,973,111.40
Less: Replacement Reserve (per unit/per year)			35%		-\$3,840,588.99
NOI Apartment Income		219	\$250.00		-\$54,750.00
					\$7,077,772.41
Gross Retail Rental Income (NNN)					
Less: Vacancy Allowance		65,000	\$5.50		\$4,290,000.00
Effective Gross Income (EGI)			5%		-\$214,500.00
Less: Annual Operating Exp (x EGI)					\$4,075,500.00
NOI Apartment Income			3%		-\$122,265.00
					\$3,953,235.00
Total NOI					\$11,031,007.41
Feasibility					
Return on Total Development Cost					
NOI					
Subtotal Development Cost					
Less: Condo Development Cost					\$11,031,007.41
Total Development Cost				\$277,916,434.03	
Return on Cost				-\$82,532,890.00	
				\$195,383,544.03	
Developer Profit Margin					5.65%
NOI					
Cap Rate					
Apartment and Retail Value (NOI/Cap Rate)		4.60%			\$11,031,007.41
Less: COS					
Plus: Condo Sales		1%			\$239,804,508.91
Net Project Sale Value					-\$2,398,045.09
Less: Total Development Costs					\$89,418,660.00
Developer Profit Margin					\$326,825,123.82
% x Net Project Sale Value					-\$277,916,434.03
					\$48,908,689.79
					14.96%

**FAR = 2.5, 190 UNITS, 20 AFFORDABLE, 753 PARKING SPACES, 12.48% RETURN**

<b>Development Program</b>							
	Per Unit	Total					
Land Area		111,339	249,264				
Gross Building Area (GSF)		282,933.031	88.10%				
FAR		2.5412					
Rentable Area - Residential (NSF)		123,120	139,750.284				
Gross Rentable Residential	88.10%	139,750.284					
Rentable Area - Commercial (NSF)		65,000	73,779.796				
Gross Commercial Area	88.10%	73,779.796					
Sellable Area - Residential (NSF)		61,144	69,402.951				
Gross Sellable Area	88.10%	69,402.951					
Parking		753	69,402.951				
Studio & 1 Bedroom		137					
2 and 3 Bedroom	1	51	102				
4 Bedroom	2	2	5				
Residential Parking	2.5		244				
Retail			509				
<b>Unit Mix</b>							
Market Rate	Units	Sq Ft	Rent/Sq Ft	Mo Rent	Total Mo Rent		
Studio	35	480	\$6.40	\$3,072.00	\$107,520.00	25%	
1 Bedroom	85	775	\$6.25	\$4,843.75	\$411,718.75	61%	
2 Bedroom	13	1150	\$6.10	\$7,015.00	\$91,195.00	9%	
3 Bedroom	2		\$6.50	\$9,100.00	\$63,700.00	5%	
Total	140	1400			\$674,133.75	140	
<b>Affordable</b>							
Studio	4	480	\$0.96	\$460.80	\$1,843.20	21%	
1 Bedroom	13	775	\$0.67	\$519.25	\$6,750.25	64%	
2 Bedroom	2	1150	\$0.50	\$575.00	\$1,150.00	11%	
3 Bedroom	1	1400	\$0.45	\$630.00	\$630.00	4%	
Total	20			\$630.00	\$10,373.45	20.9	11%
<b>Condominium</b>							
2 Bedroom	15	1500	\$1,650.00	\$2,475,000.00	\$37,125,000.00		
3 Bedroom	13	2200	\$1,450.00	\$3,190,000.00	\$41,470,000.00		
4 Bedroom	2	5022	\$2,100.00	\$10,546,200.00	\$21,092,400.00		
Total	30				\$99,687,400.00		
Total Units	190						
Land Acquisition					\$34,000,000.00		
<b>Construction</b>							
Hard Construction-Buildings (weighted average for all components)	Unit	Price per Unit/Space					
Hard Construction-Subt. Parking (per space)	282,933.031	\$331.00			\$93,650,833.14		
Hard Construction-Sitework (x Excavation Cu. Yard)	753	\$42,500.00			\$32,002,500.00		
Hard Construction-Site Improvements (x Open Area SF)	58,500	\$75.00			\$4,387,500.00		
Tenant Improvements Allowance (x Retail NSF)	83,453	\$50.00			\$4,172,650.00		
Hard Cost Contingency (x Subtotal)	65,000	\$50.00			\$3,250,000.00		
Subtotal Construction	5%	\$137,463,483.14			\$6,873,174.16		
					\$144,336,657.30		
<b>Soft Costs</b>							
Design, Engineering & Consulting Services (x Hard Costs)					\$20,207,132.02		
Permits & Fees (x Hard Costs)	14%				\$5,773,466.29		
Taxes, Insurance, Legal & Accounting (x Hard Costs)	4%				\$4,330,099.72		
Development Management (x Hard Costs)	3%				\$5,773,466.29		
Tenant Buyouts	4%				\$5,100,000.00		
EIR, Legal, & Public Outreach					\$2,700,000.00		
Leasing Commissions					\$1,965,250.00		
Soft Cost Contingency (x Subtotal) 3.0%					\$1,375,482.43		
Subtotal Soft Costs	3%				\$47,224,896.76		
<b>Construction Financing Costs</b>							
Land + Hard Costs + Soft Costs					\$225,561,554.06		
Loan to Cost Ratio							
Construction Loan Principal			80%		\$180,449,243.25		
Loan Fees (%)					\$3,608,984.86		
Interest Rate	2%						
Outstanding Principal Balance	6%						
Term (years)	60%						
Construction Period (months)	2						
Construction Loan Interest	30				\$16,240,431.89		
					\$4,005,973.20		





<u>Permanent Loan Points</u>				
Subtotal Construction Loan		2%		\$3,696,595.08
Total Development Cost (TDC)				\$22,013,057.22
Sales - Residential				\$230,154,672.34
Less: Marketing and COS				\$99,687,400.00
Less: HOA Fees Through Full Building Absorption	10%			-\$9,968,740.00
Less: Warranties	30	\$1,000.00		-\$270,000.00
NOI				-\$30,000.00
				\$89,418,660.00
Gross Apartment Rental Income				
Market Rate Apartments				
Affordable Rate Apartments	104			
Misc Revenue	17	\$518.00		\$5,982,084.00
Gross Income				\$106,489.80
Less: Vacancy Allowance				\$149,400.00
Effective Gross Income (EGI)		5%		\$6,237,973.80
Less: Annual Operating Exp (x EGI)				-\$299,104.20
Less: Replacement Reserve (per unit/per year)		35%		\$5,938,869.60
NOI Apartment Income	121	\$250.00		-\$2,078,604.36
				-\$30,250.00
Gross Retail Rental Income (NNN)				\$3,830,015.24
Less: Vacancy Allowance	65,000	\$5.50		
Effective Gross Income (EGI)		5%		\$4,290,000.00
Less: Annual Operating Exp (x EGI)				-\$214,500.00
NOI Apartment Income		3%		\$4,075,500.00
				-\$122,265.00
Total NOI				\$3,953,235.00
Feasibility				\$7,783,250.24
Return on Total Development Cost				
NOI				
Subtotal Development Cost				
Less: Condo Development Cost				\$7,783,250.24
Total Development Cost			\$230,154,672.34	
Return on Cost			-\$82,532,890.00	
			\$147,621,782.34	
Developer Profit Margin				5.27%
NOI				
Cap Rate				
Apartment and Retail Value (NOI/Cap Rate)	4.60%			\$7,783,250.24
Less: COS				
Plus: Condo Sales	1%			\$169,201,092.17
Net Project Sale Value				-\$1,692,010.92
Less: Total Development Costs				\$89,418,660.00
Developer Profit Margin				\$256,927,741.25
% x Net Project Sale Value				-\$230,154,672.34
				\$26,773,068.91
				10.42%



<u>Permanent Loan Points</u>				
Subtotal Construction Loan		2%		\$3,473,695.25
Total Development Cost (IDC)				\$20,685,698.73
Sales - Residential				\$216,276,647.41
Less: Marketing and COS				\$99,687,400.00
Less: HOA Fees Through Full Building Absorption	10%			-\$9,968,740.00
Less: Warranties				-\$270,000.00
NOI	30	\$1,000.00		-\$30,000.00
				\$89,418,660.00
Gross Apartment Rental Income				
Market Rate Apartments				
Affordable Rate Apartments	79			
Misc Revenue	14			\$4,553,340.00
Gross Income		\$518.00		\$87,127.80
Less: Vacancy Allowance				\$149,400.00
Effective Gross Income (EGI)			5%	\$4,789,867.80
Less: Annual Operating Exp (x EGI)				-\$227,667.00
Less: Replacement Reserve (per unit/per year)			35%	\$4,562,200.80
NOI Apartment Income	93	\$250.00		-\$1,596,770.28
				-\$23,250.00
Gross Retail Rental Income (NNN)				\$2,942,180.52
Less: Vacancy Allowance	65,000	\$5.50		
Effective Gross Income (EGI)			5%	\$4,290,000.00
Less: Annual Operating Exp (x EGI)				-\$214,500.00
NOI Apartment Income			3%	\$4,075,500.00
				-\$122,265.00
Total NOI				\$3,953,235.00
Feasibility				\$6,895,415.52
Return on Total Development Cost				
NOI				
Subtotal Development Cost				
Less: Condo Development Cost				\$6,895,415.52
Total Development Cost				\$216,276,647.41
Return on Cost				-\$82,532,890.00
				\$133,743,757.41
Developer Profit Margin				5.16%
NOI				
Cap Rate				
Apartment and Retail Value (NOI/Cap Rate)	4.60%			\$6,895,415.52
Less: COS				
Plus: Condo Sales	1%			\$149,900,337.39
Net Project Sale Value				-\$1,499,003.37
Less: Total Development Costs				\$89,418,660.00
Developer Profit Margin				\$237,819,994.02
% x Net Project Sale Value				-\$216,276,647.41
				\$21,543,346.60
				9.06%





<b>Permanent Loan Points</b>			2%	\$3,225,537.11	
Subtotal Construction Loan				\$19,207,928.17	
Total Development Cost (TDC)				\$200,826,008.41	
Sales - Residential				\$99,687,400.00	
Less: Marketing and COS		10%		-\$9,968,740.00	
Less: HOA Fees Through Full Building Absorption				-\$270,000.00	
Less: Warranties		30	\$1,000.00	-\$30,000.00	
<b>NOI</b>				\$89,418,660.00	
Gross Apartment Rental Income					
Market Rate Apartments		79		\$4,553,340.00	
Affordable Rate Apartments		14	\$518.00	\$87,127.80	
Misc Revenue				\$149,400.00	
Gross Income				\$4,789,867.80	
Less: Vacancy Allowance			5%	-\$227,667.00	
Effective Gross Income (EGI)				\$4,562,200.80	
Less: Annual Operating Exp (x EGI)			35%	-\$1,596,770.28	
Less: Replacement Reserve (per unit/per year)		93	\$250.00	-\$23,250.00	
NOI Apartment Income				\$2,942,180.52	
Gross Retail Rental Income (NNN)		65,000	\$5.50	\$4,290,000.00	
Less: Vacancy Allowance			5%	-\$214,500.00	
Effective Gross Income (EGI)				\$4,075,500.00	
Less: Annual Operating Exp (x EGI)			3%	-\$122,265.00	
NOI Apartment Income				\$3,953,235.00	
Total NOI				\$6,895,415.52	
<b>Feasibility</b>					
Return on Total Development Cost					
NOI				\$6,895,415.52	
Subtotal Development Cost			\$200,826,008.41		
Less: Condo Development Cost			-\$82,532,890.00		
Total Development Cost			\$118,293,118.41		
Return on Cost				5.83%	
<b>Developer Profit Margin</b>					
NOI				\$6,895,415.52	
Cap Rate		4.60%			
Apartment and Retail Value (NOI/Cap Rate)				\$149,900,337.39	
Less: COS		1%		-\$1,499,003.37	
Plus: Condo Sales				\$89,418,660.00	
Net Project Sale Value				\$237,819,994.02	
Less: Total Development Costs				-\$200,826,008.41	
Developer Profit Margin				\$36,993,985.61	
% x Net Project Sale Value				15.56%	

APPEAL  
ITEMS 6/7

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July 27, 2016

*Via Hand Delivery*  
City Planning Commission  
City of Los Angeles  
200 North Spring St.  
Los Angeles, 90012

Re: 8150 Sunset Boulevard Mixed-Use Project; Case No. VTT-72370-  
CN-1A; ENV-2013-2552-EIR

Honorable Commissioners,

On behalf of the Los Angeles Conservancy, we provide these comments regarding the proposed 8150 Sunset Boulevard Mixed-Use Project. As set forth in our previous comment letters, the Conservancy has long recognized the historic significance of the Lytton Savings building located on this site and the need to preserve this important resource. The proposal before you instead calls for the wholesale demolition of this resource, and thus we object.

The version of the Project approved by the City's Deputy Advisory Agency, referred to in the environmental impact report as Alternative 9, includes demolition of the Lytton Savings building and the construction of 65,000 square feet of commercial space, 249 residential units with 28 affordable units, along with subterranean and semi-subterranean parking (the "Project" or "Alternative 9"). The environmental impact report (EIR) for the Project acknowledges that the demolition of the Lytton Savings building would result in a significant adverse impact to a historic resource. Feasible preservation alternatives exist that would incorporate the historic Lytton Savings building into a similarly sized mixed-use development. Thus, approval of the Project as proposed would violate the substantive mandate of the California Environmental Quality Act (CEQA).

**I. Preservation Alternatives Would Eliminate Significant Historical Resource Impacts.**

CEQA prohibits approval of projects with significant adverse environmental impacts if there are feasible alternatives or mitigation measures that would reduce or eliminate those impacts. (Pub. Resources Code § 21002; Guidelines § 15021(a)(2).)

As proposed, the Project would result in a significant adverse historical resources impact due to the demolition of the historic Lytton Savings building.

The draft and recirculated draft EIR (DEIR and RDEIR, respectively) prepared for this Project included Alternative 5-Bank Preservation Alternative and Alternative 6-Reduced Height Bank Preservation Alternative, both of which would eliminate the Project's significant historical resources impact by preserving the Lytton Savings building and adaptively reusing it as part of the project. The Conservancy also worked closely with the project proponent to develop a revised version of the original project proposal that would incorporate Lytton Savings, while meeting the proponent's goals.

## **II. The City Lacks Evidentiary Support For Rejection of Preservation Alternatives.**

When an agency seeks to approve a project despite the significant impacts the project would have on the environment, the agency must adopt a statement of overriding considerations. (Pub. Res. Code § 21081.) A statement of overriding considerations must include specific finding, supported by substantial evidence, that "[t]here is no feasible way to lessen or avoid the significant effect..." (CEQA Guidelines §§ 15043, 15093(b).) Although a statement of overriding considerations is a policy statement, it must still be supported by substantial evidence. (*Woodward Park Homeowners, supra*, 150 Cal. App. 4<sup>th</sup> at 718.) A less impactful alternative can only be rejected if it is "truly infeasible." (*City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal.4th 341, 369.)

The Preservation Alternatives would also meet the project objectives and are legally, economically, and technically feasible. The City lacks the necessary evidentiary support to reject the less impactful Preservation Alternatives as infeasible.

### **A. The Preservation Alternatives Would Meet the Majority of the Project Objectives.**

It is well settled that "[i]f there are feasible alternatives or feasible mitigation measures that would accomplish *most* of the objectives of a project and substantially lessen the significant environmental effects of a project subject to CEQA, the project may not be approved without incorporating those measures." (*Center for Biological Diversity, Inc. v. FPL Group, Inc.* (2008) 166 Cal.App.4th 1349, 1371 fn 19, citation to (Pub. Resources Code §§ 21000(g), 21002, CEQA Guidelines § 15091); see also CEQA Guidelines § 15126.6(b).) Alternatives are not required to meet all project objectives, and in reality it "is virtually a given that the alternatives to a project will not attain all of the project's objectives." (*Watsonville Pilots Ass'n v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1087.)

The DEIR and RDEIR set out 15 project objectives. The DEIR found that Preservation Alternatives 5 and 6 both would fully meet 12 of these objectives and would partially meet the remaining three objectives. The objectives the Preservation Alternatives would only partially meet are those relating to commercial uses, since the Preservation Alternatives contain a substantial amount of commercial space, but less commercial space than the project as it was originally proposed in the DEIR. (DEIR pp. 5-146 to 5-148.) The originally proposed project had 111,339 square feet of commercial space. The currently proposed Project has 65,000 square feet of commercial space, which is nearly equivalent to the 62,231 square feet of commercial space included in the Preservation Alternatives.

The RDEIR, which included an analysis of the new Alternative 9, the currently proposed Project, likewise concluded that the Preservation Alternatives would fully meet 12 project objectives and partial meet the remaining three objectives. The RDEIR made the exact same finding with regards to the currently proposed Project. (RDEIR pp. 2-69 to 2-70.)

The City now proposes contrary findings to support a determination that the Preservation Alternatives are infeasible. The cases relied upon in the City's Findings do not support its conflicting determination regarding the Preservation Alternatives ability to meet project objectives. (City's Findings p. F-118.) The City's citation to *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4<sup>th</sup> 1 to support this reversal is misleading. In that case, the County of San Diego did not reach conflicting determinations in an EIR and in required CEQA findings. Instead, the case found that both the final EIR and the county's CEQA findings rejecting mitigation measures that would result in the need for winery operators to obtain other discretionary permits were infeasible because they were in direct contravention of the project objective to permit certain wineries by-right without discretionary approval. The City's Findings also rely on trial court decision (*Los Angeles Conservancy v. City of West Hollywood*, Case No. BS151056) for support. A trial court decision has no precedential value and should not be relied upon to overcome decades of CEQA case law. Additionally, this decision is not final because it is currently before the Court of Appeal. Moreover, the trial court decision did not address a city making conflicting determinations in an EIR and CEQA findings regarding a project's ability to meet project objectives.

Here, substantial evidence does not exist to establish findings contrary to those stated in the DEIR and RDEIR. The City's Findings claim the Preservation Alternatives would not meet the following objectives:

- Redevelop and revitalize an aging and underutilized commercial site and surface parking lot with a more efficient and economically viable mix of residential and commercial uses.

- Build upon the existing vitality and diversity of uses in Hollywood by providing a vibrant urban living development along a major arterial and transit corridor.
- Provide high-quality commercial uses to serve residents of the westernmost area of Hollywood in a manner that contributes to a synergy of uses and enhances the character of the area.
- Create a development that complements and improves the visual character of the westernmost area of Hollywood and promotes quality living spaces that effectively connect with the surrounding urban environment through high quality architectural design and detail.
- Enhance pedestrian activity and neighborhood commercial street life in the westernmost area of Hollywood.
- Provide an attractive retail face along street frontages.

The DEIR and RDEIR both found the Preservation Alternatives would fully meet all but one of these objectives. The only exception is the objective to "Provide high-quality commercial uses...", which the DEIR and RDEIR found the Preservation Alternatives would only partially meet due to the reduction in commercial square footage as compared to the originally proposed project. The RDEIR found that Alternative 9 would only partially meet this objective as well.

With regard to the remaining objectives identified in the City's Findings, the DEIR's assessment of the Preservation Alternatives' aesthetic and land use impacts demonstrates that it carefully considered these alternatives ability to achieve project objectives and that determination is fully supported. Whereas the City's Findings make a vague claim about the need for undefined gateway architecture as a basis for its determination that the Preservation Alternatives not meeting the project objectives, the DEIR found the Preservation Alternatives to contain "high quality architectural design" providing aesthetic benefits. (DEIR pp. 5-116; 5-154.) The City's Findings provide no reason why preservation of a distinctive historic resource and integration of this resource into a well-designed project would not serve as a gateway development.

The City's Findings also claim that public comments raised concerns regarding the massing and design of the alternatives. The City's Findings fail to provide an example of comments objecting to the Preservation Alternatives and their ability to meet design objectives. We reviewed the public comments submitted on the RDEIR and failed to find a single comment objecting to the Preservation Alternatives and/or their design. The City cannot rely on this false claim to support a finding that the Preservation Alternatives are infeasible.

The City's Findings also claim both the Preservation Alternatives are monolithic in design, a claim fully contradicted by the DEIR's description of the varying heights and elements that would be included in these alternatives. (DEIR pp. 5-111 [building heights would range from two to 16 stories], 5-149.) Alternative 5 was found to "provide a



stepped profile and articulation (contrast between taller and shorter components)" and Alternative 6 "would provide a prominent visual contrast between the taller tower components" and the other loft and retail components. (DEIR pp. 5-116, 5-154.)

The DEIR also found the Preservation Alternatives to be consistent with applicable design guidelines and that they would provide visual improvements, "which would incorporate elements of pedestrian scale." (DEIR pp. 5-131, 5-169.) The Preservation Alternatives would "link pedestrians to a landscaped plaza, extend the pedestrian environment to retail businesses and residential access points within the Project Site, and include numerous design features to enhance the neighborhood character and pedestrian environment." (DEIR pp. 5-130, 5-168.) Further, under these alternatives, the historic Lytton Savings building includes a "glazed north wall that provides a visual connection to the street front and unique roof design." (DEIR p. 5-154.) This detailed assessment supports the DEIR's findings that the Preservation Alternatives would meet the project objectives identified above, and contrary to the claims in the unsupported City's Findings, would be pedestrian friendly.

The vague and unsupported claims in the City's Findings do not provide the necessary evidentiary support to reject the less impactful Preservation Alternatives. This is particularly true given the detailed statements included in the DEIR assessing these alternatives ability to meet the project objectives, aesthetic impacts and compliance with applicable land use plans.

#### **B. Alternative 9 Is Designed to Mitigate Impacts Found to be Less Than Significant.**

Alternative 9 was designed to address concerns raised by the public regarding aesthetics impacts associated with visual quality and air quality impacts resulting from aboveground parking. CEQA requires the development of alternatives to address a project's significant adverse impacts. (CEQA Guidelines § 15126.6(a).) The DEIR, RDEIR and the City's Findings all found that the originally proposed project and the Preservation Alternatives would have less than significant aesthetic and operational air quality impacts. Thus, development of an alternative to reduce these impacts is unnecessary and not in keeping with CEQA's requirements.

In contrast, the Preservation Alternatives would eliminate the significant and unavoidable historic resource impacts associated with the Project. Rejecting these less impactful alternatives as infeasible because they do not reduce other less than significant impacts would be in violation of CEQA.

Additionally, the vague statements included in the City's Findings regarding massing and design were not comments raised by the public regarding the Preservation Alternatives. The only concerns regarding the design and massing of the Preservation

Alternatives were raised in a self-serving letter submitted by the Project architect. This does not constitute substantial evidence to support findings to reject the Preservation Alternatives. "[T]he willingness or unwillingness of a project proponent to accept an otherwise feasible alternative is not a relevant consideration." (*Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437 at 1460, fn. 10; see also *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 602.) That the Project proponent's architect would prefer to start from a clean slate at this site and not integrate the historic Lytton Savings building is not a relevant factor in determining the feasibility of the Preservation Alternatives.

### **C. Economic Feasibility of Preservation Alternatives.**

The Project proponent submitted a June 7, 2016 letter claiming the Preservation Alternatives would add substantial expense to the Project. This letter fails to provide any evidentiary support for this claim, including a comparison of Project and Preservation Alternative costs. Comparative data and analysis is required before an alternative could be considered economically infeasible. (*Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal. App. 4th 587, 599.) Further, the "fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project." (*Citizens of Goleta Valley v. Board of Supervisors* (1988) 197 Cal.App.3d 1167, 1181.) No such showing has been made and thus any claim of economic infeasibility is unsupported.

### **Conclusion**

The Conservancy again strongly urges the City to select an alternative to the Project that would preserve and adaptively reuse the historic Lytton Savings building. The Preservation Alternatives would eliminate the significant historic resource impacts, would fully meet the majority of the project objectives and partial meet the remaining few, and are otherwise feasible. For these reasons, the approval of a project that does not include preservation would violate CEQA.

Thank you for your time and consideration in this matter.

Sincerely,



Amy Minteer



CITY OF  
WEST HOLLYWOOD

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JUL 28 2016

CITY PLANNING DEPT.  
AREA PLANNING COMMISSION

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COMMUNITY  
DEVELOPMENT  
DEPARTMENT

July 25, 2016

RE: Appeal of the Advisory Agency decision to approve the  
Certification of the Final Environmental Impact Report for the  
8150 Sunset Boulevard Mixed-Use Project  
Case Numbers: VTT-72370-CN, CPC-2013-2551-CUB-DB-SPR  
CEQA Number: ENV-2013-2552-EIR

Dear City Planning Commissioners,

This letter is an update of the letter included in the appeal application the City of West Hollywood submitted on July 5, 2016.

The Advisory Agency's Appeal Recommendation Report does not adequately address the EIR's failure to mitigate the significant and unavoidable impact to the intersection of Fountain Avenue/Havenhurst Dr. The Report also does not address the EIR's failure to study the project's impacts on the use and maintenance of wastewater systems in the City of West Hollywood, not just capacity. Given the remaining outstanding issues regarding key items within the Appeal Recommendation Report for Case Number VTT-72370-CN and the Recommendation Report for Case Number CPC-2013-2551-CUB-DB-SPR, the City of West Hollywood requests the City Planning Commission grant the City of West Hollywood's appeal of the Advisory Agency's decision to certify the Final Environmental Impact Report (FEIR) for the 8150 Sunset Boulevard Mixed-Use Project (Project). The City also respectfully requests certain conditions be applied to the Project as detailed below.

#### MITIGATION MEASURE TR-1

The City of Los Angeles acknowledges that the traffic impact at Havenhurst Drive and Fountain Avenue is significant and unavoidable and must be mitigated. Under 14 Cal Code Regs 15126.4(a)(2), proposed mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments in order to be viable. The City of West Hollywood has reported to the City of Los Angeles on numerous occasions that it will not approve the installation of a traffic signal at the intersection of Havenhurst and Fountain under any circumstances. The City of Los Angeles cannot force West Hollywood to install this signal or otherwise condition the project on this installation. Thus, this option is infeasible and unenforceable and cannot, under the law, be considered an appropriate mitigation measure. "The mitigation measure must be adopted in a way that makes it a legally enforceable requirement." *Woodward Park Homeowners Ass'n v. City of Fresno*, 150 Cal.App.4th 683, 730 (2007). The City of Los Angeles has ignored this requirement and, despite its unenforceability, continues to list MM TR-1 as a mitigation measure in the EIR. In fact, it is the only mitigation measure identified for this impact.

The City of Los Angeles has a duty to identify all feasible mitigation measures that could mitigate or reduce this impact. There is no evidence that the City has explored any actually feasible means of mitigating this impact to the environment, despite





## CITY OF WEST HOLLYWOOD

knowing that the proposed traffic signal is a fiction. Contrary to the City's statement in the Appeal Recommendation Report, it is not "wholly appropriate under CEQA for the Lead Agency to adopt a Statement of Overriding Considerations in the event that mitigation measure were not to be implemented" if the traffic impact at Havenhurst and Fountain has not been mitigated to the extent feasible in the first instance. With the knowledge that MM TR-1 is infeasible and unenforceable through permit conditions, the City has not met its burden to mitigate the identified impact under CEQA notwithstanding its adoption of a Statement of Overriding Consideration. "Mitigation measures must not be remote and speculative." *Federation of Hillside & Canyon Ass'ns v. City of Los Angeles*, 83 Cal.App.4<sup>th</sup> 1252, 1260 (2000). Therefore, the FEIR inadequately addresses a known significant traffic impact, and it should not be certified unless MM TR-1 is removed from the list of mitigation measures and replaced with a substitute feasible mitigation measure to eliminate the traffic impact at this intersection.

Furthermore, this proposal would itself cause significant environmental impacts, distinct from the project itself. Those impacts are not addressed in the EIR as required by 14 Cal Code Regs § 15126.4(a)(1)(D). The proposed traffic signal at Sunset Boulevard and Havenhurst Drive along with the proposed signaling of the intersection at Fountain Avenue and Havenhurst Drive would effectively make Havenhurst Drive a cut-through route, generating additional traffic congestion and noise impacts to the residential neighborhood along this portion of Havenhurst Drive. In Response No. A9-10, the FEIR erroneously states that the installation of new signals at both ends of the segment of Havenhurst Drive between Sunset Boulevard and Fountain Avenue will not result in any significant cut-through traffic because there are already a series of speed humps along this segment of Havenhurst Drive, and the two new traffic signals could be intentionally "mis-timed" to delay and deter cut-through traffic. In reality, "mis-timing" the signals would only slow down the increased traffic going through this segment of Havenhurst Drive and cause more traffic congestion, rather than lessen the anticipated impacts.

The City of Los Angeles complains that West Hollywood has not assisted them with ideas for mitigating this impact. While CEQA is clear that it is the lead agency's responsibility to identify feasible and effective mitigation measures for a known impact, which so far has not been done, one alternative that should be included is a project design with no vehicular access off Havenhurst Drive. This alternative should be considered and analyzed as a possible alternative mitigation measure that may reduce the identified impact.

### PROJECT DESIGN FEATURE PDF-WW-1

The EIR is deficient in another respect. With respect to the impacts to the City of West Hollywood's wastewater systems, only impacts based on wastewater contribution to capacity were studied. There were no studies, however, on the impacts based on system use and the resulting cumulative impacts on maintenance and upkeep as a result of the project's use of West Hollywood's system. The City of Los Angeles acknowledges that it has not examined these impacts in PDF-WW-1 by referencing applicant's "fair-share" contribution responsibility, but stating that it "shall be determined at such time that the necessary improvements and associated capital costs are known . . ." The City of Los Angeles has made no effort to address the cumulative impacts on West Hollywood's wastewater system.





## CITY OF WEST HOLLYWOOD

By contrast, West Hollywood has an identified method for mitigating such impacts. West Hollywood provided its formula based on sewer usage fees collected from property owners on their property tax bill. This would ensure that the applicant contributes its fair share to mitigate the actual impact on the operation and maintenance of the sewer system. As outlined in our July 5 letter, per the table below, based on the Project land uses listed in the FEIR, the sewer usage by the proposed development is 270 Equivalent Sewer Units (ESU).

Land Use	Quantity	Unit	Factor	GPD (gallons per day)	ESU (equivalent sewer unit)
Studio Unit	54	Residential Units	156.00	8,424	32
One Bed Unit	134	Residential Units	156.00	20,904	80
Two Bed Unit	35	Residential Units	156.00	5,460	21
Three Bed Unit	24	Residential Units	260.00	6,240	24
Four Bed Unit	2	Residential Units	260.00	520	2
Retail	11,937	Square Feet	0.10	1,194	5
Restaurant	23,158	Square Feet	1.00	23,158	89
Supermarket	24,811	Square Feet	0.15	3,722	14
Bank	5,094	Square Feet	0.10	509	2
			Total	70,131	270

The annual City Sewer Service Charge rate for Fiscal Year 2016-17 is \$40.91 per ESU. Considering the proposed project of 270 ESU, the City Sewer Service Charge for FY 2016-17 would be \$11,034.80. The City Sewer Service Charge is adjusted by the CPI-LA on July 1 of each year. For example, the CPI-LA which has been applied for calculation of the 2016-17 assessment rates is 3.266%. Assuming a 50-year term for calculation of the developer's obligation for funding their fair-share of costs for on-going operation and maintenance of the City of West Hollywood sewer system, as well as an annual CPI-LA of 3% per year for the next 50 years, the amount the developer would need to pay the City of West Hollywood is \$1,244,691.30. Again, this dollar amount would need to be paid to the City of West Hollywood prior to issuance of the Building Permits.

Therefore, the City of West Hollywood requests the language of PDF-WW-1 be revised as follows:

- **PDF-WW-1:** In order to address ~~potential future improvements to the operation and maintenance costs for~~ sewage conveyance facilities within the City of West Hollywood that serve the project site, prior to issuance of Building Permits the applicant shall pay to the City of West Hollywood a lump sum amount of \$1,244,691.30 which is the amount equal to the West Hollywood City Sewer Service Charge to be paid by an identical project generating 270 Equivalent Sewer Units (ESU) located in the City of West Hollywood for 50 years. ~~the project shall contribute fair share payments to the City of West Hollywood commensurate with the project's incremental impact to affected facilities. Prior to the issuance of building permits, the applicant shall enter into an agreement with the City of West Hollywood~~







## CITY OF WEST HOLLYWOOD

~~determining the project's specific fair share contribution for West Hollywood sewage system upgrades. The fair share contribution shall be calculated in the same manner used to calculate the fair share contribution for development projects within the City of West Hollywood, and the project's specific contribution shall be determined at such a time that the necessary improvements and associated capital costs are known, and shall be proportional to the project's contribution to total wastewater flows in each affected West Hollywood-owned sewer. The applicant shall guarantee (by bond, cash or irrevocable letter of credit, subject to the approval of the City of West Hollywood) the necessary funding to enable the City of West Hollywood to design and install the necessary improvements.~~

The language of PDF-WW-1 must be revised to more accurately reflect how the project will address its impact on the West Hollywood sewer system.

### REQUESTED CONDITIONS OF APPROVAL

This section addresses Item No. 7 on the agenda. Based on the anticipated impacts the project will have on traffic, pedestrian safety, and public infrastructure within the City of West Hollywood, the City respectfully requests the following issues be applied as conditions to the Project:

#### Elimination of Commercial Site Access on Havenhurst Drive

The current version of the Project proposes removal of driveway access to the site along Sunset Boulevard. The LOD and Recommendation Report for Case Number CPC-2013-2551-CUB-DB-SPR has conditioned the project such that all residential traffic access the site on Havenhurst Drive and all commercial traffic to access the site on Crescent Heights Boulevard. However, the LOD and FEIR state commercial delivery and service trucks will also access the site from Havenhurst Drive. The City of West Hollywood requests that a condition be applied to the Project to preclude all commercial traffic (including delivery and service trucks) from accessing the site from Havenhurst Drive.

#### Traffic Impacts Along Fountain Avenue

On Fountain Avenue, the level of service calculations show worsening conditions at all intersections studied. Although the signalized intersections of Fountain/Olive and Fountain/Laurel were not included in the analysis, they too will be impacted. To mitigate the worsening of conditions at these intersections, the developer should be required to *fund the upgrade of the traffic signal controller equipment, replacing existing 170 controllers with 2070 controllers, as well as fund installation of battery back-up systems for the following City of West Hollywood signalized intersections: Fountain/La Cienega; Fountain/Olive; Fountain/Sweetzer; Fountain/Crescent Heights; and Fountain/Laurel (Fountain/Fairfax is not included, as that intersection already has an upgraded 2070 controller and has a battery back-up system).*

#### Safe Pedestrian Access

The proposed project will increase both vehicular and pedestrian traffic in the surrounding area, and this increase in pedestrian traffic levels warrants an upgrade to the existing mid-block crosswalk located south of the project site on Crescent





## CITY OF WEST HOLLYWOOD

Heights Boulevard. In Response No. A9-11, the FEIR states there is no nexus between the proposed Project and any significant pedestrian related impacts on Crescent Height Boulevard to justify upgrading the existing mid-block crosswalk, because development in the surrounding area will create more traffic in the area and contribute much more toward possible increases in conflicts between vehicles and pedestrians than the proposed Project itself. However, this reasoning is flawed in that it does not recognize the increase in pedestrian traffic caused specifically by the proposed Project.

Therefore, the City of West Hollywood requests the project be conditioned to *upgrade the current crosswalk to a mid-block pedestrian signal, including the incorporation of additional pedestrian visibility enhancements into the signalization of this crosswalk* (i.e. sidewalk bulb-outs, refuge island, reflective markings, etc.).

### CONCLUSION

The EIR is deficient in that a known significant and unavoidable traffic impact has not been mitigated as CEQA requires. In addition, the cumulative impact to West Hollywood's wastewater system has also not been adequately studied or mitigated. For these reasons, we respectfully request that the Commission grant the appeal and deny certification of the EIR until these issues are addressed.

For Item No. 7 on the agenda, based on the anticipated impacts the project will have on traffic, pedestrian safety, and public infrastructure within the City of West Hollywood, the City respectfully requests the following issues be applied as conditions to the Project:

- Preclude all commercial traffic (including delivery and service trucks) from accessing the site from Havenhurst Drive.
- Fund the upgrade of the traffic signal controller equipment, replacing existing 170 controllers with 2070 controllers, as well as fund installation of battery back-up systems for the following City of West Hollywood signalized intersections: Fountain/La Cienega; Fountain/Olive; Fountain/Sweetzer; Fountain/Crescent Heights; and Fountain/Laurel.
- Upgrade the current crosswalk to a mid-block pedestrian signal, including the incorporation of additional pedestrian visibility enhancements into the signalization of this crosswalk.

Thank you for the opportunity to provide input on the proposed Project.

Sincerely,

Scott Luncerford, AICP  
Associate Planner  
Current and Historic Preservation Planning  
City of West Hollywood



COUNCILMEMBER • DISTRICT 4  
**DAVID RYU**  
SERVING OUR NEIGHBORHOODS



8150 Sunset Boulevard Mixed-Use Project Case Numbers: VTT-72370-CN, CPC-2013-2551-CUB-DB-SPR; CEQA Number: ENV-2013-2552-EIR

The Fourth Council District respectfully requests further review and consideration of the following issues:

**Site Plan Review Findings**

- A Site Plan Review determination requires the decision-maker to make findings relative to the project request. The applicant must assist the decision-maker by attaching information supporting the following findings:
  1. That the project is in substantial conformance with the purposes, intent and provisions of the General Plan, applicable community plan, and any application of the specific plan.
  2. That the project consists of an arrangement of buildings and structures (**including height, bulk and setbacks**), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, that is or will be compatible with existing and future development on adjacent properties and neighboring properties. ***\*SEE SUBMITTED HANDOUT***
  3. That any residential project provides recreational and service amenities to improve habitability for its residents and minimize impacts on neighboring properties.
- The City owned property located at 8118 Sunset Blvd. (the traffic triangle) is identified as a parcel available for housing in the 2013-2021 Housing Element of the General Plan:
- **2013-2021 Housing Element:** *The Housing Element of the General Plan identifies the City's housing conditions and needs, establishes the goals, objectives, and policies that are the foundation of the City's housing and growth strategy, and provides the array of programs the City intends to implement to create sustainable, mixed-income neighborhoods across the City.*
- The residential zones to the immediate Southwest of the proposed project are zoned R2-1 XL with a 30 foot height limit and a Low Medium I Residential land use designation.
- The Hollywood Community Plan specifically states: "The low-density residential character of many parts of Hollywood should be preserved, and lower density (Low Medium I or more restrictive) residential neighborhoods **should be protected from encroachment by other types of uses**, including surface parking."
- **Would including the City owned parcel into the "public" plaza of the proposed project and eliminating it's possible use as a future housing site contradict conformance with the General Plan Housing element?**

**Traffic**

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- The process for inclusion of the triangle (8118 Sunset Blvd.) has not been described by the City or the applicant.
- Would the approval of the project as proposed compromise any future discretionary action needed and necessary for the inclusion of City owned property into the "public" plaza of the project? This includes, but is not limited to, any of the possible mechanisms needed to effectuate the elimination of the public right-of-way, i.e.: a street vacation, an application for a R-permit, an application for a B-permit...etc.
- The project as proposed is inconsistent with Mobility 2035.
  - Per DOT's updated Transportation Analysis (**Dated July 26, 2016**): *The City Council recently adopted the Mobility Plan 2035 which represents the new Mobility Element of the General Plan. A key feature of the updated plan is to revise street standards in an effort to provide a more enhanced balance between traffic flow and other important street functions including transit routes and stops, pedestrian environments, bicycle routes, building design and site access, etc. Per the new Mobility Element, **Sunset Boulevard** has been designated as an Avenue (Secondary Highway) which would require a 35-foot half-width roadway within a 50-foot half-width right-of-way. **Crescent Heights Boulevard** has been designated an Avenue II (Secondary Highway) which would require a 28-foot half-width roadway within a 43-foot half-width right-of-way. **Havenhurst Drive** has been designated a Local Street which would require a 18-foot half-width roadway within a 30-foot half width right-of-way. **The applicant should check with BOE's Land Development Group to determine if there are any other applicable highway dedication, street widening and/or sidewalk requirements for this project.***
  - Is BOE aware of these new applicable dedications, per the Mobility Plan 2035, and the impacts they have on the Tract Map?
  - It is the Council Office's understanding that the Mobility Plan 2035 would require 15 ft. sidewalks for the property site and that the project, as proposed, does not satisfy the Mobility Plan.

#### **FAR Increase**

- An **off menu incentive** cannot be used to **triple** the FAR. The applicant is asking for an increase in FAR from 1:1 (limited by the D limitation on the parcel) to 3:1 for a Housing Development Project in which 50% of the commercially zoned parcel is located within 1,560 feet a Transit Stop, in lieu of the 1,500 foot distance specified in LAMC Section 12.22-A,25(f)(4)(ii).
- **Los Angeles' Density Bonus states:**

(3) Requests for Waiver or Modification of **any Development Standard(s) Not on the Menu.**

(I) For Housing Development Projects that qualify for a Density Bonus and for which the applicant **requests a waiver or modification of any development standard(s) that is not included on the Menu of Incentives in Paragraph (f),** above, and that are not subject to other discretionary applications, the following shall apply:

a. The request shall be made on a form provided by the Department of City Planning, accompanied by applicable fees, and shall include a pro forma or other documentation to

show that the waiver or modification of any development standard(s) are needed in order to make the Restricted Affordable Units economically feasible.

b. Notice and Hearing. The application shall follow the procedures for conditional uses set forth in Section 12.24 D of this Code. A public hearing shall be held by the City Planning Commission or its designee. The decision of the City Planning Commission shall be final.

c. The City Planning Commission shall approve a Density Bonus and requested waiver or modification of any development standard(s) unless the Commission, **based upon substantial evidence, makes either of the two findings set forth in Subparagraph (g)(2)(I)(c), above.**

c. Action. The Director shall approve a Density Bonus and requested Incentive(s) unless the Director finds that:

**(i) The Incentive is not required in order to provide for affordable housing costs as defined in California Health and Safety Code Section 50052.5, or Section 50053 for rents for the affordable units; or**

**(ii) The Incentive will have a Specific Adverse Impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the Specific Adverse Impact without rendering the development unaffordable to Very Low-, Low- and Moderate-Income households. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.**

#### **Height District Change**

- A **Height District Change** would be required to remove the "D" Development limitation, implemented by Ordinance No. 164714 (Per AB 283, CPC 86-831-GPC, effective: May 16, 1989) **on the parcel which specifically restricts the FAR to 1:1.** A Density Bonus incentive to increase the FAR to 3:1 is not possible without the discretionary removal of the D Limitation.
- LAMC 12.22-A.25(g)(3) applies to HD 1, 1-VL, 1-L, or 1 XL, all of which have an FAR of 1.5:1. **Current FAR is 1:1 and not 1.5:1.**
- The requested Density Bonus "Off-Menu" request is for an increase in FAR from 1:1 to 3:1, a tripling not permitted through the current and present imitation of the D Limitation.
- The Applicant would have to go through the discretionary action of a height district change from HD 1D to HD 1.
- **Ordinance, Section 25(g)((3)(i) does not permit this request because off-menu incentives may not be granted "that are subject to other discretionary applications."**



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**July 27, 2016**

**RE: 8150 Sunset Blvd. (short) Hearing 7-28-16 Planning Commission**

**Vesting Tract MapNo. VTT 72730-CN;  
Related: CPC-2013-2551-MCUP-DB-SPR;  
CEQA: ENV-2013-2552-EIR, SCH No. 2013091044**

**ADDRESSES:**

**8148-8182 West Sunset Blvd., Los Angeles  
1438-1486 N. Havenhurst Drive, Los Angeles  
1435-1443 N. Crescent Heights Blvd., Los Angeles**

**APPEAL OF DECISION DATED 7-5-16 BY ADVISORY AGENCY  
SUPPLEMENTAL PAPERS RE HEARING ON 7-28-16**

**=1. MONSTROSITY TOWER OF BABEL PER SE**

**Attached hereto as Exhibit 16 is a diagram of the bait and switch Alternative 9 presented which the insane City claims fits in the neighborhood.**

**PART 1:  
FACTUAL ERRORS AND OMISSIONS**

**=2. THE PROJECT IS 234 FEET NOT 15 STORIES**

The project claims it is 15 stories but this is a lie. It is 234 feet or 21.6 stories. (LOD37, 45); See Exhibit 16; see B23). The City purports to approve a 15 story project which is a lie and is really 234 feet.

**=3. THERE IS A WEST HOLLYWOOD HOUSING APARTMENT HOUSING SENIORS, DISABLED, AND AIDS VICTIMS, DIRECTLY ACROSS THE STREET FROM THE PROPOSED EXITS.**

Havenhurst is a magnificent tree lined street with three or four historical condos (Exhibit 3B, 3C1), and a senior and disabled person home DIRECTLY across from the proposed exit and truck exit. (Exhibit 3A). As such as noted infra, the improper standard was used here since a much higher standard of susceptibility was required to be used.

**=4. HAVENHURST IS PARTIALLY BLOCKED IN MIDDLE WITH AN HOURGLASS WHICH NARROWS PASSAGE. THE LD IS OBLIVIOUS TO THIS AS WELL.**

Also, the Decision is completely oblivious to the fact that Havenhurst is restricted like an hour glass in the middle next to the Senior home and the exit and no truck is getting through the middle. (See Photo 3c2) The lack of independent review is evidenced by the comment at page B19 that the City is not going to block access via a man made bottleneck. That is true because it already exists and the City is clueless and does not know about it.

It also raises in Alternative 9 for the first time, that the traffic south on Havenhurst will be closed apparently.

**PART 2:**  
**VACATION OF THE ISLAND**  
**ILLEGAL.**

**=5. THE PROJECT IS ILLEGAL AND CONSTITUTES A  
VACATION OF A PORTION OF A STREET TO WIT THE  
ISLAND AND THE TWO FOOT DEDICATION IN  
VIOLATION OF SHC SECTION 8309 AND 8309 AND  
SIMILAR LOS ANGELES CITY CODE SECTIONS.**

Since the City of LA has permitted a fraud to take place by permitting Alternative 9 without it being noticed and evaluated in the LOD, it is hard to understand the precise nature of what is intended which changes like the wind to meet the needs of the Applicant.

The Decision attempts to deal with the vacation argument at page B1. The City claims that there is conversion and maintenance of an existing traffic island (it has its own address 8118 which is apparently marked Affordable Housing on the General Plan) the island will remain owned by the City. It ADMITS that it will become “landscaped public open space” and **not a street**. (See Exhibit 18).

It also admitted at page B2 and states that there is a “reconfiguration of the traffic island to public space under the continued ownership of the City”. (Emp added)

Next the City claims that the two foot dedication along Sunset Blvd. “will be part of the public right of way”. (B2) This terms is meaningless.

As such there is a clear cut violation of the State Street and Highways Code Section 8309 which provides for termination of a public right to use “street.” This may only take place if the island is not necessary for present or future uses as a street. (Exhibit 20)

The City does **not own the street**, the State does and it merely manages the Street. (**Exhibit 11, and 19A**; emp. added). The following is in the City of Los Angeles Manual on Vacation (different print to differentiate it from the City of LA Manual):

**D 714 JURISDICTION**

**D 714.1 STREETS BELONG TO THE STATE**

*The streets of a City, even though paid for out of City funds or by local developers under a Tract action, and even though fee title is in the City, do not belong to the City. Rather, they belong to all the people of the State. This is the general rule throughout the United States. It is also the long established rule in California. "It is settled that the public streets of a municipality belong to the people of the State" (Keller vs. City of Oakland). Because of these judicial rulings, the City of Los Angeles must adhere to the vacation laws of the State as codified in the California Streets and Highways Code.*

**D 714.2**

Furthermore, SHC Section 8308 reflects that the term street includes the following:

**"Street . . . include all or part of, or any right in, a state highway, or public highway, road, street, avenue, alley, lane driveway, place, court, trail, or other public right of way or easement, or purported street or highway, and rights connected therewith, including but not limited to restrictions of access or abutters rights, sloping easements, or other incidents to a street or highway." (Exhibit 20; emp. Added)**

The City of Los Angeles contains a similar provision effectuating Section 8309:

**D 715.2 STREET AND HIGHWAY (STATE DEFINITION)**

*As defined in Section 8308 CSHC, "street" and "highway" include all or part of, or any right in, a State highway or other public highway, road, street, avenue, alley, lane, driveway, place court, trail, or other public right-of-way or easement, or purported public street or highway, and the rights connected herewith including, but not limited to, restrictions of access or abutters' rights, sloping easements, or other incidents to a street or highway.*

**(Exhibit 19B, and 11).**

**In addition, the City of Los Angeles Manual (Exhibit 11) in Section D715.3 referring to the LAMC Section 11.01(a) states:**

***D 715.3 STREET (CITY DEFINITION)***

*As defined in Section 11.01(a) LAMC, "street" shall include all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this State.*

**(Exhibit 19C and 11; emp. added)).**

**Therefore, the island is part of the street and cannot be vacated changed and/or transmuted into public open space without a vacation under SHC 8308 and 8309. It is illegal to do so. FN 11. It cannot be transmuted changed, altered or whatever without a vacation order and the necessary finding. Under no circumstances can use of the island be given away by the City. . The City apparently with a straight face claims that the open space will be used by pedestrians. It cannot be used for any purpose other than street, although pedestrians can use it to cross over Crescent Heights.**

**=6. THE CITY CANNOT CIRCUMVENT SHC 8308-8309/ IT IS ILLEGAL.**

**See supra**

**=7. THE CITY MAY NOT TRANSMUTE THE ISLAND NOR MAY IT GIVE AWAY USE RIGHTS TO THE ISLAND AS PUBLIC OPEN SPACE.**

**The City has no right to transmute or change use rights of the island, nor to give away use of the island to anyone for any reason until the finding is made under SHC Section 8308-09 that the island is unnecessary as part of the street.**

Even if somehow the law was different, the City could not use a B Permit to give a use right away to public open space. LAMC Section 62.106b which deals with Construction Permits for major street construction not give away of use rights reads as follows (Exhibit 21 A and B).

**FN 11:** Under SHC 8320(b)(4), only the City Council may vacate after a public hearing properly noticed for vacation after a request from the City Engineer to the Planning Commission under LAMC 15.00(d) with a finding that is extraordinary difficult to overcome.

*A "B" Permit (LAMC 62.106.b) is issued for extensive public works improvements including the widening of streets and alleys, the changing of existing street grade, construction of bridges, retaining walls, and the installation of sewer, storm drains, street lighting, and traffic signals. Construction plans are usually required which must be signed by a California licensed Civil and/or Electrical and/or Traffic Engineer. Please click [here](#)."*

The argument that a B Permit is permitted to permit use of public open space is false and violates LAMC Section 62.106(b)

If the City wishes to improve the island it can do so, but it cannot remove it nor try to convert it to public open space to benefit the Applicant. **FN12:**

### **PART 3:**

**APPELLANT IS PART OF THE  
ORIGINAL TRACT AND HAS A  
PRIVATE EASEMENT OVER THE  
PROPERTY IN THE TRACT, AND IT  
IS NOT WAIVING IT AND THE**



**APPLICANT CANNOT ACT TO  
INTERFERE WITH THE PRIVATE  
EASEMENT.**

**FN 12:** It also violates LAMC 12.37.

**=8. APPELLANTS PROPERTY IS PART OF THE TRACT  
MAP WHICH COVERS THE PROPOSED AREA IN THE  
APPLICATION. APPELLANT OWNS A PRIVATE  
EASEMENT OVER ALL SUCH PROPERTY IN THE  
TRACT, AND IS NOT ABANDONING ANY PRIVATE  
EASEMENT AND THE CITY NOR APPLICANT CAN  
INTERFERE WITH THE PRIVATE EASEMENT. AS SUCH  
THE CITY CANNOT ACT TO INTERFERE THE ACCESS  
RIGHTS IN THE TRACT AND CHANGE THE  
CONFIGURATION OF THE RIGHT TURN AREA.**

**PART 4:**

**ALTERNATIVE 9**

**=9. ALTERNATIVE 9 WAS NEVER REVIEWED IN THE  
LD. THERE WAS SOME DISCUSSION BUT EACH  
ALTERNATIVE WAS FULLY DISCUSSED EXCEPT  
ALTERNATIVE 9. SEE LD 164-179. I DARE YOU TO FIND  
A DISCUSSION ABOUT ALTERNATIVE NUMBER 9**

The City claims that parts of Alternative 9 was discussed. (B23) here and there. What is clear no notice of Alternative 9 was given and Alternative 9 is not part of the LD. There is discussion about 1-10 except 9. One is not required to search for pieces of discussion in a 200 page document. This is hidden abuse of its fiduciary duty by the City.

In addition, Councilman Ryu has called for a new Traffic study because of changes caused by Alternative 9. (See Exhibit 23 infra). (Bait and switch).

### PART 5.

## THERE WAS IMPROPER NOTICE GIVEN RE ALTERNATIVE 9 WHICH IS PART OF THE BAIT AND SWITCH TACTICS.

=10. As set forth in the Appeal, there was improper notice  
given of Alternative 9, inter alia

- =1. 2.3 times more dirt excavated require 13000 truck trips and over 425 per day along Havenhurst and east on Sunset.
- =2. Removal of Sunset access
- =3. Condo access on Havenhurst
- =4. Less parking
- =5. Closing of south on Havenhurst during construction.
  
- =6. Height district change from 1-1 to 3-1
- =7. Vacation attempt,
- =8. General Plan Amendment to amend MP2035 to show the island and turn lane closed

The City claims at B19 that it was sort of discussed here and there.

PART 6:

CITY OF WEHO TAKES AIM AT THE  
DEFECTIVE AND ILLEGAL FEIR  
AND HEAD IN THE AND LOD

=11. THE CITY OF WEHO HAS REFUSED TO PERMIT  
ACCESS ONTO HAVENHURST. THE APPROVAL BASED  
ON A MITIGATION TR-1 IS ILLEGAL AND IS BASED ON  
A FRAUD THAT THERE WILL BE MITIGATED TRAFFIC  
LIGHT ON FOUNTAIN AND HAVENHURST.

The City of WEHO who is sane unlike the City of Los Angeles (who is looking the other way and has fast tracked a corrupt project known as the Monstrosity) has made it clear again by its letter dated 7-5-16 that it will never approve a light at Havenhurst and Fountain.

“The City of West Hollywood objects to the installation of a traffic signal at his location and has reported to the City{of Los Angeles} on numerous occasions that it will **NOT** approve the installation of a traffic signal at this intersection under any circumstances.” (Highlighted, emp in org)

See Exhibit 24.

The City makes it clear that there will be an unmitigable impact. (D126) In effect, the City of WEHO chastises the City of LA and the hearing officer for in effect approving a project based on a mitigation factor which will never take place. This is illusory approval and is illegal and fraudulent and the City of LA knew it bc they were told so many times per the letter. It concludes that the approval “obfuscates the Project’s traffic impacts”.

The City of WEHO points out that it is illegal as well:

**“Pursuant to CEQA Section 15126.4.a.2 mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments in order to be viable. Given that the City of West Hollywood does not support and will not approve said traffic signal installation, mitigation measures TR-1 is unenforceable. Therefore, the FEIR addresses a known significant impact and the EIR should not be certified without revision.”**

The City of WEHO goes on to point out that the City of LA has also breached its duty to identify all feasible mitigation measure that could mitigate or reduce this outrageous traffic disaster impact if it were ever approved by the City of WEHO (which is never bc the City of WEHO is sane):

**“Additionally, the City of Los Angeles has a duty to identify all feasible mitigation measures that could mitigate or reduce this impact. (14 Cal. Code Regs 15126). With the knowledge that MM TR-1 is infeasible and unenforceable through permit conditions, the City has not met its burden to mitigate the identified impact under CEQA. FN 12**

**=12. THE CITY OF WEHO HAS ALSO MADE IT CLEAR THAT OPPOSES ALL TRUCK ACCESS FROM HAVENHURST.**

The City has repeated that the City requests that the FEIR and LOD be revised and “preclude all commercial traffic (including delivery and service trucks) from accessing the site from Havenhurst Drive.”

**FN 12.** The City of WEHO also notes that the City finding XI-6 is also not supported by substantial evidence (any evidence) and has not met its burden of exploring all feasible mean of mitigating this impact such as removing all entrances on Havenhurst

**=13. THE CITY OF WEHO HAS MADE IT CLEAR THAT THE FEIR ERRONEOUSLY STATES THAT THE INSTALLATION OF NEW SIGNALS ON BOTH ENDS OF HAVENHURST WILL NOT RESULT IN ANY SIGNIFICANT NEGATIVE IMPACT.**

The City of WEHO states that the "FEIR must be revised to address these impacts, and:

" . . . . an added project alternative with **no access off Havenhurst Drive**" for any exit. " (Exhibit 24)

**=14. THE CITY OF WEHO ALSO NOTES THAT THE FEIR IS FLAWED IN REGARD TO PEDESTRIAN TRAFFIC.**

**"However, its reasoning is flawed in that it does not recognize the increase in pedestrian traffic caused specifically by the Project. "**

## **LAME AND IDIOTIC RESPONSE BY THE CITY OF LA**

**=15. THE CITY OF LA RESPONSE TO THE POSITION BY THE CITY OF WEHO IS TO SHUT OFF HAVENHURST SOUTH IN EFFECT BLOCKING TRAFFIC SOUTH FOR EVERYONE DOES NOT SOLVE THE TRAFFIC PROBLEM ON HAVENHURST.**

The City claims that it is not a problem bc the Applicant will build a physical barrier apparently blocking Havenhurst south and/or not permitting left hand turns onto south Havenhurst thus forcing all traffic to Sunset. If it calls for the blockage of Havenhurst it is illegal. If it calls for the no left turn, and all traffic North then it is insane and cars will be making u turns with horns and lights all night long. This is not a

mitigation this is per se blockage of Havenhurst by traffic north. There is no analysis re same in the FEIR and the ram through Alternative 9 change.

PART 7:

**VIOLATION OF ELDP PUBLIC  
RESOURCES CODE SECTION  
21183(B)(AND (D). THE PROJECT IS  
ILLEGAL**

**=16. VIOLATION OF PUBLIC RESOURCES 21183(D) BY  
FAILING TO HAVE AN ENFORCEABLE AGREEMENT  
REGARDING THE MITIGATION FROM THE CITY OF  
WEHO RE THE LIGHT AT FOUNTAIN AND  
HAVENHURST. THIS PROJECT IS ILLEGAL.**

Public Resources Code Section 21183(d) provides that one must have a binding and enforceable agreement re all mitigation measures to certify an ELDP project. This is not the case here since clearly the City of WEHO has refused to do so and provide a light at Havenhurst and Fountain as part of TR-1 the KEY Mitigation traffic issue. The City knew this and proceeded nonetheless to approve the same as part of a conspiracy with the Applicant to get his Monstosity Project approved:

*(d) The project applicant has entered into a binding and  
**enforceable agreement that all  
mitigation measures** required pursuant to this  
division to certify the project under this chapter shall be CA  
Codes (prc:21178-21189.3) <http://www.leginfo.ca.gov/cgi>  
**conditions of approval of the project,  
and those conditions will be fully***

*enforceable by the lead agency or another agency designated by the lead agency. In the case of environmental mitigation measures, the applicant agrees, as an ongoing obligation, that those measures the applicant agrees, as an ongoing obligation, that those measures will be monitored and enforced by the lead agency for the **life of the obligation.**" (Emp. Added).*

(Exhibit 22A and B)

As such the failure to comply with simple English which provides there must an enforceable agreement from the City of WEHO reflects that the project is illegal and cannot be approved.

**=17. THIS PROJECT WAS BAIT AND SWITCHED THOROUGHOUT AND VIOLATES PUBLIC RESOURCES CODE 21183(b). THE ALTERNATIVE 9 WAS HIDDEN AND NEVER DISCUSSED IN THE LOD AND THERE WAS A MATERIAL CHANGE FROM 113,669 FEET DOWN TO 65,000 FEET REQUIRING NEW APPROVAL FROM THE GOVERNOR.**

The project was fraudulently fast tracked and then there was a material bait and switch change to Alternative 9 without disclosure in the notice, and without a full discussion of it in the Alternative 9. The commercial area in the Alternative 9 was reduced from 113,369 feet by 40pc to 65,000 feet. There would be grocery store with apprx 25000 sq ft, and a retail of 12,000 sq ft, and a retail of 5000 sq ft, and restaurants of 23,000 sq ft, with a walk in bank of 5,000 sq ft. (D37,45, 197) in the commercial. 199 new jobs would be created (D195) NONE OF THEM HIGH PAYING. These are entry level jobs. Public Resources Code Section 21183(b) provides (Exhibit 22)



(b) The project creates high-wage, highly skilled jobs that pay prevailing wages and living wages and provide construction jobs and permanent jobs for Californians, and helps reduce unemployment.”

As noted a big lie was used to obtain ELDP qualification but changed under Alternative 9 without approval.)

It is illegal proceed with a material change without approval of the Governor. A reduction of 40pc in size and in transmuting from the lie of high paying jobs to low skilled low paying jobs requires reapproval from the Governor. It is not up to the City to decide but the Governors office. As noted, there is a continuing duty to comply and that is enforced by the City which it has miserably failed to do no doubt because it is part of a conspiracy to approve the project.

#### PART 8.

EVEN THE CITY COUNCILMAN RYU HAS CALLED FOR A NEW TRAFFIC ANALYSIS. THE OLD ONE IS INSANE. HE ALSO CALLED FOR REEVALAUTION OF THE RIGHT TURN LANE ON CRESCENT HEIGHTS FROM SUNSET

=18. Councilman Ryu has sent a letter dated 7-21-16 calling for new Traffic Impact Study. (See Exhibit 23):

“The original Traffic Impact Assessment of the Traffic Analysis prepared by Hirsh/Green Transportation, Inc. and reviewed by

**LADOT is deficient and incomplete due to significant changes made to the project subsequent to the review. “**  
**(Emp. Added)**

Indeed, the Alternative 9 was bait and switched and Councilman Ryu can see that.

Councilman Ryu to his credit honestly states:

“We need a new assessment to adequately evaluate impacts. Specifically, changes from the original project to the current project results in reallocations in both commercial and residential floor area.

{See ELDP reduction from 113,369 to 65,000 commercial}

In addition, the February 2014 assessment evaluation a Project that provided access points at the three currently existing driveways. The project as proposed today, and what will be before the City Planning Commission on July 28, 2016, has eliminated the existing driveway on Sunset Blvd. Whether its trip generation or traffic circulation that would impact the studied unsignalized intersections it is absolutely necessary that this evaluation and assessment occur prior to the City Planning Commission taking action. “ (Exhibit 23).

**=19. COUNCILMAN RYU ALSO CALLS FOR EVALUATION OF THE RIGTH TURN LANE.**

Councilman Rye notes that the proposed reconfiguration of the intersection at Crescent Heights and Sunset Blvd would result in the “removal of the east bound right turn lane into the south-bound lane of Crescent Heights. An exclusive right turn lane would be added.”

He reiterates that this proposal was bought by the developer {in Alternative 9} and other options were not considered. He correctly points out that the removal of the sweeping right turn lane has the added issue of the City owned property. He calls for a new evaluation of the elimination of the right turn and a consideration of all options.

PART 9:

**THE FAR 3-1 IS ILLEGAL AND IS AN IMPROPER OFF MENU ITEM AS WELL AS RELIANCE ON ADDITIONAL PUBLIC OPEN SPACE ALLEGEDLY TRANSMUTED BY CITY.**

=20. This is a HD 1 Zone and 1-1 not 3-1 FAR. That would expand it to 333,903 feet.(D44). The use of an off menu item is not properly noticed, nor is it valid. Height was an on menu item but the applicant elected not to take it rather use parking. The two non off menu items were two foot dedication for FAR and the 3-1 which is illegal. There was no Height District Amendment.

PART 10:

**THE DECISION IS ALSO ILLEGAL SINCE IT VIOLATES 12.22 SECTION 25.A AND SEEKS DENSITY BONUS NOT ON MENU CANNOT BE**

**GRANTED IF IT IS SUBJECT TO  
OTHER DISCRETIONARY  
APPLICATIONS WHICH IS THE CASE  
HERE, CP3251-db, 6-28-16, p. 3)**

=21. Exhibit 17, p. 14. Section 12.22 A.25g(3) dealing with off menu incentives provides that they are not available if they applies to other discretionary applications which is the case here.

**PART 11**

**FURTHER ILLEGALITY IN PER-  
MITTING SET OFF MORNING AND  
EVENING WHEN ONE VIOLATES  
THE 50 TRIP LIMIT**

=21. The Decision finds that increased travel would congest the intersections and would exceed 50 trips per day. (D95). This is in the pm. However, the writer seeks to set off the morning to obtain a net which is illegal and improper. The Report at B20 says there is no excess of 50 which contrary to the Decision. In case, the drafter cannot read the Decision states as follows:

“During the P.M. peak hour, the project would result in a total of approximately 123 net new trips **which exceeds the**  
**CMP’s 50 trip** threshold.” (Emp. Added.)

PART 12

AREA FOR STREET CANNOT BE INCLUDED IN CALCULATING OF MENU FAR. (D199).

=22. The Applicant is sneaking in street area as part of the calculation of the area and then seeking to triple it under 3-1. (D199). This is improper.

PART 13.

THE BUILDINGS WILL BE IN EXCESS FO 150 FEET FROM THE EDGE OF ROADWAY AND VIOLATES THE FIRE STANDARDS.

=23. The Fire Department does not permit any building to in excess of 150 feet from the roadway. (D4, 126; Exhibit 17). Here, the building(s) will be in excess of 150 feet. The City summarily denies it. (B20). However, no footage is marked nor identified. The City summarily states it will be within 150 feet, but no measurement is set forth. It is clear from a cursory review of the photos it will be more than 150 feet. The property was walked and estimated to be in excess of 150 feet because the exact location is impossible to determine.

PART 14

WRONG STANDARD WAS USED RE NOISE, NOXIOUS ODORS, ETC. DUE THE FACT THAT THERE IS A

**SENIOR HOME DIRECTLY ACROSS  
FROM THE PROPOSED TRUCK  
EXISTS ON HAVENHURST.  
SENSITIVE RECEPTOR STANDARD  
SHOULD HAVE BEEN USED.**

=24. A West Hollywood Home for Seniors, Disabled, and Aids victims is located directly across the street from the proposed exit on Havenhurst. (See Exhibit 3C2, and 3A).

It is admitted that the construction would have potentially significant adverse impacts with respect to nox emissions and localized PM 10 and 2.5 emissions in excess permitted by SCAQMD. (D116). However, the wrong standard was used. Nowhere is the right standard to wit susceptibility by sensitive receptor applied and used.

In fact, it is also admitted that the pool terraces on the 3<sup>rd</sup> and 7<sup>th</sup> floors would be a potential noise source for sensitive receptors. (D86).

# NON ILLEGALITY ISSUES

## PART 15:

### EARTHQUAKE DISASTER. THE CITY IS MAKING ITSELF LIABLE FOR ALL DAMAGES CAUSED BY AN EARTHQUAKE IF APPROVES THIS PROJECT

=25. The Project sits on top of an earthquake fault Hollywood Fault. (Exhibit 6). It is admitted it is in the earthquake zone. (D74). Well the City argues it is 100 feet away (B21) which is not clear nor is it the point. Exhibit 6 shows it is directly over the project. No where is any earthquake expert that stipulates that the removal of 136,000 cubic yards of dirt and 13,600 trips not going to trigger an earthquake.

The Applicant in Alternative 9 tripled (2.3) the amount of dirt to vacate without noticing it. The Applicant wants to move 136,000 cubic yards of dirt which his 427 truck loads a day, and 13,600 trips overall up Havenhurst and then east on Sunset. (D94). The net result will be the closure of all business on Havenhurst. No one can withstand 427 truck loads of dirt with huge trucks. It is enough dirt to fill the coliseum.

Furthermore, it is admitted that construction vibration impacts would be significant. (D139) It is claimed it can be mitigated. Well how do you stop vibrations from starting an earthquake.??

The point is that moving all this dirt with 13,600 truck loads will cause an earthquake. If so, the City needs to stipulate it is liable for causing it to all who suffer damages because that is what is going to happen.

The City is also permitting a taking of property by permitting trucks to use Havenhurst and is condemning Appellant's property.



PART 16:

**FAILURE TO FIND CUMULATIVE  
EFFECT OF 38 PROJECTS NEARBY**

=26. The Decision notes that there are 38 nearby projects, yet absolutely no cumulative analysis. (D83). The City simply avoids this issue. (B21).

PART 17:

**FAILURE TO LOOK AT ALTERNA-  
TIVES SUCH AS USE OF SUNSET IN  
LIEU OF HAVENHURST FOR  
CONSTRUCTION AND TRUCK  
ACCESS.**


=27. The argument that the traffic will be significant AND IS UNAVOIDABLE ((B19) is a lie since it can be accessed off Sunset without taking Havenhurst without interfering with Havenhurst and Appellant. The evil bait and switch is part of a conspiracy entered into by the City without notice.

PART 18:

**PERMITTING EXCAVATION ON  
SATURDAY IS OUTRAGEOUS.**

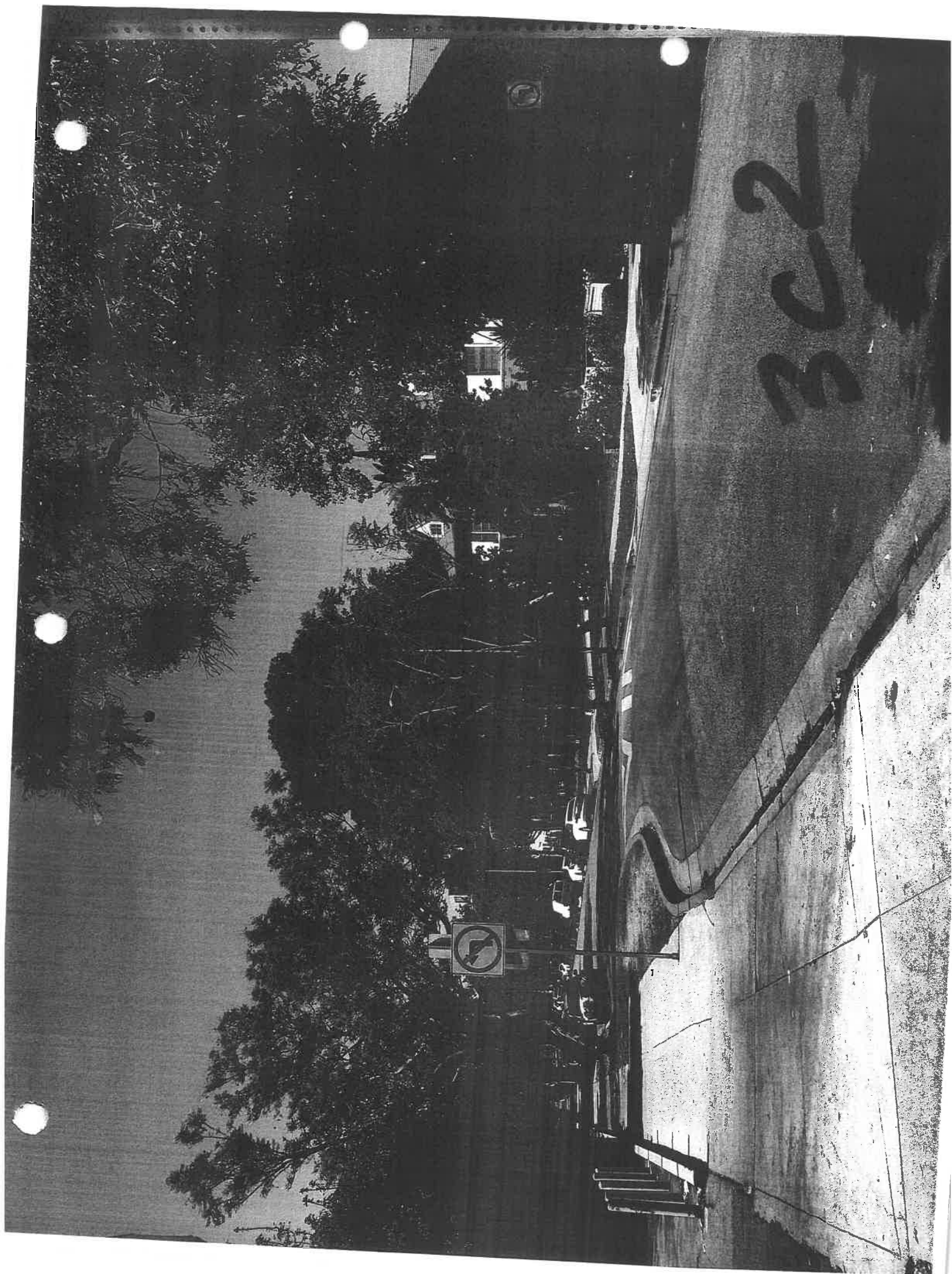
=28. The Decision permits excavation on Saturday which is outrageous. (B19).

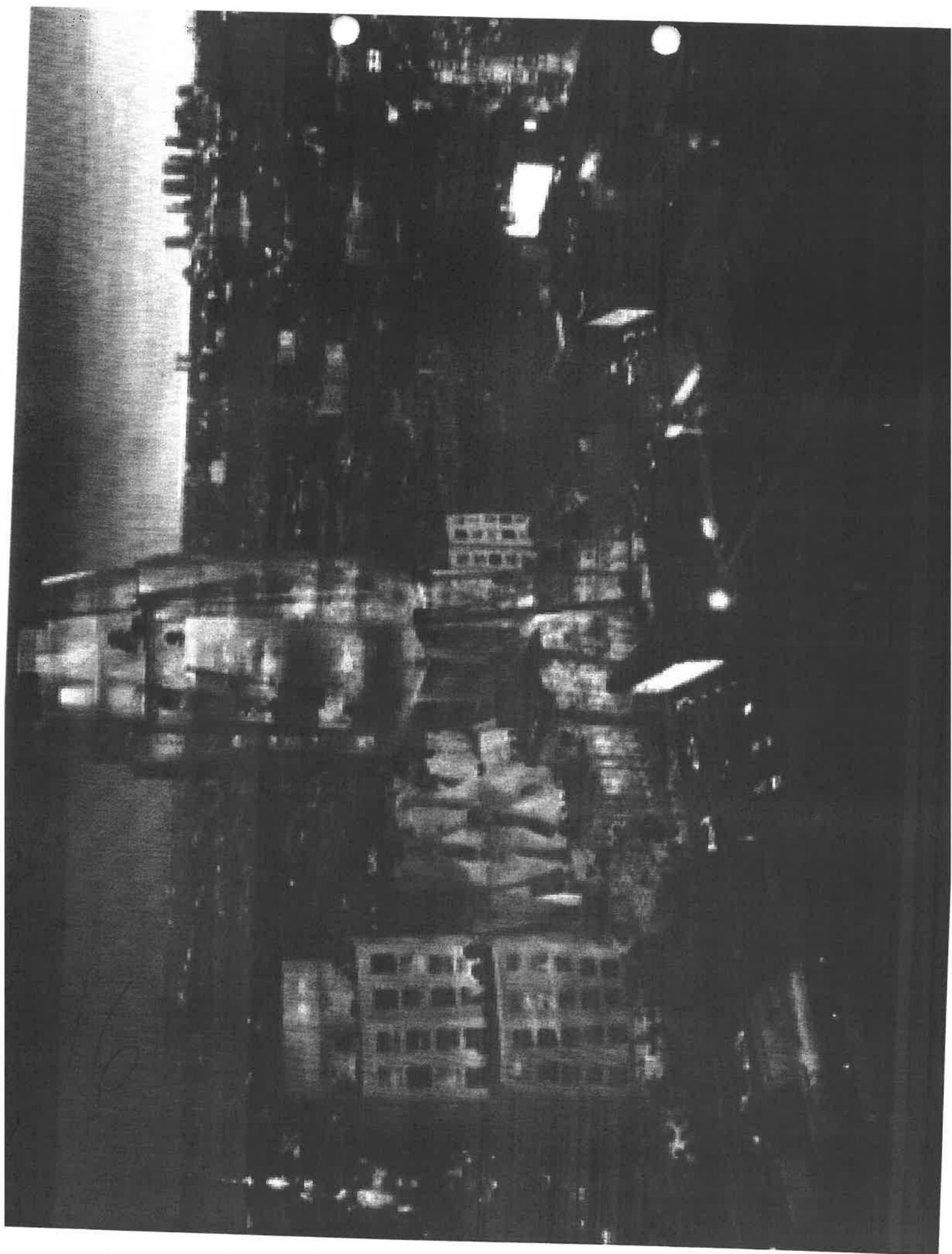
**Dated: 7-27-16**



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**Allan Wilion, Esq.**  
**Attorney for Appellant Susanne Manners**





**ORDINANCE NO. \_\_\_\_\_**

An ordinance amending Sections 12.22, 12.24, 14.00 and 19.01 of the Los Angeles Municipal Code to implement a Density Bonus program, as required by State law.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. Subdivision 25 of Subsection A of Section 12.22 of the Los Angeles Municipal Code is amended to read:

**25. Affordable Housing Incentives – Density Bonus**

(a) **Purpose.** The purpose of this subdivision is to establish procedures for implementing State Density Bonus requirements, as set forth in California Government Code Sections 65915-65918, and to increase the production of affordable housing, consistent with City policies.

(b) **Definitions.** Notwithstanding any provision of this Code to the contrary, the following definitions shall apply to this subdivision:

**Affordable Housing Incentives Guidelines** – the guidelines approved by the City Planning Commission under which Housing Development Projects for which a Density Bonus has been requested are evaluated for compliance with the requirements of this subdivision.

**Area Median Income (AMI)** – the median income in Los Angeles County as determined annually by the California Department of Housing and Community Development (HCD) or any successor agency, adjusted for household size.

**Density Bonus** – a density increase over the otherwise maximum allowable residential density under the applicable zoning ordinance and/or specific plan granted pursuant to this subdivision.

**Density Bonus Procedures** – procedures to implement the City's Density Bonus program developed by the Departments of Building and Safety, City Planning and Housing.

**Disabled Person** – a person who has a physical or mental impairment that limits one or more major life activities, anyone who is regarded as having that type of an impairment or, anyone who has a record of having that type of an impairment.

or having a common corner with the subject property, and to the local Certified Neighborhood Council.

**e. Effective Date of Initial Decision.** The Director's decision shall become effective after an elapsed period of 15 calendar days from the date of the mailing of the written decision unless an appeal is filed to the City Planning Commission.

**f. Appeals.** 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 aggrieved by the Director's decision may appeal the decision to the City Planning Commission pursuant to applicable procedures set forth in Section 11.5.7 C6 of this Code that are not in conflict with the provisions of this paragraph (g)(2)(i). The appeal shall include a filing fee pursuant to Section 19.01 B of this Code. Before acting on any appeal, the City Planning Commission shall set the matter for hearing, with written notice of the hearing sent by First Class Mail at least ten days prior to the meeting date to: the applicant; the owner(s) of the property involved; and interested parties who have requested notice in writing. The appeal shall be placed on the agenda for the first available meeting date of the City Planning Commission and acted upon within 60 days from the last day of the appeal period. The City Planning Commission may reverse or modify, in whole or in part, a decision of the Director. The City Planning Commission shall make the same findings required to be made by the Director, supported by facts in the record, and indicate why the Director erred making the determination. The appellate decision of the City Planning Commission shall be final and effective as provided in Charter Section 245.

(ii) For Housing Development Projects that qualify for a Density Bonus and for which the applicant requests up to three Incentives listed in Paragraph (f), above, and that require other discretionary actions, the applicable procedures set forth in Section 12.36 of this Code shall apply.

a. The decision must include a separate section clearly labeled "Density Bonus/Affordable Housing Incentives Program Determination."

b. The decision-maker shall approve a Density Bonus and requested Incentive(s) unless the decision-maker,

based upon substantial evidence, makes either of the two findings set forth in Subparagraph (2)(i)(c), above.

**(3) Requests for Waiver or Modification of any Development Standard(s) Not on the Menu.**

(i) For Housing Development Projects that qualify for a Density Bonus and for which the applicant requests a waiver or modification of any development standard(s) that is not included on the Menu of Incentives in Paragraph (f), above, and that are not subject to other discretionary applications, the following shall apply:

a. The request shall be made on a form provided by the Department of City Planning, accompanied by applicable fees, and shall include a pro forma or other documentation to show that the waiver or modification of any development standard(s) are needed in order to make the Restricted Affordable Units economically feasible.

b. Notice and Hearing. The application shall follow the procedures for conditional uses set forth in Section 12.24 D of this Code. A public hearing shall be held by the City Planning Commission or its designee. The decision of the City Planning Commission shall be final.

c. The City Planning Commission shall approve a Density Bonus and requested waiver or modification of any development standard(s) unless the Commission, based upon substantial evidence, makes either of the two findings set forth in Subparagraph (g)(2)(i)(c), above.

(ii) For Housing Development Projects requesting the waiver or modification of any development standard(s) not included on the Menu of Incentives in Paragraph (f) above, and which include other discretionary applications, the following shall apply:

a. The applicable procedures set forth in Section 12.36 of this Code shall apply.

b. The decision must include a separate section clearly labeled "Density Bonus/Affordable Housing Incentives Program Determination."

c. The decision-maker shall approve a Density Bonus and requested waiver or modification of any development standard(s) unless the decision-maker, based upon



**APPEAL ANALYSIS****Appellant 1: Laura Lake / Fix the City.**

The Appellants' statements have been summarized in the following categories (see attached Exhibits for the appellants' entire letters).

**Appellant's Statements – Street Vacation**

- Only the City Council has the authority to vacate a street.
- Findings are required to be made by the City Engineer in order to vacate a street.
- Notice of street vacation must be provided to private easement owners pursuant to the California Streets and Highways Code.
- The Advisory Agency cannot merge a public street and city property with private property without a street vacation.
- Use of any City property was not noticed for the public hearing.
- Use of the City-owned property constitutes a gift of public land to a private party, and fair market value compensation is required. Only City Council has the authority to permit City land to be used by a private party.
- The project is not consistent with the street and highway maps in the Hollywood Community Plan and in Mobility Plan 2035.
- The Advisory Agency has not explained how the current easements on the project site are to be vacated and replaced by a two-foot dedication.
- The discussion of Vision Zero is not supported by substantial evidence, and there is no analysis of the impact of the road closure on pedestrian and bicycle safety.
- A variance is needed to permit restaurants above the ground floor.

**Staff Response**

The Appellant's statements relative to the requirements for street vacation, inclusive of posting, noticing, City Council authority, and required City Engineer findings do not apply to the project because the project has not requested a street vacation. No street vacation was requested, and no action involving a street vacation was before the Deputy Advisory Agency for their consideration. Accordingly, and as noted by the Appellant, the public hearing did not include any mention of street vacation. Moreover, the Tract Map, stamp-dated April 13, 2016, clearly shows the existing City-owned traffic island as being "not a part" of the proposed subdivision. In order for the applicant to effectuate the proposed reconfiguration of the traffic island, a Revocable Permit and a B-Permit will be required from the Department of Public Works. This process is separate and apart from the subdivision request, is reviewed and processed by another City department, and is not under the jurisdiction of the Deputy Advisory Agency. Therefore, the Deputy Advisory Agency duly did not provide notice, consider or take action on any street vacation. Furthermore, the language in the Hearing Notice regarding requested Off-Menu Density Bonus Incentive for "land to be set aside for street purposes" concerns how floor area ratio is calculated before or after on-site street dedications pursuant to Bureau of Engineering requirements, and is not related to street vacations, as the Appellant incorrectly asserts.

Contrary to the Appellant's statements, the project does not involve any gift of public land to a private party. While the conversion and maintenance of the existing traffic island as publicly accessible open space will be paid for by the applicant, the traffic island currently is, and will so remain, as land owned by the City. As such, no fair market compensation for the purchase of the land by a private party would be required nor appropriate. The landscaped public open space will provide an amenity for the community, as recognized by the Appellant (Appeal page 7), and will do so at the expense of the applicant. Further, the Determination Letter does not state that the traffic island is a park or open space under existing conditions as claimed by the Appellant, but rather recognizes that it is an existing traffic island that is proposed to be improved and maintained by the applicant as publicly accessible open space in With-Project conditions.

18A 18

The Appellant incorrectly asserts that the two-foot dedications along Sunset Boulevard and Crescent Heights Boulevard are replacing a street vacation of existing easements. As discussed above, no street vacation has been requested. The two-foot dedication along Sunset Boulevard referenced by the Appellant will be made pursuant to Bureau of Engineering requirements, as stated in the BOE letter dated November 17, 2014 and incorporated into the Decision Letter as Condition No. 1. This dedication is required consistent with the street standards in the Transportation Element, as the applicant filed a Vesting Tentative Tract Map request prior to the adoption of Mobility Plan 2035. Therefore, further statements by the Appellant suggesting that the project is inconsistent with Mobility Plan 2035 are not relevant, as the Vesting Tentative Tract Map is subject to the requirements of the Transportation Element. The two-foot dedication will be part of the public right-of-way, as shown on the Tract Map.

The project proposes outdoor dining above the third level on the North retail building, fronting Sunset Boulevard. The Appellant is incorrect in asserting that a variance is needed to permit outdoor dining above the first floor. Pursuant to ZAI 1808 and the Los Angeles Department of Building and Safety Zoning Manual, outdoor dining above the ground floor is permitted in the C2 or less restrictive zones, inclusive of the C4-1D zoning designation of the project site.

The Appellant states that the discussion of Vision Zero in the Determination Letter is not supported by substantial evidence. The Vision Zero Initiative uses data generated from the most recently available five years of collision data (Statewide Integrated Traffic Records System) Data from 2009–2013) to compile a network of streets in Los Angeles with the highest injury rates, identified as the High Injury Network. This Vision Zero information further describes existing conditions concerning pedestrian safety in the project vicinity, supplementing the information provided in the EIR. Sunset Boulevard is identified in the High Injury Network in the project vicinity, and the project's removal of vehicular access on Sunset Boulevard is intended to provide a pedestrian friendly environment in this area. Pedestrian and bicycle safety, and site vehicular/pedestrian site access, are addressed in Section 4.J of the Draft EIR and Section 2.0, Subsection B.10 of the RP-DEIR. Bicycle and pedestrian safety are further discussed in Topical Response TR-4, Traffic and Parking, subheadings "Traffic Island Reconfiguration" and "Pedestrian and Bicycle Facilities and Safety," in the Final EIR. Contrary to the Appellant's statements that the EIR did not analyze impacts to pedestrian safety due to the proposed "road closure," the impact analysis in the EIR, including the aforementioned sections, assumes With-Project conditions, which include the reconfiguration of the traffic island to public space, under continued ownership of the City. As noted throughout the EIR, the traffic island reconfiguration retains the same number of travel lanes as under existing conditions, including a southbound right turn lane on Sunset Boulevard. As further discussed therein, the traffic island reconfiguration is anticipated to improve safety conditions, and would reduce crossing distances with potential vehicle-pedestrian conflicts. Impacts were found to be less than significant and the EIR's analysis was adequate. Substantial evidence has not been presented to the contrary.

With regard to the appellant's statement that only City Council has the authority to permit City land to be used by a private party, this is incorrect. As noted above, the City has established processes aside from street vacations where, through B-Permits, and/or revocable permits, the City may permit a private party to use City land.

#### Appellant's Statements – Traffic Impacts

- The traffic impacts analysis did not address the closest intersections
- The traffic impacts analysis did not take into account the added congestion of Mobility Plan 2035
- The EIR did not address traffic and noise impacts associated with commercial loading/unloading

Public Right of Way

Outdoor Dining

Reconfig Island to Public Space

18B

- h. Airspace and/or subsurface portions of the public right-of-way such as streets, alleys and walks.

#### D 712.2 PUBLIC SERVICE EASEMENTS

Under the category public service easements which are defined in Section 8306 of CSHC, any right in the following types of easements can be vacated:

- a. Sewers, storm drain and drainage.
- b. Pole lines and electrical transmission lines.
- c. Pipelines, canal and water transmission lines.
- d. Pathways, light and air.
- e. Other limited use public easements other than for a street.
- f. Easements reserves on a previous vacation, including future streets.

#### D 713 NON-MOTORIZED TRANSPORTATION EASEMENT

~~Some of the non-motorized transportation easements~~ such as equestrian trail, walk, bike lane or transit shelter easements can be vacated.

#### D 714 JURISDICTION

##### D 714.1 STREETS BELONG TO THE STATE

The streets of a City, even though paid for out of City funds or by local developers under a Tract action, and even though fee title is in the City, do not belong to the City. Rather, they belong to all the people of the State. This is the general rule throughout the United States. It is also the long established rule in California. "It is settled that the public streets of a municipality belong to the people of the State" (Keller vs. City of Oakland). Because of these judicial rulings, the City of Los Angeles must adhere to the vacation laws of the State as codified in the California Streets and Highways Code.

##### D 714.2 CITY AUTHORITY TO VACATE

Pursuant to Section 556 of the 2000 LACC, the Council shall have the power to vacate streets, avenues, alleys, lanes, boulevards, crossings, courts, and other public places and rights-of-way.

#### D 714.3 STATE HIGHWAYS RELINGUISHED TO THE CITY

Pursuant to Section 8315 CSHC, State highways may be vacated only by the California Transportation Commission. Where a portion of a State highway is in the process of being relinquished the City, the vacation may be recommended for conditional approval if the District Director of the California Department of Transportation (CalTrans) approves and provided the final Resolution to Vacate is not recorded prior to the relinquishment. The corner returns of City streets intersecting a State highway may also be vacated with the approval of the District Director of CalTrans.

#### D 714.4 COUNTY ROADS

The City cannot vacate, abandon or close County roads, They are under the control of the County Board of Supervisors.

#### D 714.5 STREETS BETWEEN TWO LOCAL AGENCIES

Streets extending between two local agencies may only be closed or vacated by mutual consent and agreement of both agencies. A local agency shall only have power to close or vacate the street in accordance with the laws of the State and in accordance with the written agreement evidenced by an effective resolution carrying into effect the written agreement and passed by the legislative body of the other local agency. Such agreements shall be recorded in the County Recorder's Office of each affected County.

#### D 715 DEFINITIONS AND ABBREVIATIONS

##### D 715.1 VACATION

As defined in Section 8309 CSHC, "vacation" means the complete or partial abandonment or termination of the public right to use a street, highway or public service easement.

##### D 715.2 STREET AND HIGHWAY (STATE DEFINITION)

As defined in Section 8308 CSHC, "street" and "highway" include all or part of, or any right in, a State highway or other public highway, road, street, avenue, alley, lane, driveway, place court, trail, or other public right-of-way or easement, or purported public street or highway, and the rights connected herewith including, but not limited to, restrictions of access or abutters' rights, sloping easements, or other incidents to a street or highway.

19B

**D 715.3 STREET (CITY DEFINITION)**

As defined in Section 11.01(a) LAMC, "street" shall include all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this State.

**D 715.4 PUBLIC SERVICE EASEMENT**

As defined in Section 8306 CSHC, "public service easement" includes all or part of, or any right in:

- a. A right-of-way, easement or use restriction acquired for public use by dedication or otherwise for sewers, pipelines, polelines, electrical transmission and communication lines, light and air, and other limited use public easements other than for street or highway purposes.
- b. An easement or right reserved from a vacation.

**D 715.5 PUBLIC UTILITY**

Pursuant to Section 216 CPUC, the following criteria shall apply in determining what defines a public utility:

- a. "Public Utility" includes every common carrier, toll bridge, corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, wharfinger, warehouseman and heat corporation, where the service is performed for or the commodity delivered to the public or any portion thereof.
- b. Whenever any common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, wharfinger, warehouseman, or heat corporation performs a service or delivers a commodity to the public or any portion thereof for which any compensation or payment whatsoever is received, such common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, wharfinger,

warehouseman, or heat corporation, is a public utility subject to the jurisdiction, control and regulation of the Public Utilities Commission and provisions of this part.

8307. "Resolution" includes an ordinance.

8308. "Street" and "highway" include all or part of, or any right in, a state highway or other public highway, road, street, avenue, alley, lane, driveway, place, court, trail, or other public right-of-way or easement, or purported public street or highway, and rights connected therewith, including, but not limited to, restrictions of access or abutters' rights, sloping easements, or other incidents to a street or highway.

8309. "Vacation" means the complete or partial abandonment or termination of the public right to use a street, highway, or public service easement.

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20

## **STREETS AND HIGHWAYS CODE**

### **SECTION 8300-8309**

8300. This part may be cited as the Public Streets, Highways, and Service Easements Vacation Law.

8301. Unless the provision or context otherwise requires, the definitions in this chapter shall govern the construction of this part.

8302. "Adoption" of a resolution includes passage or enactment of a resolution.

8303. "Clerk" includes a person or officer who is the clerk of a legislative body.

8304. "Legislative body" means:

(a) In the case of a county or city and county, the board of supervisors.

(b) In the case of a city, the city council or other body which, by law, is the legislative body of the government of the city.

(c) In the case of the California Transportation Commission, the commission.

8305. "Local agency" means a county, city, or city and county.

8305.5. "Public entity" means a local agency or the California Transportation Commission.

8306. "Public service easement" includes all or part of, or any right in:

(a) A right-of-way, easement, or use restriction acquired for public use by dedication or otherwise for sewers, pipelines, polelines, electrical transmission and communication lines, pathways, storm drains, drainage, canal, water transmission lines, light and air, and other limited use public easements other than for street or highway purposes.

(b) An easement or right of a type described in Section 8340.

8306.5. "Public utility" means a public utility as defined in Section 216 of the Public Utilities Code.



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Construction (A) Permits

Construction (B) Permits

Excavation (U) Permits

Excavation (E) Permits

Revocable (R) Permits

Sewer (S) Permits

Maintenance Hole Permits

Traffic Management Committee

Claims for Refund

Subdivision Maps Status

Street Vacation Log System

Planning Case Referral Form

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Engineering Fees

Manuals

FAQs

Customer Satisfaction Survey

Customer Satisfaction Survey Report

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## Construction Permits

An "A" Permit (LAMC 62.106.a) is issued only for the repair, construction or reconstruction of curbs, sidewalks, driveway approaches or gutters, and work appurtenant to the foregoing, or work within a public easement, where the work contemplated is limited in extent and can be constructed to match existing grades without a survey or engineered plans. "A" Permits are often issued in conjunction with sewer permits which require excavation in a public street. Driveways and sidewalks involving the relocation of water meter and gas valve boxes, street light and traffic signal conduit and pull boxes and parking meters, require coordination with the appropriate agencies. Please click [here](#).

A "B" Permit (LAMC 62.106.b) is issued for extensive public works improvements including the widening of streets and alleys, the changing of existing street grade, construction of bridges, retaining walls, and the installation of sewer, storm drains, street lighting, and traffic signals. Construction plans are usually required which must be signed by a California licensed Civil and/or Electrical and/or Traffic Engineer. Please click [here](#).

Construction projects which will require public Right-of-Ways to be trenched or excavated must obtain an excavation permit. Electrolier and pull box relocations, monitoring wells, soil borings, potholes drilling in public Right-of-Ways also need to obtain an excavation permit. Information about the location of underground utilities, as well as construction standards, are obtained at the District Office permit counter. Additionally, excavation and shoring plans are approved and permits needed to commence work immediately adjacent to public Right-of-Ways. In some cases special insurance or bonds be required to be posted in connection with the project, these transactions may be handled at the permit counter. Please click [here](#).

An "E" Permit (LAMC 6.2) is issued for jobs in or adjacent to public streets for the purposes of the street light relocation, shoring (lateral support), monitoring well, soil boring, private conduits (non-franchise), and others. Please click [here](#).

The purpose of the Revocable Permit (R-Permit) is to grant conditional encroachment of the public right-of-way by private parties not authorized to occupy the right-of-way. The R-Permit review process ensures that encroachments are checked for compliance with the City's specifications for design, use, material, and inspection. Please click [here](#).

This online Sewer "S" Permit Application is for Sewer & Storm Drain Permit. Municipal Code Section 84.12 - House Sewer Connection -Permit (Amended by Ord. No. 150,478, Eff 2/6/78). Please click [here](#).

The online application is for refund of less than \$29,457.00. This online Claim for Refund is only for Class "A" Permits, S - Permits (Sewer Permits), U - Permits (Utility Permits), and Sewer Facility Charges (SFC). Please click [here](#).

This online Planning Case Information. Section 62.106.1(a)(4) LAMC provides for the Bureau of Engineering to collect a fee for the preparation of required reports in conjunction with certain planning cases referred from the City Planning Department.

21A





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## Construction Permits

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A **"B" Permit** (LAMC 62.106.b) is issued for extensive public works improvements including the widening of streets and alleys, the changing of existing street grade, construction of bridges, retaining walls, and the installation of sewer, storm drains, street lighting, and traffic signals. Construction plans are usually required which must be signed by a California licensed Civil and/or Electrical and/or Traffic Engineer. Please click [here](#).

Construction projects which will require public Right-of-Ways to be trenched or excavated must obtain an **excavation permit**. Electrolier and pull box relocations, monitoring wells, soil borings, potholes drilling in public Right-of-Ways also need to obtain an excavation permit. Information about the location of **underground utilities**, as well as construction standards, are obtained at the District Office permit counter. Additionally, excavation and shoring plans are approved and permits needed to commence work immediately adjacent to public Right-of-Ways. In some cases special insurance or bonds be required to be posted in connection with the project, these transactions may be handled at the permit counter. Please click [here](#).

An **"E" Permit** (LAMC 6.2) is issued for jobs in or adjacent to public streets for the purposes of the street light relocation, shoring (lateral support), monitoring well, soilboring, private conduits (non-franchise), and others. Please click [here](#).

The purpose of the **Revocable Permit (R-Permit)** is to grant conditional encroachment of the public right-of-way by private parties not authorized to occupy the right-of-way. The R-Permit review process ensures that encroachments are checked for compliance with the City's specifications for design, use, material, and inspection. Please click [here](#).

This online **Sewer "S" Permit** Application is for Sewer & Storm Drain Permit. Municipal Code Section 64.12 - House Sewer Connection -Permit (Amended by Ord. No. 150,478, Eff 2/6/78). Please click [here](#).

The online application is for refund of less than \$29,457.00. This online **Claim for Refund** is only for Class "A" Permits, S - Permits (Sewer Permits), U - Permits (Utility Permits), and Sewer Facility Charges (SFC). Please click [here](#).

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21A



City of Los Angeles  
Department of Public Works  
**BUREAU OF ENGINEERING**

## Construction Class "B" Permits

### "B" PERMITS DESCRIPTION

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A "B" Permit (LAMC 62.106.b) is issued for extensive public works improvements including the widening of streets and alleys, the changing of existing street grade, construction of bridges, retaining walls, and the installation of sewer, storm drains, street lighting, and traffic signals. Construction plans are required which must be signed by a California licensed Civil and/or Electrical and/or Traffic Engineer.

B-Permits have three phases: estimate, design and construction. The permit covers plan check engineering, installation of traffic control devices, inspection, testing during construction, and maintenance of street trees.

"B" Permits are most frequently issued for public works improvements adjacent to land being developed. In these instances, the extent and type of improvements depend on conditions imposed by the Council, City Engineer, Department of City Planning, or some other jurisdictional body in accordance with the Municipal Code, City Charter, State Law, or City Ordinance.

### Definitions/ Roles

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There are three roles associated with a permit record:

- **Permit owner (Owner)** - The permit owner or Owner is the party responsible for guaranteeing, assuming the liabilities for, and authorizing all charges and/or work associated with the construction of the public improvements associated with the permit
- **Applicant** - The party submitting and/or processing the application for the B permit. This role may be handled by the permit owner or a separate individual or entity assigned by the permit owner. The Applicant is NOT authorized to make payment, authorize charges and/or work associated with this permit unless specifically authorized by the permit owner.
- **Private Engineer ( Engineer of Record)** - The civil engineer provided by the permit owner to be responsible for the design and construction of the improvements associated with the permit.

- **Access** - Access to a permit record allows for one to view information associated with the permit and add or view attachments. Changes to the permit record can only be processed by Bureau of Engineering staff.

## **ACCESS TO THE PERMIT RECORD:**

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The following will **always** have access to the Permit record:

- Applicant
- Engineer of Record

## **INSTRUCTIONS**

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**Step 1:** The applicant fills in the online application form which is very similar to the hard copy form that may be completed in an Engineering District Office. The applicant must fill in all the fields that are marked with an \*, otherwise the application will not be accepted. Other fields may be filled out by the applicant if they have the available information or knowledge to complete the field. When the form is completed the applicant selects the Submit button at the bottom of the form and the information is entered into the B Permit application database.

**Step 2:** After the customer successfully submits the application, the engineering office from which the B Permit will be issued, and the applicant, are notified that an application has been submitted. The application submittal information is then reviewed and appropriate additions or changes are made in the information entered. When all necessary information to complete that application and issue the permit is available, the applicant will be notified via e-mail that they must come into the appropriate Engineering District Office to complete the application process.

Completing the application consists of the owner's signature on the application and submittal of a completed REQUIRED SUBMITTALS TO FILE FOR "B-PERMIT BOND AND FEE ESTIMATE" form, with submittals. The submittals include 2 sets of plans, a \$2,000 deposit check, the REQUIRED CONDITIONS OF APPROVAL and the engineer's quantity take off list. After the submittal process has been completed a B Permit BR number will be assigned to the project. After the BR number is assigned you will be able to access your project information online by creating a B Permit account or utilizing an existing one. Create or utilize an account at <http://engpermits.lacity.org/bpermits/>

## **B PERMITS STILL CAN BE OBTAINED AT OUR OFFICES.**

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For office locations, hours and Phone Numbers please refer to our Contact Us Page.

## **GENERAL INFORMATION**

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This form shall be used for all Class "B" Permits. It is not necessary to repeat the STREETS AND LIMITS breakdown on CONSTRUCTION B-PERMITS that are preceded by checking only permits.

1. **LIABILITY INSURANCE** and performance bonds are only required for approval of construction B-Permits.
2. **OWNER-APPLICANT** must be the owner of the affected property, and must be the same as the performance bond principal. Contractors for governmental agencies under faithful performance bonds shall be entered as OWNER-APPLICANT. Applications issued to CORPORATIONS shall be executed by the President, Vice-President, Secretary or Asst. Secretary, and the CORPORATE SEAL shall be impressed.
3. **SAFETY ORDERS** - Sec. 6500 of the STATE LABOR CODE requires the APPLICANT to obtain a STATE DIVISION OF INDUSTRIAL SAFETY (DIS) PERMIT and a copy of STATE INDUSTRIAL SAFETY ORDERS before beginning work on any trench or excavation FIVE FEET OR DEEPER into which a person must descend. City personnel will not enter such excavations until the required permit and safety orders have been obtained and are displayed on the job site.
4. PCF percentage factors apply to possible construction change orders. CIF percentage factors apply to cost increases through the life of the project. (See CONSTRUCTION ITEMS on the application.)
5. **PLAN CHECKING DEPOSITS** are subject to charges for blueprints, engineering, testing, traffic signal design, street lighting design, and administrative service. CONSTRUCTION PERMIT DEPOSITS may be charged against for blueprints, engineering, testing, surveying, inspection, administrative services, emergency light and barricade services, street tree planting and maintenance, street lighting burn tests, street name signs, traffic warning and regulatory signs, sandblasting and painting of traffic markings, erosion control, etc. Unused fees are refunded after closure of the permit. The applicant will be billed for unreimbursed charges (fee deficits).
6. **DESIGN OFFICE** will determine if applicant must dedicate a right of way to the City for construction purposes. The applicant shall open a right of way work order and deposit necessary fees with the REAL ESTATE DIVISION, BUREAU OF ENGINEERING.
7. **NOT MORE THAN ONE TRACT OR PARCEL MAP SHALL BE ASSIGNED TO A SINGLE B-PERMIT.**
  - THIS CONSTRUCTION B-PERMIT MUST BE ON THE JOB SITE AT ALL TIMES.
  - THIS PERMIT VALID ONLY IF ACCOMPANIED BY A DIS PERMIT AND SAFETY ORDERS (SEE NOTE 3 ABOVE). DIS PERMIT MAY BE OBTAINED FROM STATE DIVISION OF INDUSTRIAL SAFETY, 3460 WILSHIRE BOULEVARD, LOS ANGELES. NOTE: GOVERNMENTAL AGENCIES AND PUBLIC UTILITIES UNDER PUC CONTROL ARE EXEMPT. PRIVATE CONTRACTORS ACTING AS PERMITTEE FOR SUCH AGENCIES ARE NOT EXEMPT.

**NOTE: CHARGES AGAINST THE PERMIT FEE DEPOSIT WILL BE COMPILED APPROXIMATELY 6 TO 8 WEEKS AFTER THE DATE FINAL INSPECTION IS COMPLETED. THE B-PERMIT WILL BE CLOSED AND THE IMPROVEMENT BOND EXONERATED AFTER ALL PERMIT FEE CHARGES HAVE BEEN ACCUMULATED AND PAID.**

## THE CLASS "B" PERMIT

### 5.1. B-Permit Description and Purpose

A Class "B" Permit, (B-Permit), is required for larger, more complex construction projects and new improvements in the public right-of-way. This includes projects such as the widening of streets, maintaining or changing of existing street grade, the installation of sewers, storm drains, street lights, and traffic control signals, or the installation of larger quantities of curb, gutter and sidewalk. Street widening generally involve construction of new street pavement, gutter, curb and sidewalk, and the relocation of obstructing structures. B-Permit construction plans are prepared by private engineers hired by the B-Permit Applicant, and checked by City staff.

The B-Permit is the City's Process of ensuring that construction in the public right of way meets the City's liability, bonding, design, maintenance, materials, construction, and inspection requirements. The B-Permit ensures that the Applicant and the City are receiving a quality construction product.

B-Permits have three phases: estimate, design and construction. The purpose of the estimate phase is for establishment of the bond and fee deposit amounts. The applicant submits an application, plans, fee and documents, and the City prepares a bond and fee deposit estimate.

The primary purpose of the B-Permit design phase is to manage the City's engineering plan check of construction plans prepared by the Applicant's Engineer. After the applicant pays the fee deposit amount (established in the estimate phase), and submits plans and relevant documents, the plans are checked for conformance with City requirements and returned to the private engineer with comments. Plans are re-submitted by the private engineer and re-checked. At the end of the design phase, the construction plans are approved by the City, indexed, and are then ready for construction by the applicant.

The construction phase of the B-Permit process follows the completion of the design B-Permit process. The primary purpose of the construction phase is to verify compliance with the approved plans and specifications. In addition to the City's construction inspection, change orders, construction plan revisions, and field testing work are all managed during the construction phase.

The B-Permit is most frequently issued for major improvements adjacent to land under private development. In these instances, the extent and type of major improvements required is contained in conditions determined by the Department of City Planning, the BOE (the City Engineer), the City Council, or some other jurisdictional body in accordance with the Los Angeles Municipal Code, City Charter, State Law, or City Ordinance.

2/B

## **THE CLASS "B" PERMIT**

### **City's Authority for B-Permit**

Los Angeles Municipal Code (LAMC), Section 62.105, requires a permit be obtained for construction in the public right-of-way.

LAMC, Section 62.106 determines the class of construction permit based on the scope of construction work. There are two classes of construction permits: the Class "A" Permit (A-Permit), and the Class "B" Permit (B-Permit). The City's authority for the B-Permit is based on LAMC, Section 62.106(a) and (b) as follows:

(a) Class "A" shall include only the repair, construction or reconstruction of curbs, sidewalks, driveway approaches, or gutters and work appurtenant to the foregoing, or work within a public easement, where, in the opinion of the City Engineer, the work contemplated is so limited in extent and such simplicity of design that the deposit of those fees provided herein for Class "A" permits will with reasonable certainty compensate and reimburse the City for the costs of inspection and supervision entailed.

(b) Class "B" shall include all permits for work not included in Class "A" except for work for which a revocable permit is issued pursuant to Section 62.118.2 of this Code.

(Please note: LAMC, Section 62.118.2 refers to the issuance of a revocable permit for private use of the public right-of-way. Please go to Chapter 9, Private Use of the Public Right-of-Way –The Revocable Permit, for more information.)

### **How long does it take to complete the B-Permit process?**

The length of time depends on the complexity of the construction improvements, the size of the construction improvements, the quality of the Applicant's plans, the ability of the Applicant to satisfy the City's design standards, and the workload of City staff. The time required from application submittal to indexed plans ready for construction typically takes over 6 months. Applicants are advised to start the process early and monitor the review process closely. In order to facilitate this, the B-permit status is available on-line for the applicant.

The length of the construction phase is as long as it takes the Applicant's contractor to complete the construction and to complete the As-Builts of the drawings.

### **When does a B-Permit expire?**

According to the LAMC, a Class "B" permit expires six months after date of issuance. But, the LAMC allows for permit extensions if the Permittee has a good

## **THE CLASS "B" PERMIT**

reason. In practice, if no work activity occurs, and no extension is requested, the B Permit expires one year after issuance. If you are proceeding in a positive manner toward completion of your design or construction, the appropriate District Office may grant you an extension.



the infill project shall be consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board, pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(2) A clean renewable energy project that generates electricity exclusively through wind or solar, but not including waste incineration or conversion.

(3) A clean energy manufacturing project that manufactures products, equipment, or components used for renewable energy generation, energy efficiency, or for the production of clean alternative fuel vehicles.

(c) "Transportation efficiency" means the number of vehicle trips by employees, visitors, or customers of the residential, retail, commercial, sports, cultural, entertainment, or recreational use project divided by the total number of employees, visitors, and customers.

21181. This chapter does not apply to a project if the applicant fails to notify a lead agency prior to the release of the draft environmental impact report for public comment that the applicant is electing to proceed pursuant to this chapter. The lead agency shall notify the Secretary of the Natural Resources Agency if the applicant fails to provide notification pursuant to this section.

21182. A person proposing to construct a leadership project may apply to the Governor for certification that the leadership project is eligible for streamlining provided by this chapter. The person shall supply evidence and materials that the Governor deems necessary to make a decision on the application. Any evidence or materials shall be made available to the public at least 15 days before the Governor certifies a project pursuant to this chapter.

21183. The Governor may certify a leadership project for streamlining pursuant to this chapter if all the following conditions are met:

(a) ~~The project will result in a minimum investment of one hundred million dollars (\$100,000,000) in California upon completion of construction.~~

(b) ~~The project creates high-wage, highly skilled jobs that pay prevailing wages and living wages and provide construction jobs and permanent jobs for Californians, and helps reduce unemployment.~~

(c) ~~The project does not result in any net additional emission of greenhouse gases, including greenhouse gas emissions from employee transportation, as determined by the State Air Resources Board pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code.~~

(d) ~~The project applicant has entered into a binding and enforceable agreement that all mitigation measures required pursuant to this division to certify the project under this chapter shall be~~

22A



DAVID E. RYU  
COUNCILMEMBER, FOURTH DISTRICT

July 21, 2016

Seleta J. Reynolds  
General Manager  
Department of Transportation  
100 S. Main St., 10<sup>th</sup> Floor  
Los Angeles, CA 90012

Mr. Vince Bertoni  
Director of Planning  
City Planning Department  
200 N. Main St., 5<sup>th</sup> Floor  
Los Angeles, CA 90012

**RE: 8150 Sunset; CPC-2013-2551-CUB-DB-SPR; ENV-2013-2552-EIR**

Ms. Reynolds and Mr. Bertoni,

I am writing to express concern over the Traffic Impact Assessment for the 8150 Mixed-Use Development project dated February 28, 2014. The original Traffic Impact Assessment of the Traffic Analysis prepared by Hirsch/Green Transportation Consulting, Inc. and reviewed by LADOT is deficient and incomplete due to significant changes made to the project subsequent to the review.

We need a new assessment to adequately evaluate impacts. Specifically, changes from the original project to the current project resulted in reallocations in both commercial and residential floor area. In addition, the February 2014 assessment evaluated a project that provided access points at the three currently existing driveways. The project as proposed today, and what will be before the City Planning Commission on July 28, 2016, has eliminated the existing driveway on Sunset Blvd. Whether its trip generation or traffic circulation that would impact the studied unsignalized intersections it is absolutely necessary that this evaluation and assessment occur prior to the City Planning Commission taking action.

23



Ms. Reynolds and Mr. Bertoni  
July 21, 2016  
Page 2

Of most noted concern is the proposed reconfiguration of the Southwest Quadrant of the intersection of Sunset Blvd. and Crescent Heights Blvd. It would result in the removal of the eastbound right-turn lane into the southbound lane of Crescent Heights. An exclusive right-turn lane would then be added. This proposal was brought to the Department of Transportation by the developer and other options for the improvement of the intersection were not considered. The removal of the sweeping right-turn lane has the added issue of City owned property. Pedestrian and traffic safety and traffic flow are of utmost concern and when substantial changes to a proposed project are made that could significantly impact traffic circulation and pedestrian safety, all options must be on the table. As we move forward and in light of Mobility 2035 it imperative to implement transportation and circulation best practices that truly improve the public right-of-way and ensure pedestrian safety. A smart and creative approach is essential and necessary to produce solutions that protect our residential areas and commercial access.

I respectfully request that the Department of Transportation assess an updated traffic analysis based on the project changes, including, the proposed elimination of an entrance off Sunset Blvd. The Department should also further evaluate the proposed elimination of the sweeping right turn and all potential options, and provide a recommendation for a comprehensive and best alternative to improving the Sunset Blvd. and Crescent Heights intersection.

I thank you for your careful consideration.

Sincerely,



David E. Ryu  
Councilmember

c: Tomas Carranza, Senior Transportation Engineer  
Wes Pringle, Transportation Engineer  
David H. Ambroz, President  
Renee Dake Wilson, AIA, Vice President  
Robert L. Ahn, Commissioner  
Caroline Choe, Commissioner  
Richard Katz, Commissioner  
John W. Mack, Commissioner  
Samantha Millman, Commissioner  
Veronica Padilla-Campos, Commissioner  
Dana Perlman, Commissioner





## CITY OF WEST HOLLYWOOD

is unenforceable. Therefore, the FEIR inadequately addresses a known significant traffic impact, and the EIR should not be certified without revision. Additionally, the City of Los Angeles has a duty to identify all feasible mitigation measures that could mitigate or reduce this impact. 14 Cal. Code Regs. 15126. With the knowledge that MM TR-1 is infeasible and unenforceable through permit conditions, the City has not met its burden to mitigate the identified impact under CEQA. Further, the City's finding XI.6 in the Letter of Determination is not supported by substantial evidence because the traffic impact at Havenhurst and Fountain has not been mitigated to the extent feasible. There is no evidence that the City has explored any other feasible means of mitigating this impact to the environment, notwithstanding that the West Hollywood has repeatedly reported that the traffic signal is objectionable and will not be approved. Contrary to the statement in Los Angeles' response letter dated June 21, 2016, it is not the City of West Hollywood's role to identify feasible mitigation measures for this project.

### PROJECT DESIGN FEATURE PDF-WW-1

Although the City of Los Angeles has acknowledged that the Project must be subject to the same fair-share contribution as other projects which use City of West Hollywood sewers, the language as written for PDF-WW-1 is vague and ambiguous and does not address the City's main concern. Specifically, the measure must make clear that the applicant is responsible for its fair share of operation and maintenance of the sewer system. As drafted, PDF-WW-1 suggests that the developer must pay for a proportional share of future sewer upgrades. However, this is not the case; the developer must pay its fair share for costs for ongoing operation and maintenance of the existing sewer system.

If this was an identical project within West Hollywood, the property owner would be paying an annual City Sewer Service charge on their property tax bill that is not applicable to this project in the City of Los Angeles. Since West Hollywood does not have a mechanism to collect sewer usage fees on properties outside of the City boundary, we recommend the developer make a one-time payment to cover the equivalent of 50 years of City Sewer Service charge. The City Sewer Service Charge is based on the concept of the Equivalent Sewer Unit (ESU). A single family residential property's City Sewer Service Charge is 1 ESU. The City Sewer Service Charge rates for all other land uses are based on the proportional use of the sewer system, in multiples of the ESU. The formula for calculation of the City Sewer Service Charge remains unchanged from the method of calculation adopted by the City Council in 1997. Per the table below, based on the Project land uses listed in the FEIR, the sewer usage by the proposed development is 270 Equivalent Sewer Units (ESU).

Land Use	Quantity	Unit	Factor	GPD (gallons per day)	ESU (equivalent sewer unit)
Studio Unit	54	Residential Units	156.00	8,424	32
One Bed Unit	134	Residential Units	156.00	20,904	80
Two Bed Unit	35	Residential Units	156.00	5,460	21





## CITY OF WEST HOLLYWOOD

Three Bed Unit	24	Residential Units	260.00	6,240	24
Four Bed Unit	2	Residential Units	260.00	520	2
Retail	11,937	Square Feet	0.10	1,194	5
Restaurant	23,158	Square Feet	1.00	23,158	89
Supermarket	24,811	Square Feet	0.15	3,722	14
Bank	5,094	Square Feet	0.10	509	2
		Total		70,131	270

The annual City Sewer Service Charge rate for Fiscal Year 2016-17 is \$40.91 per ESU. Considering the proposed project of 270 ESU, the City Sewer Service Charge for FY 2016-17 would be \$11,034.80. The City Sewer Service Charge is adjusted by the CPI-LA on July 1 of each year. For example, the CPI-LA which has been applied for calculation of the 2016-17 assessment rates is 3.266%. Assuming a 50-year term for calculation of the developer's obligation for funding their fair-share of costs for on-going operation and maintenance of the City of West Hollywood sewer system, as well as an annual CPI-LA of 3% per year for the next 50 years, the amount the developer would need to pay the City of West Hollywood is \$1,244,691.30. Again, this dollar amount would need to be paid to the City of West Hollywood prior to issuance of the Building Permits.

Therefore, the City of West Hollywood requests the language of PDF-WW-1 be revised as follows:

- ~~PDF-WW-1: In order to address potential future improvements to the operation and maintenance costs for sewage conveyance facilities within the City of West Hollywood that serve the project site, prior to issuance of Building Permits the applicant shall pay to the City of West Hollywood a lump sum amount of \$1,244,691.30 which is the amount equal to the West Hollywood City Sewer Service Charge to be paid by an identical project generating 270 Equivalent Sewer Units (ESU) located in the City of West Hollywood for 50 years. the project shall contribute fair share payments to the City of West Hollywood commensurate with the project's incremental impact to affected facilities. Prior to the issuance of building permits, the applicant shall enter into an agreement with the City of West Hollywood determining the project's specific fair share contribution for West Hollywood sewage system upgrades. The fair share contribution shall be calculated in the same manner used to calculate the fair share contribution for development projects within the City of West Hollywood, and the project's specific contribution shall be determined at such a time that the necessary improvements and associated capital costs are known, and shall be proportional to the project's contribution to total wastewater flows in each affected West Hollywood-owned sewer. The applicant shall guarantee (by bond, cash or irrevocable letter of credit, subject to the approval of the City of West Hollywood) the necessary funding to enable the City of West Hollywood to design and install the necessary improvements.~~

There is a less expensive alternative to paying the above stated \$1,244,691.30 to the City of West Hollywood. The City of Los Angeles could require the developer to design and construct a new 8-inch diameter sewer to be aligned in Crescent Heights



## CITY OF WEST HOLLYWOOD

Boulevard. The proposed sewer would flow south from the project site to connect to an 8-inch diameter sewer in Crescent Heights Boulevard, just south of Santa Monica Boulevard. This new 8-inch diameter sewer would be owned and maintained by the City of Los Angeles, similar to other sewers owned and maintained by City of Los Angeles that pass through West Hollywood elsewhere. The construction would need to be completed prior to issuance of the certificate of occupancy for the proposed development. The City of West Hollywood would be willing to issue the necessary Encroachment Permits for construction of the new sewer. By building this new sewer, the proposed project would no longer utilize the City of West Hollywood sewer system, and would not need to pay for their fair-share of the cost of on-going operation and maintenance of the City of West Hollywood sewer system.

Under either approach, the language of PDF-WW-1 is incorrect and must be revised to more accurately reflect how the project will address its impact on the West Hollywood sewer system.

### Additional Issues:

The City raised the following issues in its comment letter dated May 23, 2016 and the planning staff and Advisory Agency did not resolve these issues.

#### Elimination of Site Access on Havenhurst Drive

The current version of the Project proposes removal of driveway access to the site along Sunset Boulevard. The LOD has conditioned the project such that all residential traffic access the site on Havenhurst Drive and all commercial traffic to access the site on Crescent Heights Boulevard. However, the LOD and FEIR state commercial delivery and service trucks will also access the site from Havenhurst Drive. The City of West Hollywood requests that the LOD and FEIR be revised, and preclude all commercial traffic (including delivery and service trucks) from accessing the site from Havenhurst Drive.

#### Traffic Impacts Along Fountain Avenue

On Fountain Avenue, the level of service calculations show worsening conditions at all intersections studied. Although the signalized intersections of Fountain/Olive and Fountain/Laurel were not included in the analysis, they too will be impacted. To mitigate the worsening of conditions at these intersections, the developer should be required to fund the upgrade of the traffic signal controller equipment, replacing existing 170 controllers with 2070 controllers, as well as fund installation of battery back-up systems for the following City of West Hollywood signalized intersections: Fountain/La Cienega; Fountain/Olive; Fountain/Sweetzer; Fountain/Crescent Heights; and Fountain/Laurel (Fountain/Fairfax is not included, as that intersection already has an upgraded 2070 controller and has a battery back-up system).

#### Traffic Impacts Along Havenhurst Drive

The proposed traffic signal at Sunset Boulevard and Havenhurst Drive along with the proposed signaling the intersection at Fountain Avenue and Havenhurst Drive would effectively make Havenhurst Drive a cut-through route, generating additional traffic congestion and noise impacts to the residential neighborhood along this portion of Havenhurst Drive. In Response No. A9-10, the FEIR erroneously states that the





## CITY OF WEST HOLLYWOOD

installation of new signals at both ends of the segment of Havenhurst Drive between Sunset Boulevard and Fountain Avenue will not result in any significant cut-through traffic because there are already a series of speed humps along this segment of Havenhurst Drive, and the two new traffic signals could be intentionally "mis-timed" to delay and deter cut-through traffic. To the contrary, this will only slow down the increased traffic going through this segment of Havenhurst Drive and cause more traffic congestion, rather than lessen the anticipated impacts. Thus, the FEIR must be revised to address these impacts, and have an added project alternative with no vehicular access off Havenhurst Drive.

### Safe Pedestrian Access

The proposed project will increase both vehicular and pedestrian traffic in the surrounding area, and this increase in pedestrian traffic levels warrants an upgrade to the existing mid-block crosswalk located south of the project site on Crescent Heights Boulevard. In Response No. A9-11, the FEIR states there is no nexus between the proposed Project and any significant pedestrian related impacts on Crescent Height Boulevard to justify upgrading the existing mid-block crosswalk, because development in the surrounding area will create more traffic in the area and contribute much more toward possible increases in conflicts between vehicles and pedestrians than the proposed Project itself. However, this reasoning is flawed in that it does not recognize the increase in pedestrian traffic caused specifically by the proposed Project.

Therefore, the City of West Hollywood requests the project be condition to upgrade the current crosswalk to a mid-block pedestrian signal. Pedestrian visibility enhancements should also be incorporated into the signalization of this crosswalk (i.e. sidewalk bulb-outs, refuge island, reflective markings, etc.).

The above comments in this appeal are related to the certification of the EIR. The City of West Hollywood reserves the right to, and will, raise additional issues pertaining to the project at subsequent public hearings.

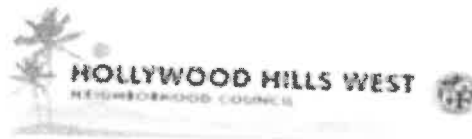
Sincerely,

Scott Luncford, AICP  
Associate Planner  
Current and Historic Preservation Planning  
City of West Hollywood

Subject: Fw: 8150 Sunset - HHWNC's comment letter  
 From: Orrin Feldman (ofeldman@pacbell.net)  
 To: ofeldman@pacbell.net;  
 Bcc: n2swimng@aol.com; keithnakata@mac.com; julia.duncan@lacity.org; catherine.landiers@lacity.org; sarah.dusseault@lacity.org;  
 Date: Friday, June 17, 2016 8:44 PM

This is a slightly enlarged version, which might be easier to read.

#6 + 7



Ms. Luci Ibarra  
 City Planner - Major Projects

Mr. William Lamborn  
 Planning Assistant - Major Projects  
 200 North Spring Street, Room 750  
 Los Angeles, CA 90012

Re: 8150 Sunset Boulevard  
 Your case nos. VTT-72370-CN; CPC-2013-2551; and ENV-2013-2552-EIR)

Dear Ms. Ibarra and Mr. Lamborn:

The Hollywood Hills West Neighborhood Council ("HHWNC") is one of the certified neighborhood councils in the City of Los Angeles. 8150 Sunset is located immediately adjacent to HHWNC's area, and HHWNC has been the neighborhood council responsible for reviewing the proposed project at 8150 Sunset Boulevard. The site was never included in any neighborhood council's area.

At a meeting of HHWNC Board on June 15, 2016, HHWNC's Board voted (16-0) to:

- (i) support City Council Member David Ryu's position in his letter to Vince Bertoni, LA's Director of Planning, dated May 3, 2016, that the proposed heights of the buildings being proposed are out of scale with the site, the adjacent buildings and the surrounding commercial and residential areas;
- (ii) recommend that the City Planning Commission should not approve and/or certify the proposed project's environmental impact report because the proposed project's buildings are out of scale with the site, the adjacent buildings and the surrounding commercial and residential areas. The proposed project would be higher and taller than anything ever built along Sunset Boulevard from downtown to the Pacific Ocean, and it's not appropriate to do so;
- (iii) recommend that the city Planning Commission should not approve and/or certify the proposed project's environmental impact report for the additional following reasons:
  - (a) the traffic impacts are significant, and the proposed circulation plan and traffic impact mitigations are NOT feasible, especially since the City of West Hollywood told the hearing officer at the Planning Department's hearing on May 24, 2016, and via a letter, that West Hollywood will not permit the installation of lights which the proposed project and its EIR seem to depend upon having in order to provide required traffic impact mitigation(s);
  - (b) the density bonus for the site, which is based on the proposed project's site being within 1,500 feet of a transit stop in order to provide for a 3:1 density for this proposed project, rather than the 1:1 density which otherwise applies, erroneously treats the few busses running intermittently past the site and/or nearby as a mass transit hub when the site isn't that at all. It's questionable whether the site satisfies the actual rules for obtaining the density bonus. No adjustment or variance should be granted with regard to the proposed project under these circumstances. There also is an open question as to whether the Height District for the site supports the developer's request for a 3:1 floor to area ratio.
  - (c) the proposed plan for integrating the current "island" at Sunset/Crescent Heights southwestern side in to the proposed project's set is not justified nor properly mitigated for its traffic impact on both east bound and south bound traffic. East bound



traffic on Sunset won't be able to turn easily to go south on Crescent Heights. And, the south bound traffic flow from Laurel Canyon to Crescent Heights, which is tens of thousands cars daily, will be impeded significantly. Gridlock can be expected. The entire Sunset/Crescent Heights intersection warrants being redesigned for traffic and public safety reasons, rather than just incorporating the island area and the turning lane there into becoming part of the proposed project's site. Treating that space as the proposed project's open space is a give away of a public asset, and it's unjustifiable for purposes of California CEQA analysis.

Additionally there are serious public concerns about whether the Lytton Bank Building, now a JP Morgan Bank branch, should be maintained on site or preserved. Those questions were not adequately explored and analyzed.

Very truly yours,



Anastasia Mann, President

cc: Hon. David Ryu [David.Ryu@lacity.org](mailto:David.Ryu@lacity.org)  
Ms. Sarah Dusseault [sarah.dusseault@lacity.org](mailto:sarah.dusseault@lacity.org)  
Ms. Julia Duncan [julia.Duncan@lacity.org](mailto:julia.Duncan@lacity.org)  
Ms. Catherine Landers [catherine.landern@lacity.org](mailto:catherine.landern@lacity.org)  
Mr. Orrin Feldman [vicepresident@hhwnc.org](mailto:vicepresident@hhwnc.org)

<HHWNC Letter RE - 8150 Sunset Blvd.pdf>

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## Attachments

- HHWNC Letter RE - 8150 Sunset Blvd.pdf.jpg (376.77KB)