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Subject: The Silverstein Law Firm | Further Comments and Objections to City Planning Commission for Hollywood Center Project; Case Nos. ENV-2018-2116-EIR, CPC-2018-2114-DB-MCUP-SPR, CPC-2018-2115-DA, and VTT-82152; SCH 2018051002; Agenda Item Nos. 7, 8, and 9
Attachments: 10-13-20 [SCAN] Further Comments and Objections to City Planning Commission (CPC).PDF

Please see attached to be included in the record for and to be distributed to City Planning Commissioners in the above-referenced matter. Please confirm receipt.

Thank you.

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October 13, 2020

VIA EMAIL vince.bertoni@lacity.org;
mindy.nguyen@lacity.org;
cpc@lacity.org

President and Planning Commissioners
Los Angeles City Planning Commission
City of Los Angeles, Department of City Planning
221 North Figueroa Street
Los Angeles, CA 90012

Re: Further Comments and Objections to City Planning Commission for
Hollywood Center Project; Case Nos. ENV-2018-2116-EIR,
CPC-2018-2114-DB-MCUP-SPR, CPC-2018-2115-DA, and
VTT-82152; SCH 2018051002; Agenda Item Nos. 7, 8, and 9

Honorable Planning Commissioners:

This firm and the undersigned represent StopTheMillenniumHollywood.com. Please keep this office on the list of interested persons to receive timely notice of all hearings, votes and determinations related to the proposed Hollywood Center Project (“Project”).¹ We submit these objections to the Project and in support of our appeal of the Advisory Agency’s Letter of Determination. This letter and all prior objections are filed under protest because the City has still not provided us with documents requested under the California Public Records Act. We ask that the Planning Commission carefully review these and all other objections, grant our appeal, and deny the Project’s applications and its FEIR.

¹ Unless otherwise specified, “Project” refers generally to the original Project in the Draft EIR and Alternative 8.

I. THE DENSITY BONUS REQUESTS ARE UNLAWFUL.

A. The Project-Specific FAR Calculations are Not Legitimate “Concessions or Incentives” under Density Bonus Law – They Function Solely to Mislead the Public and Reduce Development Impact Fees.

Density Bonus Law allows eligible projects to request “concessions or incentives” that must “result in identifiable and actual cost reductions to provide for affordable housing costs.”² The Project requests a concession or incentive to deviate from the LAMC definition of Floor Area to exclude covered balconies and terraces, which are otherwise included by law. This request does not meet the definition of a “concession or incentive” in Section 65915(k) because it does not even conceivably relate to “identifiable and actual cost reductions.”

Rather than requesting relief from a generally-applicable zoning code requirement as contemplated in Subdivision (k), the Applicant proposes rewriting definitions so that the Project does not need relief. The definition of Floor Area in LAMC § 12.03 does not limit development. A Zoning Administrator Interpretation (“ZAI”), issued by the Chief Zoning Administrator acting under authority of Charter Section 561, does not limit development. It is conceptually incoherent to assert that changing a definition or ZAI constitutes a concession or incentive. Definitions and the ZAIs interpreting them only have any consequence when applied to a project through an intervening development standard; they fix the meaning of technical terms so that development regulations (such as FAR limits) are applied consistently and equally to all properties. Because definitions and their interpretations are not development regulations, changing the scope of a definition or ZAI cannot provide an identifiable and actual cost reduction. They are not the proper subject of modification through a concession or incentive. This is ultra vires.

B. The East Site is Not Part of a “Housing Development” and is Not Eligible for Density Bonus Incentives.

Projects must meet the qualifications of a “housing development” as defined in State Density Bonus Law to be eligible for any incentives or concessions. Government Code § 65915(i) defines a housing development as “a development project for five or more residential units, including mixed-use developments.” The East Site under Alternative 8, however, has *zero residential units* and could be developed up to 20 years before ground breaks on the West Site’s residential component. Furthermore, Section

² Gov. Code § 65915(k).

65915(i) specifies: “For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels.” (Emphasis added.)

The East and West Sites are not contiguous because they are separated by Vine Street. Moreover, although neither the Project nor Alternative 8 *utilizes* a density bonus, they must complete *calculations* for the permitted density bonus in order to determine eligibility for AB 744. In particular, to be eligible for any Off-Menu Incentive, the development must provide the required affordable housing set-aside to qualify for a 35 percent bonus, requiring 11 percent for VLI households in compliance with Government Code § 65915(f)(2). On the East Site, the lot area of 115,866 square feet would permit 580 dwelling units.³ Providing a minimum of 11 percent of 580 dwelling units for VLI households would require the East Site to include at least 64 VLI units.⁴ In addition, the AB 744 parking reductions require that development shall provide the number of affordable units sufficient to qualify for the maximum density bonus – literally requiring a calculation “for the purpose of calculating a density bonus” which must be computed on the basis of contiguous sites only. Yet the East Site provides no affordable housing, rendering it ineligible for Density Bonus incentives. Density Bonus Law requires that incentives be approved only for eligible housing developments.

By locating all affordable units on the West Site, Alternative 8 disqualifies itself from Density Bonus incentives. Density Bonus Law does not allow the City a get-out-of-jail-free card to waive all zoning regulations for office high-rise developments on non-contiguous properties, where the only connection between the sites is that one property (an office high-rise) cannibalizes the permitted density and FAR of the other (the actual “housing development”). State Density Bonus Law allows concessions or incentives only for portions of housing developments, not office high-rises appended to a housing development. Therefore, the East Site is ineligible for any density bonus incentives.

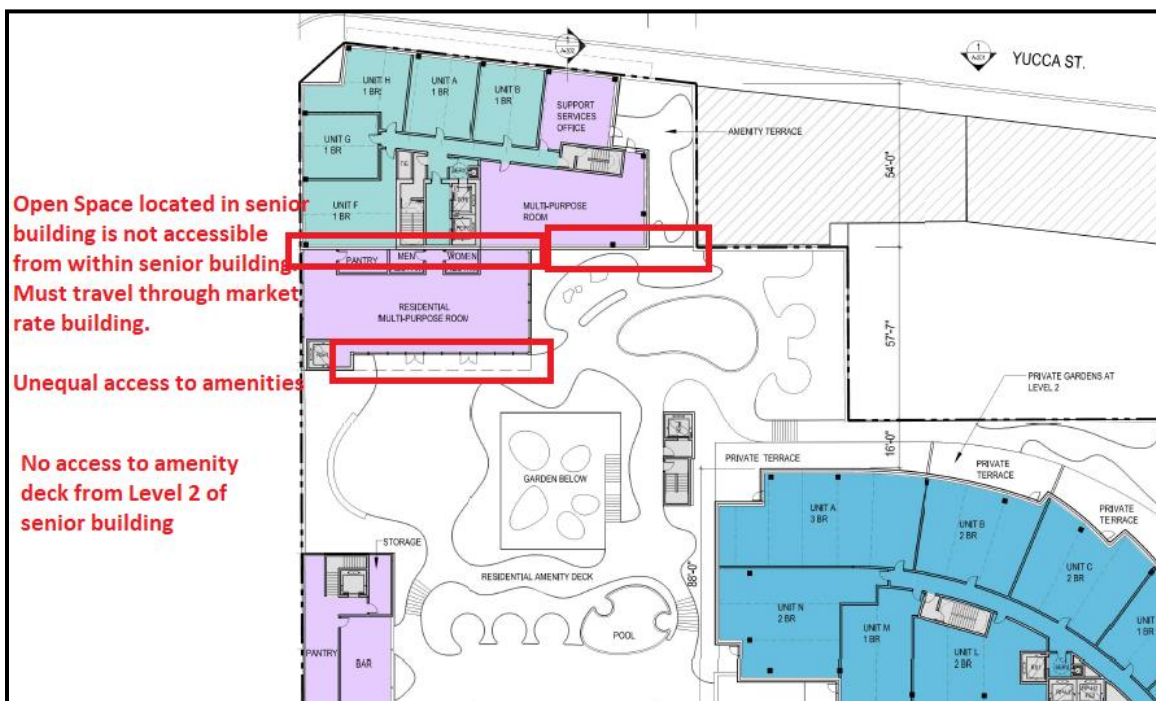
II. THE PROJECT’S SENIOR UNITS VIOLATE MANDATORY STANDARDS REGARDING AMENITIES.

LAMC § 12.22-A.25(g)(1) requires that Density Bonus projects “shall” comply with the City Planning Commission Affordable Housing Guidelines, attached in part as **Exhibit 1**, which requires that affordable units shall be “generally comparable” to

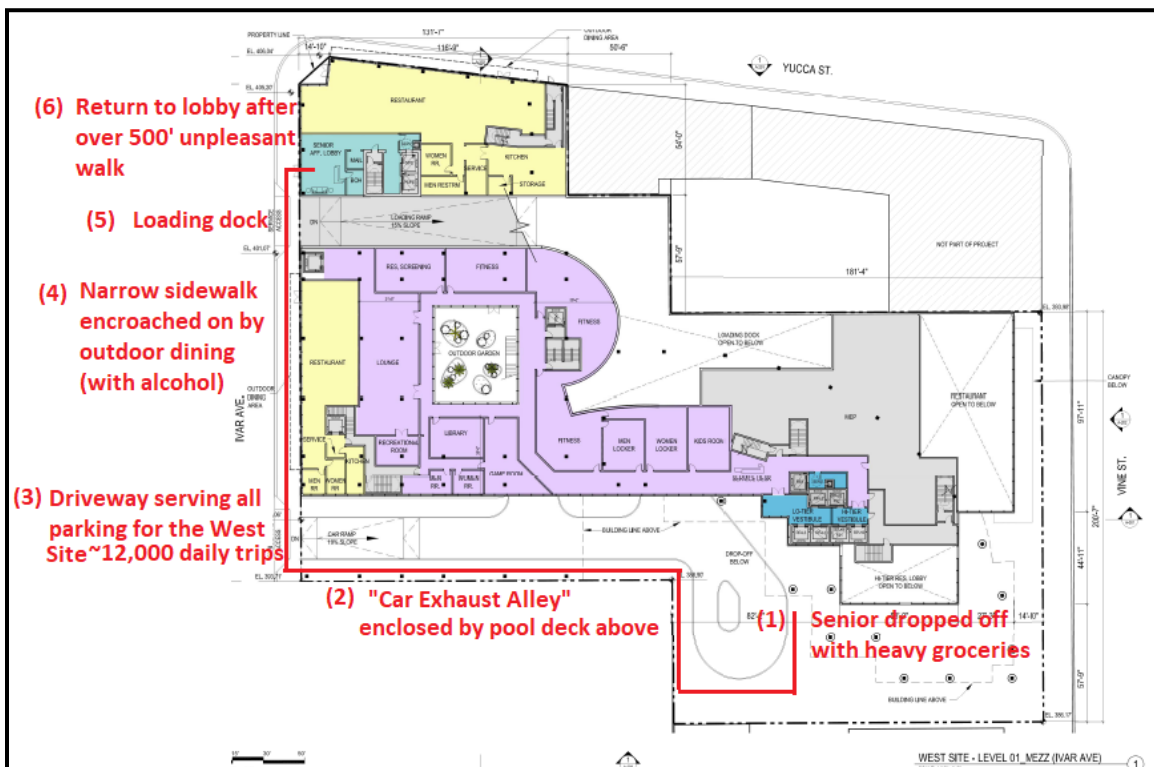
³ $115,866 / 200 = 579.3$, rounded up to 580.

⁴ $580 \times 0.11 = 63.8$, rounded up to 64.

market units and shall provide for “equal distribution of amenities.” The senior units are not comparable in amenities, nor are amenities equally distributed. Not a single senior unit has a private balcony, whereas most market rate units have spacious balconies, some as large as senior units themselves. The senior units have limited functional access to the Amenity Deck because the Level 2 multipurpose room – located within the senior building – is not accessible from within the senior building. This is a bizarre choice of site planning which reveals an unmistakable intent to discourage the seniors from using the Amenity Decks as much as possible to preserve them for affluent residents and their alcohol-consuming guests. The West Site’s obstructed access between the senior building and the Amenity Deck is shown below:



For seniors to be picked up from the Project pick-up/drop-off area on either site, they would need to make an uncomfortable trip through the subterranean garage, or else make Herculean efforts to cross loading docks, congested driveways and hellish car exhaust simply to be picked up by family or friends. This path of travel is shown below:



III. THE CITY MUST DISCLOSE ALL EX PARTE COMMUNICATIONS WITH THE APPLICANT.

We believe the process has been irreparably tainted by ex parte communications with Planning Commissioners, in violation of Mayor Garcetti's Executive Directive No. 19,⁵ which have not been disclosed. As shown in emails in the online administrative record, a lobbyist forwarded an email to President Samantha Millman giving a "heads up" about our client's objections to the City's deceptions. This communication was only included in the records when it was forwarded to Planning Director Vince Bertoni. The public must know on the record and prior to the Commission considering this matter

⁵ Issued March 9, 2017 and available at:
<https://www.lamayor.org/sites/g/files/wph446/f/page/file/ed19%20planning.pdf>

City Planning Commission
City of Los Angeles, Department of City Planning
October 13, 2020
Page 6

which Commissioners, in addition to Ms. Millman, have had ex parte communications with Project principals, representatives, attorneys, consultants or lobbyists. All such Commissioners, including Ms. Millman, must recuse themselves from considering, voting on, or influencing this matter.

III. CONCLUSION.

For the reasons set forth herein, our appeal should be granted, and the Project's applications and FEIR rejected.

Very truly yours,

/s/ Robert P. Silverstein

ROBERT P. SILVERSTEIN

FOR

THE SILVERSTEIN LAW FIRM, APC

RPS:v1

Encl.

**The Silverstein Law Firm
October 13, 2020**

**Further Comments and Objections to City Planning Commission for
Hollywood Center Project; Case Nos. ENV-2018-2116-EIR,
CPC-2018-2114-DB-MCUP-SPR, CPC-2018-2115-DA, and
VTT-82152; SCH 2018051002**

EXHIBIT 1

AFFORDABLE HOUSING INCENTIVES GUIDELINES

Implementing the State Density Bonus Law
California Government Code Section 65915

Approved by the City Planning Commission on June 9, 2005
(Supersedes all previous editions of Affordable Housing Incentives Guidelines)

City, State or Federal government, and there is no way to reasonably mitigate or avoid the adverse impact without making the project unaffordable to Moderate, Lower or Very Low Income Households.

VII. DESIGN STANDARDS FOR AFFORDABLE UNITS

Design of Affordable Units in Mixed-Income Projects

Affordable dwelling units shall be generally comparable to market rate dwelling units, including total square footage, bedroom size, closet space amenities, number of bathrooms, etc., except in the quality of interior "finish" materials (e.g., floor and wall coverings). Affordable units should be no less than 90% of the average square footage of the market rate units with the same number of bedrooms. The design of restricted dwelling units should generally reflect the average number of bedrooms per dwelling unit in the development.

Location of Affordable Units within Mixed-Income Projects

Affordable dwelling units must be reasonably interspersed among market-rate dwelling units within the same building.

Equal Distribution of Amenities

Residents of affordable dwelling units may not be charged for amenities that are provided at no cost to other residents including, but not limited to, access to recreational facilities, parking, cable TV, and interior amenities such as dishwashers and microwave ovens. Optional services provided must be optional for all residents, and available to all under the same terms and conditions. Tenants of restricted units cannot be required to purchase additional services.

VIII. AFFORDABILITY REQUIREMENTS (SEE APPENDIX FOR HOUSEHOLD INCOME, MAXIMUM RENTS AND PURCHASE PRICES)

The Los Angeles Housing Department (LAHD) establishes the affordability restrictions on household income, based upon State law. These restrictions are subject to annual review and an owner can contact LAHD directly to receive the current restrictions. The examples provided in the Appendix (Section XII of these Guidelines) are for calendar year 2005 and represent the maximum that may be charged to Moderate, Lower and Very Low Income residents. For all questions about affordability requirements, contact LAHD at (213) 806-8806.

IX. LAHD MONITORING REQUIREMENTS

All projects shall comply with the annual monitoring requirements established by LAHD by means of a Covenant and Agreement. It is the responsibility of the owner to notify LAHD of any changes in the building that may affect compliance, such as change of ownership, management agent or on-site manager, vacancies in restricted units, or changes in compliance with the Los Angeles Department of Building and Safety (LADBS) requirements.

The following are LAHD requirements (a complete list is found in the LAHD Covenant):

- LAHD reviews all initial tenants' eligibility for affordable, set-aside dwelling units prior to occupancy