



Luciralia Ibarra &lt;Luciralia.ibarra@lacity.org&gt;

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**Fwd: Letter re FEIR re Crossroads Project**

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**Alejandro Huerta** <alejandro.huerta@lacity.org>

Mon, May 14, 2018 at 9:06 PM

To: Luciralia Ibarra &lt;Luciralia.ibarra@lacity.org&gt;

I received this comment letter below in advance of the Crossroads Hollywood hearing. I will print it for the case file and electronic files.

Alejandro A. Huerta  
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——— Forwarded message ———

From: **Doug Carstens** <dpc@cbcearthlaw.com>

Date: Mon, May 14, 2018 at 8:10 PM

Subject: Letter re FEIR re Crossroads Project

To: alejandro.huerta@lacity.org

Dear Mr. Huerta,

Please accept the attached letter regarding the Crossroads Project FEIR (State Clearinghouse No. 2015101073) and May 15, 2018 hearing.

Best Regards,

Doug Carstens

Douglas Carstens

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5/16/2018

City of Los Angeles Mail - Fwd: Letter re FEIR re Crossroads Project

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May 14, 2018

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Re: Further Comments on Environmental Impact Report ENV-2015-2026-EIR  
State Clearinghouse No. 2015101073; Renewed Request for Continuance  
of May 15, 2018 Hearing on Crossroads Hollywood Project

Dear Mr. Huerta:

On behalf of Livable LA, we submitted comments on the Crossroads Hollywood Project environmental impact report (EIR). We have the following additional objections, and renew our request, submitted on April 20, 2018, that the hearing for the Crossroads Hollywood project (the Project) set for May 15, 2018 by the Deputy Advisory Agency/Hearing Officer be continued to allow sufficient time for public review of the material, including modifications to the Project, that has only recently been made available.

Without waiving any prior objections, we object to the following defects in the Final EIR.

**1. The New Stand-Alone Parking Structure Will Have Impacts That Must Be Analyzed in a Recirculated EIR.**

When a lead agency adds “significant new information” to an EIR after the public has reviewed the Draft EIR but before the agency certifies the EIR, the agency must pursue an additional round of consultation by recirculating the revised Draft EIR to the public. (Pub. Resources Code § 21092.1.) New information is “significant” if, as a result of the additional information, “the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of

the project or a feasible way to mitigate or avoid such an effect.” (*Laurel Heights Improvement Assn. v. Regents of Univ. of California* (1993) 6 Cal. 4th 1112, 1129, CEQA Guidelines, Cal.Code Regs., tit. 14, § 15088.5, subd. (a).)

The FEIR states the Modified Project includes “the addition of Development Parcel E, which would be located at the terminus of Cherokee Avenue at Selma Avenue... for the construction of a stand-alone parking structure north of the Blessed Sacrament Church.” (FEIR, p. II-272.) Because this new structure was not included in the Draft EIR, its potentially significant impacts on traffic, air quality, and noise among other impacts, should be disclosed in a recirculated EIR.

## **2. The Newly-Created Economic Feasibility Review Does Not Support Rejection of Alternative 5 as Economically Infeasible.**

An environmentally superior alternative that avoids significant impacts may not be rejected merely because it would cost more and create a lower rate of return for a project. Rather, evidence is required showing the alternative would be impracticable. “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.” (*Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 599 [quoting *Citizens of Goleta Valley v. Board of Supervisors*, *supra*, 197 Cal.App.3d at p. 1181, italics added].) In *Preservation Action*, the court invalidated a city’s rejection of a reduced-size alternative for a proposed home improvement warehouse project on a site occupied by an unused historic building. The court stated “The administrative record does not contain any evidence that the reduced-size alternative would be so much less profitable and produce so many fewer tax dollars that the project would be impractical.” (*Preservation Action Council v. City of San Jose* (2006) 141 Cal.App.4th 1336, 1357.) Similarly, in the present case there is insufficient evidence to support rejection of Alternative 5.

The FEIR claims that a newly-prepared economic analysis shows Alternative 5 cannot provide the financial ability to rehabilitate five on-site historical resources. (FEIR, p. II-13.) The evidence presented in the Economic Feasibility Review—Crossroads Hollywood and Peer Review in Appendix FEIR-2 of the Final EIR does not provide sufficient evidence to support a claim of economic infeasibility. As found by independent economic analysis submitted by Aaron Chowla, this conclusion is defective for several reasons including: the “estimated land cost” should have been lower than provided; estimated construction costs for Alternative 5 have an unreasonably high markup for general allowances and soft costs; the Feasibility Review improperly assumes losing 2/3 of useable space due to historic preservation (1,432,500 SF for original project compared to 474,018 SF for historic preservation); the Feasibility Review underestimates

the Lease/SF revenue associated with a historic preservation alternative; and the Feasibility Review model assumes no debt financing with beneficial tax breaks and a higher return on equity a developer could receive under Alternative 5. Furthermore, it appears the assumptions in the FEIR's economic analysis failed to account for rehabilitation cost savings that could be realized through application of the Historical Building Code. (<http://ohp.parks.ca.gov/pages/1074/files/2016%20CA%20CHBC.pdf>.) The FEIR improperly rejects the economic feasibility of Alternative 5.

### **3. Alternative 5 Meets Most Project Objectives.**

The FEIR asserts that Alternative 5 Does not “fully meet” the majority of project objectives. (FEIR, p. II-9.) The FEIR asserts that Alternative 5 would create “greater impacts... on existing historical resources...since a greater number of historic resources would potentially be impacted by underground excavation and construction on all four development parcels.” (FEIR, p. II-9.) This assertion is ridiculous because Alternative 5 can easily be conditioned not to create such impacts. The FEIR asserts that surface water quality impacts will not be improved as under the project but, again, Alternative 5 could be conditioned to provide these benefits. Finally, the FEIR states noise and vibration would be greater to sensitive receptors that “remain on-site.” (FEIR, p. II-9.) However, as the FEIR elsewhere states, impacts to on-site residents or users is not a factor in CEQA analysis unless the project exacerbates an existing condition. (FEIR, p. II-20 citing *California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4<sup>th</sup> 369.)

### **4. The FEIR Fails to Adequately Respond to Comments Regarding Traffic Impacts.**

The FEIR fails to adequately address the objections Caltrans and we raised regarding the Project's impacts to the US-101 Freeway.

Caltrans stated the CMP methodology used in the EIR is “not adequate when analyzing freeway impacts.” (FEIR, II-63.) Rather than use an adequate methodology, the FEIR responds that an October 2013 Freeway Analysis Agreement somehow absolves the City from conducting adequate analysis. It does not. Caltrans' objections identify a significant issue that has not been mitigated.

Caltrans further requested a Traffic Mitigation Agreement be signed prior to circulation of the Final EIR. (FEIR, p. II-65.) However, the FEIR states the City does not view such an agreement as a defensible mitigation measure. Nonetheless, the City claims “a significant unavoidable cumulative impact on Caltrans facilities would occur.” (FEIR, p. II-66.) As we stated in our comment letter, such impacts must be mitigated. (FEIR, p. II-277). The City may not adopt a statement of overriding considerations for cumulative

traffic impacts when feasible mitigation measures such as the traffic mitigation agreement have not been adopted. (Pub. Resources Code § 21081.)

The size of the Project must be reduced to reduce the impacts to Caltrans facilities. (FEIR, p. II-277.) However, the FEIR fails to address this feasible mitigation measure.

#### **5. Greenhouse Gas Emissions Analysis and Mitigation is Inadequate.**

The FEIR defends the use of a business as usual or what is termed a “No Implementation of Energy Reduction Measures (NEIRM)” scenario as being included to “demonstrate the efficacy of these measures for informational purposes only.” (FEIR, p. II-283.) The FEIR’s attempt to take credit for measures that must be implemented in any case is misleading. The baseline scenario must assume these legally required mitigation measures will be implemented.

The FEIR states the project will “not result in any net additional GHG emissions . . . with the purchase of emission offset credits.” (FEIR, p. II-283.) The Project must avoid additional GHG emissions through reduction of emissions and implementation of measures to avoid creating new emissions. Reducing the size of the Project would reduce its emissions.

#### **6. The Development Application for the Hollywood Center (Millenium) Project Reveals Cumulative Impacts that Must be Analyzed in the EIR.**

On May 4, 2018, the City made available the Application for Environmental Leadership Development Project for the Hollywood Center Project (Millenium project). This Millenium project will have cumulative impacts with the proposed Crossroads Project that should be analyzed in the EIR.

#### **7. Liquefaction Can Create Significant Impacts.**

The FEIR states that the General Plan Safety Element’s classification of the sites a “susceptible to liquefaction” is “outdated” and proceeds to state various sources that have not identified the site as subject to liquefaction. (FEIR, p. II-20.) However, the General Plan is the authoritative source for information, not to be overruled by a zoning map or imprecise State of California map referenced in the FEIR. The General Plan is the “constitution for future development” and is located at the top of “the hierarchy of local government law regulating land use.” (*DeVita v. County of Napa* (1995) 9 Cal.4th 763, 773.) The FEIR seeks to sweep liquefaction issues under the rug by claiming the area is not in a liquefaction hazard zone. (FEIR, p. II-21.) The EIR’s treatment of land use consistency is inadequate because of its failure to address the General Plan Safety Element’s identification of the susceptibility to liquefaction other than by saying it is outdated. The FEIR reveals a potentially significant impact that requires recirculation of

the EIR so the public and public agencies may evaluate why the FEIR asserts the City's General Plan Safety Element is incorrect. Construction in an area subject to liquefaction exacerbates those risks.

#### **8. Impacts to LAUSD Schools Will Be Significant.**

The Los Angeles Unified School District states "Based upon a review of the Draft EIR, the proposed project will have a significant impact on LAUSD schools." (FEIR, II-80.) LAUSD's Hollywood High School and Selma Avenue Elementary School campuses would be located within 0.25 mile of the proposed project Site. These significant impacts would occur in the areas of air quality, noise, traffic, and pedestrian safety impacts. The significant impacts on LAUSD schools, which were not identified in the Draft EIR, requires recirculation of the EIR for public review to ensure the proposed mitigation measures actually reduce the newly-identified significant impacts below a level of significance.

#### **9. Air Quality Impacts Would be Significant But Feasible Mitigation Measures Are Impermissibly Omitted.**

SCAQMD staff recommended "additional mitigation measures to further reduce construction and operational emissions, particularly from NO." (FEIR, p. II-87.) The FEIR improperly refused to adopt such measures or explain the reasons they would not be adopted. The FEIR incorrectly states the requirement to adopt all feasible mitigation measures "is not a requirement in CEQA." (FEIR, II-89.)

#### **10. Floor Area Averaging is Not Allowed for the Project as Proposed.**

One comment letter from Crown Sunset Associates, LLC appropriately stated:

The DEIR also simply takes for granted the averaging of floor area ratio across the entire Project site without actually analyzing the legality or propriety of doing so. The only means by which the Project can purport to legally install three high rise buildings is by scraping off the unused density of the Crossroads of the World site.

(FEIR II-158.) Floor area averaging requires findings set forth in LAMC section 12.24.W.19 including a finding that unified development is proposed. It requires procedures including approval by all persons holding ground leases in the subject property. A covenant must be required to do the following:

- (1) guaranteeing to continue the operation and maintenance of the development as a unified development;

(2) indicating the floor area and, if applicable, density used on each parcel and the floor area and, if applicable, density potential, if any, that would remain;

(3) guaranteeing the continued maintenance of the unifying design elements;

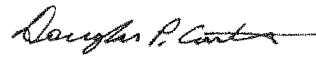
These provisions for allowing floor area averaging have not been met.

**Conclusion.**

The Final EIR must be supplemented to address the shortcomings we and others have identified in our objections to the FEIR. While the project has been modified in some ways to address significant impacts, these modifications do not go far enough and, where new development is proposed, can create significant impacts of their own. Once the defects in the EIR are remedied, the Final EIR must be recirculated for adequate public and public agency review and comment. We join in the objections stated in the comments noted above, as well as other objections to the Project.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas P. Carstens", with a stylized flourish at the end.

Douglas P. Carstens