

COMMENT LETTER No. 8

Save Our Neighborhood/Save Our Health

Elaine Maxwell and Steve Ravitz

Petition request addressed to “Dear Neighbor”

No Address

March 16, 2003 (3 pages).

Comment No. 8.1

Please consider signing the enclosed petition: it is in response to the city’s “Notice of Environmental Impact Report NO. ENV-2000-3213-EIR” dated 2/06/03 requesting our input on developer’s proposed changes to Tiverton Ave. from a residential street to a commercial street and all the inherent problems to residents that such a change will bring.

Please read carefully and sign. The deadline for collecting signatures in time to respond to the city’s request for input is April 1st in time for their April 6 deadline. We are asking a representative from each building to get signatures from all concerned/interested tenants.

If the city does not hear from us, they will assume that we do not care about these changes to our neighborhood. **Let our voices be heard.**

If you have any questions, you can call either Elaine Maxwell at: 208-1588 or Steve Ravitz at 208-5671.

Response No. 8.1

This comment has been noted and will be forwarded to the Decision-Makers for their consideration. See also Topical Response 5 for a discussion about commercial uses on Tiverton Avenue.

COMMENT LETTER No. 9

Save our Neighborhood/Save our Health

Elaine Maxwell and Steve Ravitz,

No Address

April 4, 2003 (1page plus attachments)

Comment No. 9.1

The residents affected by the Tiverton Avenue, Los Angeles 90024, Casden project are becoming increasingly concerned about the impact that the development will have on the quality of our lives. We want to have our interests taken into account particularly because ordinances or laws that are already in place to protect citizens are in jeopardy.

We are just beginning to get organized in order to present a coherent voice to our concerns. We live busy lives here in Westwood. Our homes, albeit apartments, are important respites for us. We began to talk about our concerns during finals week at UCLA followed by spring vacation. Many of us interact with UCLA as students, staff or faculty members. We are also employed out of the area and live here in Westwood because it is a community that provides us many amenities.

Please contact us and let us know how you will address our concerns about the impact of this project on our quality of life here in Westwood. All of us would like to hear from you either individually or from the below current representatives of our neighborhood. Thank you for your diligent efforts in this matter.

Response No. 9.1

The comment is noted for the record and will be forwarded to the Decision-Makers for review and consideration. "Quality of life" is not a CEQA impact area.

Comment No. 9.2

SAVE OUR NEIGHBORHOOD/SAVE OUR HEALTH

We, the people, are responding to notice dated February 6, 2003, entitled NOTICE OF COMPLETION AND AVAILABILITY OF REVISED DRAFT ENVIRONMENTAL IMPACT REPORT NO. ENV-2000-3212-EIR. This notice concerns owners of property and occupants within 500 feet of site location 1001-1029 Tiverton Avenue, 1020 Glendon Avenue, 1015-1065 Glendon Avenue. We are responding to this re-circulated, revised Draft EIR, CEQA Guidelines Section 15088.5(a)(f)(1).

We specifically take exception to the Applicant's request for discretionary approval for an amendment to the General Plan from the Circulation Element's designation of Tiverton Avenue from a Secondary Highway to a Collector Street ("commercial street") and in particular **f) Permit commercial uses along Tiverton Avenue Sub-area 2 in conjunction with a mixed use development with limitations. We do NOT want pedestrian or vehicular access of the proposed development on Tiverton Ave. 2) We do NOT want the developer to obtain an exception from the Westwood Village Specific Plan requiring a 15-foot landscape buffer along the Tiverton frontage (the project will include a 15-foot landscape buffer, but the Applicant requests an exception with the re-designation of Tiverton from a Secondary Highway to a Collector Street is being processed, and 4) We do not want to allow adjustments from the LAMC to (a) to allow zero side and zero rear yard requirement for the residential portions of the Project; and b) We do not want to allow the space provided pursuant to the open space requirement to be dispersed throughout the project site.**

We also take exception to all other elements of this notice to elevate heights, reduce space of lot areas per residential unit, decreasing the number of bicycle parking spaces whereby bicycle use could potentially reduce traffic. We want maximum landscaping and a setback like all our neighbors. We want minimum density in all considerations.

This notice actually concerns all residents of Tiverton Avenue and contiguous residential streets as the anticipated potential significant effects are not restricted to the immediate 500 feet within the proposed site. The specific environmental impact will affect the well being of all residents present and future. Specifically, we refer to aesthetics, air quality, cultural resources, geology and soils, hazards and hazardous materials, land use and planning, noise, population and housing, public services, transportation/traffic, utilities and services systems. We can site studies providing scientific evidence of the deleterious effects of noise pollution to health along with numerous studies supporting the need for healthy air and environments free of hazardous materials.

Therefore, my signature below indicates my request that the above exceptions as delineated in the aforesaid notice not be granted. I am a resident at:

1030 Tiverton Avenue, Los Angeles 90024, [10855 Weyburn, 10845 Weyburn, 10853 Weyburn].

Response No. 9.2

Comment No. 9.2 is a form letter petition signed and submitted by the residents at 1030 Tiverton Avenue and 10855, 10845 and 10853 Weyburn Avenue. As the letters are identical in content, a single response to this letter is being provided. The comments express opposition and take exception to several of the Applicant's requests but do not raise any specific question regarding the adequacy or completeness of the Revised Draft EIR. While the commenters state they can "site studies providing specific evidence of the deleterious effects of noise pollution to health along with numerous studies supporting the need for health air and environments free of hazardous materials," no such evidence is provided. As to the list of the "specific environmental impact[s that] will effect the well being of all residents present and future," the commenters are directed to the following Sections of the Revised Draft EIR: V.A (Aesthetics), A.B (Air Quality), V.C (Cultural Resources), V.D (Geology), V.E (Hazardous Materials), V.F (Land Use), V.G (Noise), V.H (Population and Housing), V.I (Public Services), V.J (Transportation/Traffic) and V.K (Utilities and Services). The commenters' views will be forwarded to the Decision-Makers for their consideration.

COMMENT LETTER No. 10

Save Westwood Village

Laura Lake, Ph.D., Co-President
1093 Broxton Avenue, PMB #620
Los Angeles, CA 90024
April 7, 2003 (4 pages).

Comment No. 10.1

Save Westwood Village will submit comments on the DEIR separately. This letter focuses on one critical issue, the fact that the project description and approvals sought were not all disclosed in the NOP.

CEQA Section 15082. “Determination of Scope of EIR” clearly states that the NOP must include (A) description of the project, as well as (C) “Probable environment affects of the project.”

We therefore request that a new NOP be prepared and circulated. Please note that this is not a new request, merely an augmented request, due to additional defects in the NOP.

The NOP defects discussed below are either changes or omissions regarding the project description or new approvals sought that have significant adverse impacts that were not disclosed in the NOP. After revising the NOP and recirculating it, a response to comments will be required in the DEIR, which will have to be recirculated once again.

NOP Defects

1. A **Parcel Map** or **Tract Map** is now required for the subsurface vacation. No notice was given in the NOP. This notice is required to be included in the NOP under state law. Please note that the new vacation ordinance was adopted prior to the issuance of the February 2003 DEIR and should have prompted the issuance of a new NOP prior to release of the DEIR.
2. The NOP did not disclose a General Plan Amendment to change Tiverton Avenue from a Secondary Highway to a Collector Street.
3. Notice was defective for the NOP and consequently, the DEIR. We remain concerned that several owners within 500 feet and throughout the Village have not received any notice of this project. Please furnish the mailing list used for the NOP and DEIR.
4. The Applicant is now requesting **65 foot, not 55 foot** building heights, described in the NOP. This is a significant change in the project and will have greater shadow impacts, for example.
5. There was no request in the NOP or DEIR of a waiver of the **R-3 Dedication** to improve Weyburn and Glendon Avenues - not just Tiverton.
6. **The exemption from the Corner Commercial Ordinance CUP and Specific Plan Amendment for this purpose is not disclosed in the NOP.** Instead, it states that a CUP may be required. This needs to be disclosed in the NOP. There are major environmental consequences with regard to height, for example, for an exemption from the Corner Commercial Ordinance.
7. The NOP does not disclose that a Specific Plan Amendment for a **“Unified Development”** is being sought.
8. The NOP does not disclose that a Specific Plan Amendment for a **“Mixed Use Development”** is being sought.

9. The NOP did not disclose that a **36 foot roadway for Glendon Avenue is substandard** for a local street in a commercial area. This requires an exemption or variance. None is being sought for this substandard roadway. The substandard roadway must be disclosed in the NOP as well as discretionary approvals to permit it to be substandard.
10. The NOP did not disclose “Adjustment” **being sought from all yard requirements**. This would have massive density impacts for the project.
11. The NOP states that **1550 parking spaces will be provided, not 1452 in the DEIR**. A new NOP with correct description required. No explanation was ever provided for this decrease -- the project remains unchanged.
12. The NOP does not disclose that the Specific Plan Section 8.C.2 states “The **height of a building adjacent to one or more cultural resources shall not exceed a height that is within five feet of the average height of the adjacent cultural resources or 30 feet, whichever is greater.**” The NOP states that the setbacks are to be adjusted to allow buildings up to 55 feet, not 65 feet.
13. The NOP did not disclose that the **unoccupied towers may have mechanical equipment** (such as elevators) in them, in violation of the definition of “Unoccupied Tower - A structure, attached to a building, which is solely an architectural feature, which is taller than its diameter and which is designed so that it may not be occupied by individuals, goods, materials or equipment “
14. The NOP did not disclose that a **new definition of “ground floor”** was being utilized and qualifying for density bonuses. The definition of “ground floor” in the Westwood Village Specific Plan is: “That portion of a floor level of a building within three vertical feet of the ground level.” This project will be as much as 8 feet below grade. This requires a Plan Amendment or exception to count retail that is basement level as ground floor.
15. The NOP states that a **demolition permit** will be sought for the retail along the west side of Glendon. The City has already issued a demolition permit and demolition has occurred. This shows prejudice, piecemeal approval, and needs to be addressed in a corrected NOP.
16. The NOP did not disclose the request to **merge the west side of Glendon with the east side of Glendon with Subarea 2**. This is significant because it changes the stepping-down from Westwood Boulevard’s “Village Center” by permitting greater height and density.
17. The NOP did not disclose the “Adjustment” to permit the west side of Glendon not to meet the minimum **open space requirements**.
18. The NOP does not disclose the requirement for Site Plan Review findings.

Required Remedy

Given these defects in the NOP, we request that:

18.[sic] The NOP be revised and recirculated;

19. Notice be given to the parties already on your mailing list as well as all property owners and tenants within Tracts 9768 and 10600; and

20. That the DEIR be revised in response to the new NOP comments and recirculated.

Response No. 10.1

The Notice of Preparation (NOP) is the 30-day “scoping” process during which the “Lead Agency” consults with “Responsible Agencies” having jurisdiction over aspects of the environment that may be impacted by a project. (CEQA Guidelines § 15082(a)(1).) The purpose of the NOP is to solicit guidance from those agencies as to the scope and content of the information to be included in the EIR. (CEQA Guidelines § 15375.) The NOP should provide sufficient information describing the project and the potential effects to enable Responsible Agencies to make a meaningful response. Those responses to the NOP are expected to identify issues and potential environmental concerns that the Lead Agency staff may not be aware of at the time they begin the EIR. There is no requirement that a NOP identify the particular entitlements sought for a Project, so long as the information in the NOP is adequate to inform the Responsible Agencies of the Project’s potential environmental impacts. The consultation process following the issuance of an NOP necessarily involves the discovery of issues not identified in the NOP. The NOP, together with the responses thereto, form the basis of the scope of the Draft EIR.

As discussed in Topical Response 16, under these above-cited legal standards, the NOP for the Proposed Project is adequate under CEQA and does not require recirculation. The Project description and identification of probable environmental effects in the NOP was sufficient to obtain meaningful input from the Responsible Agencies as to the scope of analysis presented in the Revised Draft EIR.

Comment No. 10.2

Given the fact that we never received an answer to our challenges regarding the illegal demolition of the retail along the west side of Glendon Avenue, **we request that an answer be provided by: the Planning Department, the Council Office, or the City Attorney within seven (7) calendar days.**

Attached is our objection this summer challenging the issuance of the demolition permit prior to the certification of the EIR. We repeat our request for a response.

Thank you in advance for your prompt response to this letter.

Response No. 10.2

See Topical Response 14 for a response to this comment regarding the removal of the buildings on the west side of Glendon in July, 2002. With respect to the commenter's letter submitted to the City prior to the release of the Revised Draft EIR, see Topical Response 1.

COMMENT LETTER No. 11**Save Westwood Village**

Laura Lake, Ph.D., Co-President

1093 Broxton Avenue, PMB #620

Los Angeles, CA 90024

April 7, 2003 (61 pages plus Attachments).

Comment No. 11.1

Save Westwood Village submits the following comments on the DEIR, and incorporates by reference all comments submitted previously by all parties, and requests answers to all questions in the record. It is also written in behalf of Friends of Westwood.

A separate letter requesting a new NOP with an accurate project description, list of approvals sought, and anticipated environmental impacts is being submitted. We repeat all the concerns of May 23, 2002 and add new ones. As presented here, the DEIR is filled with fatal flaws and must be revised and recirculated after a new NOP is revised and recirculated. Thank you for your consideration.

Response No. 11.1

See Topical Response 1 regarding responses to previously submitted comments. The Revised Draft EIR is not flawed, and recirculation is not required.

Comment No. 11.2**ANALYTICAL AND PROCEDURAL ERRORS****The Lead Agency has failed to make the finding that the increase in density can be granted in violation of the Westwood Community Plan Policy I-2.2**

Under the Westwood Community Plan, the requested density increase is illegal, since the streets in the Project vicinity are already at Level F of service (no additional capacity). The DEIR failed to address this conflict between the Community Plan and the request for upzoning (spot-zoning). This is just one of many such oversights that demonstrates a lack of independent analysis on the part of the City. This is discussed in greater detail in the Land Use and Transportation sections below.

Response No. 11.2

This comment is an introduction to later comments regarding Specific Plan consistency, which are addressed individually below. The commenter's opinions regarding the Project application and the City's process will be forwarded to the Decision-Makers for their consideration.

Comment No. 11.3**The Lead Agency Failed to find the Project in Conformance with the Conservation Element of the General Plan**

This is discussed under the Glendon Manor section below. Given the Specific Plan -General Plan inconsistency, the request to demolish Glendon Manor cannot be approved.⁵ This means that when a new element, such as the Conservation Element (May 2001) is adopted, the rest of the plan (Westwood Village Specific Plan) must be changed to eliminate any inconsistencies created by the new element or amendment.

Response No. 11.3

In response to the comment's heading that the Revised Draft EIR "failed to find the Project in conformance with the Conservation Element of the General Plan," under California state law, EIR's do not make "findings" on plan consistency. (see Cal. Pub. Res. Code § 21081 for findings required under CEQA.) If the City, as lead agency, certifies the Final EIR and approves the Project, that approval will involve the granting of certain entitlements, which must include additional findings. (see, e.g., Los Angeles Municipal Code §§ 12.24.E, 12.32.C.7 on findings required for conditional uses and specific plan amendments.) It will be at that point that a finding of consistency between the General Plan and the Project must be made. The Revised Draft EIR, nonetheless, does conclude that the Project is consistent with the Westwood Community Plan, which is part of the Land Use Element of the City's General Plan. (Revised Draft EIR, Page V.F-48.)

Comment No. 11.3 also states that the Westwood Village Specific Plan is inconsistent with the General Plan. The comment does not identify a specific inconsistency except to state that "when a new element, such as the Conservation Element (May [sic] 2001) is adopted, the rest of the plan (Westwood Village Specific Plan) must be changed to eliminate any inconsistencies created by the new element or amendment." Comment No. 11.52, below, elaborates in referring to the City's September 2001 adoption of the General Plan Conservation Element—which identifies five types of historic designations, including by those by the State. The commenter may believe that the Conservation Element's recognition of the five designation types is inconsistent with the Specific Plan's existing designation method for "Cultural Resources." However, the Conservation Element merely cites the fact that, under CEQA (and the City's CEQA Guidelines), the City must treat a building determined eligible for listing on the California Register as an historic resource in the environmental review of a project. (General Plan Conservation

⁵ "All elements of general plan must be consistent with each other." (California Government Code 65300.5)

Element, Page II-7.) There is nothing in the Specific Plan that is inconsistent with this mandate. In fact, the Revised Draft EIR deems Glendon Manor an historic resource and concludes that the building's removal will result in a significant environmental impact. (Revised Draft EIR, Page V.C-10.)

Accordingly, there is no evidence that the Specific Plan is inconsistent with the Conservation Element or any other element of the General Plan. An agency need not amend or update a specific plan every time it amends or updates a general plan except "as necessary to make the specific or other plan consistent with the general plan." (Cal. Govt. Code § 65359.) Since there is no inconsistency, the Specific Plan need not be amended.

Comment No. 11.4

No Before-and-After Analysis Provided

This DEIR fails to provide CEQA-mandated analysis.⁶ The Project does not comply with the Westwood Village Specific Plan, Community Plan or General Plan, and yet the DEIR assumes that the project is in conformance with the plan. Such an analysis needs to start with the Initial Study and proceed all the way through the DEIR. CEQA Section 15063(d)(5) makes this clear: "An examination of whether the project would be consistent with existing zoning, plans, and other applicable land use controls" (emphasis added).

After the spot-zoning amendments are approved, then it will conform. But not until then. Therefore the DEIR must identify not only how it violates current controls, but what the impacts are of the proposed changes.

A complete disclosure and analysis of **each separate request** had been requested.

Response No. 11.4

This comment provides a general concern that the Revised Draft EIR is inadequate based on inconsistency with the WVSP and the General Plan (which includes the Community Plan) and its alleged failure to analyze these issues. The Revised Draft EIR contains a legally adequate discussion of the Project's consistency with the Westwood Community Plan (Revised Draft EIR, Pages V.F-48-52) and the WVSP (Revised Draft EIR, Pages V.F-52-54), as discussed fully in Topical Response 3. The Revised Draft EIR is adequate. See Topical Response 8 for discussion of "spot zoning."

⁶ "The written response shall describe the disposition of significant environmental issues raised (e.g., revisions to the proposed project to mitigate anticipated impacts or objections). In particular, the major environmental issues raised when the Lead Agency's position is at variance with recommendations and objections raised in the comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusionary statements unsupported by factual information will not suffice." CEQA Section 15088(b).

Comment No. 11.5

Comments had been submitted requesting an itemized disclosure of each approval and analysis of the impacts of granting those approvals in a matrix/table. No such information is provided, e.g., how many square feet of bonus, what type of bonus, how many square feet from no setbacks above 40 feet, etc. The EIR must provide this information. This violates CEQA.⁷

The DEIR must show what would be permitted under current law for each approval sought. The EIR must show what would be permitted for the project now, and what could be built after amendment.

The most glaring example of this failure is the assertion that the project qualifies for bonuses, particularly the bogus attempt to qualify for ground floor retail when under the, Specific Plan, it clearly does not. This shows a failure of independent judgement on the part of the Lead Agency.⁸ Nowhere in the DEIR is it explained that no bonus may be granted if the retail is more than 3 feet below grade.

If the Applicant sought a bonus not permitted in the plan, then the Applicant should have submitted a plan amendment to redefine ground floor retail. Instead, the DEIR is fatally flawed, and the Lead Agency did not exercise independent judgment.

Response No. 11.5

With respect to the commenter's request for information on the amendments being requested by the Applicant and the impacts of those amendments, please see Table V.F-1 of the Revised Draft EIR, Pages V.F-13 through V.F-15. This table provides a matrix summary of the WVSP amendment requests, including a comparison of the respective results under the current WVSP text with the results under the proposed amendments. Pages V.F-15 through V.F-48 of the Revised Draft EIR describe each proposed amendment in detail and analyze the permitted dimensions and uses of the site under both the existing regulations and under the proposed amendments. Similarly, Table V.F-2 of the Revised Draft EIR on Page V.F-18 indicates the total floor area and maximum density that would be permitted under the existing regulations and those that would be allowed under the proposed amendments.

See also Response No. 5.36 regarding density bonus allocation. As explained on Page V.F-22 of the Revised Draft EIR, Section 7B of the WVSP allows additional (bonus) floor area through one or a combination of project features. The Applicant has not requested a density bonus based on ground floor retail. Instead, the Applicant has requested additional floor area based on residential dwelling units above the ground floor of a commercial building (Section 7.B.4 of the Specific Plan). The Revised Draft EIR

⁷ "Subsection (d) reflects the decision in *Environmental Information and Planning Council v. County of El Dorado* (1982) 131 Cal. App. 3d 350, which held that in comparing an old general plan with a new county general plan that would allow less growth than the old plan, the EIR had to address the existing level of actual physical development in the county as the base line for the comparison. The two plans could not be compared with each other without showing how they would relate to the existing level of development." CEQA Section 15125(d).

therefore does not evaluate a request for a “density bonus” under Section 7.B.2, which relates to the provision of “ground floor neighborhood retail.” (Revised Draft EIR, Pages V.F-22 through 24.)

Comment No. 11.6

Likewise, a thorough parking analysis would have revealed that the Project is short of required parking and does not qualify for a bonus for excess public parking.

For the city to take on faith that the Applicant is entitled to massive density bonuses that virtually double the height and density of the project is to fail to objectively review the DEIR as required by CEQA.

The fact that this was pointed out in the first DEIR, and a revised DEIR was issued by the City should have been a warning that the City failed to critically review the proposal. That this error/omission is still there, raises grave concerns over the nature of the City’s review process and standards for review.

Response No. 11.6

The Revised Draft EIR includes a detailed parking analysis on Pages V.F-39 through V.F-46 of the Revised Draft EIR. This analysis concludes that the Project will comply with the Specific Plan and Zoning Code automobile parking requirements without any reductions for shared parking. (Revised Draft EIR, Page V.F-41.) Additionally, the Revised Draft EIR states that the Proposed Project does not include any Specific Plan density bonuses for providing additional parking over Code required parking. (Revised Draft EIR, Page V.F-43.) The Applicant’s request for an amendment to the Specific Plan requirements for bicycle parking is discussed on Page V.F-45 of the Revised Draft EIR.

The City has not determined or “taken on faith” that the Project is entitled to any of the requested amendments to the Specific Plan or density bonuses. Determinations as to whether the Project is eligible for the requested amendments to the Specific Plan or density bonuses will be made by the Decision-Makers.

With respect to the Project’s consistency with the applicable height and density requirements, and consistency with the applicable land use plans, see Section V.F, Land Use of the revised Draft EIR. Please also see Topical Response 6 regarding building height.

Comment No. 11.7

Another area of Known Controversy is the Project Description of Ground Level Retail. In actuality, this is basement retail, anywhere from 7-13 feet below grade. Page III-8 is typical of this defect. The statement is made that the ground floor retail is “slightly below street level,” when in fact it is in the

⁸ “The draft EIR was so fundamentally and basically inadequate and conclusionary in nature that meaningful public review and comment were precluded” CEQA Section 15088.5(a)(4).

basement. Slightly would be defined under the Plan as within 3 feet. It is far beyond slight. Just because the basement has windows, does not make it ground floor.

This defect was identified as an area of Known Controversy in the first DEIR and has again been ignored. Furthermore, the authors have been permitted to make deceptive statements that indicate that the City did not provide an independent analysis.

No analysis of the impact (square footage) of the zero yard request. No acknowledgment that this was a concern of the community and in the record already.

Every statement claiming conformance with the Plan must be corrected. None of the findings can be made to approve this project because it violates every precept of the WVSP whose main themes are to protect historic buildings, to provide adequate parking, and to keep the Village low-rise.

Response No. 11.7

With respect to the issue of ground floor retail, the differential between grade and street level will vary by differing amounts depending on the specific location within the Project site. The differential between street level along Glendon and the grade level of the ground floor retail is shown in Figures III-19, V.F-6c and V.F-6d of the Revised Draft EIR. As depicted in these figures, the variation of the street level from the level of ground floor retail grade ranges from approximately 1 to 2 feet at the southern end of Glendon to approximately 8 feet at the intersection of Glendon and Weyburn. However, “the overall height of the retail space will be between 15 and 16 feet, rendering the retail space substantially above grade.” (Revised Draft EIR, Page III-8.) Therefore, while the ground floor retail grade level will be below street level in certain areas of the Project site, the retail will not be in located in a basement level. Please see Topical Response 15 for additional information on the ground floor retail proposed as part of the Project.

The yard setback requirements are discussed on page V.F-23 of the Revised Draft EIR. No front, side, or rear yard setbacks are required in the C4 Zone for commercial uses. For buildings in the C4 Zone that are partially used for residential purposes, the yard setbacks required for the R4 Zone apply only to the portion of the building used for residential. The Applicant is requesting an adjustment for those yard setback requirements that apply to the residential portions of the Project.

It should also be noted that the Applicant has requested a density bonus under Section 7.B.4. of the WVSP, which relates to provision of residential uses above the ground floor of a commercial building, but has not requested a “density bonus” under Section 7.B.2., which relates to the provision of “ground floor neighborhood retail.” (Revised Draft EIR, Pages V.F-22 through 24.)

The requested amendments to the WVSP are discussed in Section V.F of the Revised Draft EIR. Please also see Topical Response 3 for additional discussion on this issue.

Comment No. 11.8

The errors and omissions of this DEIR must be corrected by: a revised NOP that clearly discloses all discretionary approvals sought and their environmental impacts.

Then a revised DEIR that **analyzes those impacts individually** (see separate letter regarding a renewed request for a new NOP that lists all approvals and the impacts associated with them and is sent to all property owners within 500 feet and all business and property owners within the Village. This is clearly an area of known controversy.

But there has never been an analysis shown, as requested in the NOP, to show the impacts of each separate request, e.g., how much additional density results from no setbacks, zero yards, etc. CEQA requires that the environmental impacts of each discretionary approval be disclosed, analyzed and mitigated. This DEIR still fails to perform this fundamental task.

The DEIR fails to meet the substantial evidence test, and the City has failed to provide an objective review of the document. It is purely an advocacy document, not an analytical document. This continues to be an area of known controversy.

Response No. 11.8

See Topical Response 16 for a discussion of the sufficiency of the NOP, and Response No 11.5 for a discussion of the Planning Department's independent judgment and an explanation of the Revised Draft EIR's land use analysis.

Regarding an analysis of each separate request, Table V.F-1 of the Revised Draft EIR, Pages V.F-13 through V.F-15, provides a matrix summary of the WVSP amendment requests, including a comparison of the respective results under the current WVSP text with the results under the proposed amendments. Pages V.F-15 through V.F-48 of the Revised Draft EIR describe each proposed amendment in detail and analyze the permitted dimensions and uses of the site under both the existing regulations and under the proposed amendments.

Comment No. 11.9**Failure to Address Known Project Alternative**

Comments submitted to the planning department by Terry Tegnazian regarding the **sworn deposition of Alan Casden** were not addressed in the alternatives section. The City acted in an arbitrary and capricious

manner in not responding, not requesting the full transcript from Mr. Casden, if indeed that is what it required in order to place the issue as an EIR concern.⁹

The City acted in an arbitrary and capricious manner in not responding to her letters. CEQA Section 15088 makes it clear that a feasible environmentally superior alternative that comes to the attention of the Lead Agency late in the process deserves inclusion and analysis.¹⁰

We request once again that this alternative be developed and analyzed, and that it also include the street improvements discussed in the traffic and parking sections. This alternative offers an environmentally superior alternative that is feasible. Therefore, a statement of overriding considerations cannot be issued by the Decision Maker.

The failure to provide the one story grocery store alternative violates CEQA.¹¹

The City was informed of this alternative in July 2002, long before the issuance of this DEIR (February 2003). Clearly, the City refused to disclose this alternative. We request a revised DEIR be prepared that provides this feasible environmentally superior alternative. “CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible” (CEQA Section 15021(a), emphasis added).

The City is obligated to choose this feasible environmentally superior alternative.¹²

⁹ “The Lead Agency shall respond to comments received during the noticed comment period and any extensions and may respond to late comments” (CEQA Section 15088.b). “Further, while there is no legal requirement for an agency to respond in writing to comments submitted after the expiration of the comment period, an agency’s failure to evaluate the substance of the comment and to respond appropriately to substantive comments in the proceedings may place the agency at risk in the event of legal challenge.” (CEQA Section 15088.)

¹⁰ “...While there is no legal requirement for an agency to respond in writing to comments submitted after the expiration of the comment period, an agency’s failure to evaluate the substance of the comment and to respond appropriately to substantive comments in the proceedings may place the agency at risk in the event of legal challenge.” (CEQA Section 15088.)

¹¹ “A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term ‘information’ can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not ‘significant’ unless 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 (including a feasible project alternative) that the project’s proponents have declined to implement. ‘Significant new information requiring recirculation include, for example, a disclosure showing that’ (3) **A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project’s proponents decline to adopt it.**” (Section 15088.5(a); emphasis added.)

¹² **“A public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the project would have on the environment.”** (CEQA Section 15021 (a)(2); emphasis added).

Furthermore, CEQA Section 21081 “Necessary findings where environmental report identifies effects” makes clear that (3) “Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.”

The sworn deposition makes clear that the preservation of Glendon Manor is economically feasible. Further, nowhere in the analysis presented in the DEIR is it argued that preserving Glendon Manor is economically infeasible. *The preference to demolish is not based on the substantial evidence in the record* (see for example, the letters from the LA Conservancy and Neighborhood Effort). This violates the substantial evidence requirement.¹³

Likewise, information had already been submitted by Neighborhood Effort refuting the assertion that the building cannot be economically restored. Yet this information was not responded to in the revised DEIR. Please provide analysis of the tax benefits and code relief available for restoration under Adaptive Reuse in Los Angeles.

The grocery store-only project is an alternative that the community had requested be included in the DEIR. The city has responded that this alternative was filed after the close of comments and therefore did not have to be addressed. However, it is an area of known controversy, and the city must address it in the DEIR (CEQA Section 15088.5). We request the preparation of a revised and recirculated DEIR that includes other defects addressed here.

Response No. 11.9

See Topical Response 12 for a discussion on analysis of project alternatives, including information on why a single-story supermarket alternative is not considered in the Revised Draft EIR.

The commenter’s argument that the Applicant believes that a supermarket is a feasible alternative is not well founded because the principal’s statements have been taken out of context. The deponent was testifying about earlier plans for the Project site in litigation against Ralph’s Grocery. Ralph’s has since opened a full-service grocery store on nearby property in Westwood Village.

See discussion in Topical Response 2 for a complete response regarding the preservation of Glendon Manor.

¹³ “Substantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact.” (CEQA Section 21080(e)(1). “Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to or are not caused by, physical impacts on the environment.” (CEQA Section 21080(2)(f).)

The comments with respect to the tax benefits and code relief available for restoration under “Adaptive Reuse” are beyond the scope of this Revised Draft EIR and CEQA. Please see Response No. 4.7 for additional discussion related to analysis of an alternative that involves preservation of Glendon Manor.

Comment No. 11.10**CEQA requires Recirculation of DEIR**

CEQA states that when “a feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project’s proponents decline to adopt it” (CEQA Section 15088.5(a)(3)). That is exactly the situation in this case.

The reason given by Maya Zaitzevsky to Terry Tegnazian for not including the alternative of the grocery-only was that it was after the close of the comment period. But CEQA Section 15088 (a) states that “The Lead Agency shall respond to comments received during the noticed comment period and any extensions and may respond to late comments.” There is no prohibition against responding to late comments.

Since this is a significant late comment due to discoveries after the close of the comment period, the City must require this alternative be addressed as an area of known controversy and be analyzed in the revised DEIR.¹⁴

Since there is a feasible alternative that would prevent environmental damage, the City cannot issue a statement of overriding consideration to permit Glendon Manor to be demolished.

Response No. 11.10

Although CEQA Guidelines section 15088(a) does not require the City to respond to late comments, the reason the single-story grocery alternative was not analyzed in the Revised Draft EIR is not only because of how and when the issue was presented to the City, but for the additional reasons explained in Topical Response 12. Additionally, as explained in Topical Response 12, an EIR need not consider every conceivable alternative to a project. Rather an EIR must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. (CEQA Guidelines § 15126.6(a).) The Department of City Planning as the lead agency has discretion to determine how many alternatives constitute a reasonable range as long as that range includes those alternatives that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects. (*Id.* at 15126.6(c).) The Los Angeles

¹⁴ “A public agency may approve a project even though the project would cause a significant effect on the environment if the agency makes a fully informed and publicly disclosed decision that: (a) There is no feasible way to lessen or avoid the significant effect” (CEQA Section 15043(b)). The City has failed to disclose a feasible alternative and cannot approve the demolition in light of the feasible alternative that was presented to the City in July 2002, long before issuance of the DEIR (February 2003).

Department of City Planning Staff have determined that the alternatives analyzed in the Revised Draft EIR constitute a reasonable range. See also Response No. 11.9.

Additionally, CEQA Guidelines Section 15093 codifies the requirement from case law that when an agency approves a project that will have a significant adverse environmental effect, the agency must make a statement of its views on the ultimate balancing of the merits of approving the project despite the environmental damage. Therefore, the Decision-Makers can approve the Project, including the demolition of Glendon Manor, despite the unavoidable, significant environmental impacts that are identified in the EIR. If the Decision-Makers choose to do so, the City is required to state in a written Statement of Overriding Considerations the specific reasons to support its action based on the Final EIR and/or other information in the record.

Comment No. 11.11

Failure to Address Pre-Approval and Piecemeal Approval of Demolition Permit, AQMD Permit and LADWP Capping Main Violate CEQA

The Lead Agency failed to disclose information it had received regarding the pre-approval of demolition permits and the protests received from the public.¹⁵

This known area of controversy should have been disclosed and analyzed in the DEIR. Instead it was totally ignored. Again, the Lead Agency failed to exercise independent judgement and hid this critical information from the public, in violation of CEQA's prohibition against pre-approval and *piecemeal* approval in violation of CEQA Section 15004(b).¹⁶

The city has permitted the Applicant to answer only the questions they chose to answer. This shows bias and **precommitment** on the part of the lead agency. If the argument was that this was a ministerial decision, it clearly violates the *Friends of Westwood v. City of Los Angeles* decision.¹⁷ How did the City define the "project"¹⁸ in order to issue a demolition permit?

¹⁵ Several letters, emails and phone calls were received by the Planning Department, Building and Safety, the Council Office and the City Attorney regarding challenges to the issuance of a demolition permit for structures on the Project site (attached). None of the issues raised in these letters were addressed in this DEIR although they were well known to the Lead Agency. This is another area of known but ignored, controversy.

¹⁶ A lead agency must be neutral and not make certification of the EIR an afterthought (see *County of Inyo v. City of Los Angeles* (1984) 160 Cal. App.3d 1178, 1185, 207 Cal. Rptr. 425. Similarly, "If post approval environmental review were allowed, EIRs would likely become nothing more than post hoc rationalizations to support action already taken" (*Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal. 3d 376, 394.

¹⁷ CEQA Section 15369, Ministerial Decisions.

¹⁸ CEQA Section 15378(a) "'Project' means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." Section 15378.c is even clearer: "The term 'project' refers to the activity which is being

Issuance of the demolition permit for the western structures violates CEQA by showing precommitment, piecemeal approval, etc. The city has never answered the protest letters.

They were addressed to the Planning Department and the Council Office and copied to the City Attorney. We were told that the City Attorney would get back to us. No such response has ever been provided. All of this correspondence is included here to be incorporated into the record as evidence of precommitment, piecemeal approval and total disregard for CEQA.

Demo permit prior to completion of FEIR certification is prejudicial. No reply to protests from the City Attorney. Letters of protest have been submitted to the record by Richard Tell, Save Westwood Village.¹⁹

Pre-approval by AQMD (p. II-18).

Pre-approval by LADWP to cap lines on site (p. II-35)

Page II-36 describes mitigations for solid waste from construction. Were any mitigations required for the illegal demolition this summer?

Response No. 11.11

See Topical Response 14 for a discussion regarding the removal of the buildings on the west side of Glendon in July, 2002.

Comment No. 11.12

In the February 8, 2000 contract between Casden and Smedra (certified copy attached from *Casden Glendon LLC v. Ralphs Grocery Company*, Los Angeles Superior Court, attached, p. 8, Exhibit D, page 43), the only retail uses mentioned for Palazzo Westwood were a full service grocery store (unlikely given the fact that Ralphs and Whole Foods have opened in the Village), a drug store (same situation -- several have opened) or movies. No analysis of movies as an alternative to a market and drug store is provided. Movies would have significantly greater parking requirements (1 space per 3 seats) and traffic generation rates. Please provide that analysis, given the potential for such a use now that several theaters have closed within the Village.

Response No. 11.12

See discussion of alternatives in Topical Response 12. The comment's statement that the Revised Draft EIR lacks an analysis of a movie theater alternative is incorrect. (See discussion of Alternatives 4 and 5

approved and which may be subject to several discretionary approvals by governmental agencies. The term 'project' does not mean each separate governmental approval."

¹⁹ *California law clearly requires that the EIR be completed and certified before issuing a demolition permit for a project. This demolition permit was subject to CEQA review (e.g., Orinda Association v. Board of Supervisors, 182 Cal.App. 3d 1145, 1170-1172 (1986).*

at Revised Draft EIR, Pages V.I-28-39.) At this point, the Applicant is not able to identify the tenants that will occupy the retail spaces in the Proposed Project. The Department of Building & Safety will not allow eventual tenants to occupy the Proposed Project if those tenant's parking needs are determined to be greater than what is provided by the Proposed Project.

Comment No. 11.13

Independent Analysis Missing

Several glaring errors and omissions listed in these comments indicate that there was no independent analysis, in violation of CEQA.²⁰ The Planning Department had the responsibility to maintain objectivity toward this project and wait until certification before approving any requests from the Applicant. The deficiencies identified in public comment indicate that the City Planning Department has once again rubber-stamped the DEIR and abrogated its responsibilities.

Has the Community Planning Section of the Planning Department reviewed this DEIR for accuracy regarding compliance and requests to change the plan?

There is no staff analysis or report included in the Appendices to substantiate that an independent analysis has occurred on the part of the Planning Department, Bureau of Engineering, or the Department of Transportation.

Previously, it had not. Based on many incorrect representations of the Specific Plan, it would appear that once again, those responsible for compliance with the Community an [sic] Specific plans have either not reviewed it, or else, displayed a major bias in favor of the Applicant.

Response No. 11.13

With respect to the comment on "several glaring errors and omissions," these are general comments related to specific comments elsewhere in the letter that have individual responses. The following responds to the question of whether various City agencies have reviewed the Revised Draft EIR and prepared reports: (1) the Department of Transportation reviewed the traffic report (see DOT letter dated January 9, 2003, Revised Draft EIR Appendix G); (2) the Environmental Review Section of the Department of City Planning reviewed numerous iterations of the Revised Draft EIR; (3) Community Planning Bureau staff also reviewed the land use section of the Revised Draft EIR; (4) the Bureau of Engineering reviewed the Revised Draft EIR. No staff reports have been prepared other than the Draft Revised EIR. The Revised Draft EIR is one portion of the Proposed Project that will be considered by the

²⁰ CEQA Section 15084(e): "Before using a draft prepared by another person, the Lead Agency shall subject the draft to the agency's own review and analysis. The draft EIR which is sent out for public review must reflect the independent judgment of the Lead Agency. The Lead Agency is responsible for the adequacy and objectivity of the draft EIR."

Decision-Makers. A staff report will be prepared by the hearing officers regarding all aspects of the Applicant's requests.

As the lead agency, the City subjected the document to review and analysis so that the Revised Draft EIR reflects its own independent judgment as required by Public Resources Code § 21082.1(c) and CEQA Guideline 15084(e). This comment reflects the commenter's opinion, but does not provide substantial evidence to support it.

Comment No. 11.14

While the DEIR acknowledges that demolition occurred, there was no finding that this was in conformance with CEQA's prohibition of piecemeal approval, pre-approval, or precommitment by the Lead Agency. We believe that the demolition of those buildings is such an egregious violation of CEQA, that the Project cannot be approved. We request the policy, regulations and legal opinions upon which the City relied upon to issue the demolition permit be provided by the Lead Agency and placed into the record.

Response No. 11.14

See Topical Response 14 for a response regarding the removal of the buildings on the west side of Glendon in July, 2002.

Comment No. 11.15

Deficiencies of the NOP are included in the attached letter

The DEIR is flawed because the Lead Agency failed to correct and recirculate the NOP, as requested May 23, 2002. A new NOP is required to be revised and circulated, and a revised DEIR prepared in response to those comments and circulated.

Response No. 11.15

The Lead Agency was not obligated to re circulate the NOP. See Topical Response 16 for a discussion regarding the sufficiency of the NOP.

Comment No. 11.16

The Applicant failed to respond to many major questions submitted by various organizations.

We therefore incorporate by reference all questions previously submitted to the first DEIR, and call upon the Applicant and the city to provide answers for each and every question.

An example of the unresponsiveness of the Applicant and city to the first set of questions submitted is the request to provide an explicit table that shows current entitlements in comparison with requested entitlements. The EIR is written as though the new entitlements have already been granted and therefore does not explain the magnitude of the upzoning, spot zoning, and height requests.

Response No. 11.16

With respect to addressing comments submitted prior to the release of the February 2003 Revised Draft EIR, see Topical Response 1. A detailed account of all of the requested entitlements is presented in Section III, Project Description, of the Revised Draft EIR. An analysis of the requested entitlements, relative to the existing zoning and general plan designations is presented in Section V.F, Land Use, of the Revised Draft EIR.

Comment No. 11.17**Page I-1 states that a Plan EIR is not required or necessary.**

It does not state what we were told by the Council Office that the resources to update the plan are not available, and that other plans have a higher priority for updating. Once again, we point out that the resources could be made available to the city by the Applicant who is seeking to turn the plan on its head.

Under several city policies, EIRs that have certified more than a certain number of years cannot be relied upon. Since the population and housing figures for the Village Plan are from **1985 EIR**, certified in 1989, the findings cannot be made that the Specific Plan and the General Plan and internally consistent.

Response No. 11.17

According to the Department of City Planning, there is no need for a plan-wide update to the WVSP at this time. There is no requirement under California law that general plans (with the exception of their housing elements) or specific plans be updated at any specific time interval. The 1989 certification for the WVSP EIR remains current.

The statement regarding the reasons given by the Council office for why the WVSP is not being updated does not require a response as it is beyond the scope of the Revised Draft EIR and CEQA.

Section H, "Population and Housing," of the Revised Draft EIR (Pages V.H-1 through V.H-10), demonstrates that the Proposed Project's projected population is consistent with the Southern California Association of Government's (SCAG) Regional Comprehensive Plan and Guide, the City of Los Angeles General Framework Plan, and the Housing Element in the City of Los Angeles General Plan. The population growth forecasts in the SCAG Regional Comprehensive Plan use a 1997 baseline, the most current forecast baseline year. (SCAG is in the process of updating its forecast to reflect 2000 Census data). The City of Los Angeles General Framework Plan disaggregates SCAG's total citywide population estimate into projections for each of the City's community plans. The Westwood Community Plan Area

is projected to grow by 20 percent between the years 1990 to 2010. As explained on Page V.H-3 of the Revised Draft EIR, the Housing Element of the City's General Plan was designed to be consistent with and implement the General Plan Framework. The City Planning Commission approved the updated Housing Element in December 2001. Thus, the population estimates used for analyzing population and growth impacts of the Proposed Project were not based on the EIR for the 1998 EIR for the Specific Plan.

Comment No. 11.18

If the City does not have adequate funds to legally process multiple specific plan amendments, then it cannot proceed to approve these requests. Indeed, the argument can be made that **the City has acted in an arbitrary and capricious manner** in its willingness to process these specific plan amendments for the Applicant, while refusing to update the map and list of historic resources and thereby grant Glendon Manor the protections guaranteed under the Specific Plan, most notably, no subsurface encroachment for replacement structures.

Response No. 11.18

Issues regarding the City's resources and its obligation to process these entitlements are beyond the scope of this Revised Draft EIR and CEQA. Specific concerns regarding the requested amendments are addressed by the Revised Draft EIR itself. For information on Project consistency with the WVSP, see Topical Response 3. See Response No. 5.9 for discussion regarding subsurface encroachment. See Response No. 6.17 for discussion of amendments requested for the Project. This comment is noted and will be forwarded to the Decision-Makers for their consideration.

Comment No. 11.19**Pages II-39-40 do not include the requests for a revised NOP**

Comments submitted to the DEIR made it clear that there were changed circumstances and that the infrastructure calculations of the plan had not [sic] acknowledged.

Response No. 11.19

Pages II-39 and 40 of the Revised Draft EIR address "Areas of Known Controversy" in the environmental review of the Project. See Topical Response 16 for a discussion of the adequacy of the NOP.

Comment No. 11.20**The issue of spot zoning was raised in DEIR comments was incorrectly marked "no" on the CEQA Checklist through this second DEIR.**

Response No. 11.20

Please see Topical Response 8 for a discussion of “spot zoning.”

Comment No. 11.21

The CEQA Checklist also had other errors that need to be corrected and analyzed for significant adverse environmental impacts:

I. Aesthetics.

III. Air Quality: the checklist does not analyze the impacts of emissions on the sensitive receptor at Westwood Horizons seniors hotel across the street from the Project site.

IX. Land Use b&c): the project is also inconsistent with the Community Plan and General Plan. This is not addressed in the checklist or the DEIR.

XII. Population and Housing: The project would result in the net loss of 3 or more units of existing housing units affordable to very low, or low-income households: for long-term tenants who were relocated, this was affordable housing for a disabled senior who was a Veteran. All other long-term tenants had already left. But as a rent-stabilized apartment building, Glendon Manor provided affordable housing for low-income residents who had lived there a long time.

Response No. 11.21

The purpose of an initial study (i.e., the “CEQA Checklist”) is to serve as a basis for deciding whether an EIR will be required based on whether the Project may cause a significant effect on the environment that cannot be mitigated. (CEQA Guidelines §§ 15063 and 15081.) The initial study by itself is not intended to be an exhaustive analysis of all potential impacts resulting from the Project, but a scoping tool that identifies issues that should be included in the EIR.

The Revised Draft EIR addresses Aesthetics, Air Quality, Land Use and Population & Housing issues in detail. Any information presented in the Revised Draft EIR supplements the checklist determinations for purposes of the record that will be before the Decision-Makers on the Project. A revised initial study is not required.

Carbon Monoxide (CO) concentrations at sensitive receptors are indeed evaluated in Revised Draft EIR Section V.B, Air Quality, under the heading “Local Air Quality” on page V.B-13. Hot spots, or heavy concentrations of CO can occur where cars queue and idle for long periods of time, such as at roadway intersections. The analysis in the Revised Draft EIR identified the worst case intersections (those having the potential for the most significant impacts, if any) and found no hot spots would occur. As even the worst case intersections had no significant impact, then the intersections and road segments adjacent to Westwood Horizons would have a lesser impact, meaning they would not be significantly impacted.

In addition to its evaluation of the Project's consistency with the Community Plan as part of the City's General Plan (on Pages V.F-48 through 51), the Revised Draft EIR addresses the elimination of Glendon Manor's 42 vacant apartment units in Section V.H. It should be noted that the commenter's statement regarding the claimed loss of affordable housing is not an environmental issue appropriate for CEQA review. *See, e.g., San Franciscans for Reasonable Growth v. City and County of San Francisco*, 209 Cal.App.3d 1502, 1521-22, fn. 13 (1989) ("project specific demands for additional downtown housing implicate social and economic, not environmental, concerns and, thus, are outside the CEQA purview"); CEQA Guidelines § 15131. Although this part of the comment is beyond the scope of the Revised Draft EIR, the following response is provided to it because the commenter raises this issue numerous times.

Based on its date of construction, Glendon Manor is subject to the City's Rent Stabilization Ordinance, which limits rent increases for existing tenants. The landlord of a rent-controlled building in Los Angeles, however, is allowed to raise the rent to market level for any subsequent tenant when a unit is vacated. Glendon Manor is now vacant and boarded-up. If it were to be reoccupied, the rents would be set at market level. Moreover, when the building was occupied, the Applicant received no subsidy, assistance or benefits in connection therewith. Accordingly, both because of what the rents would be if the building were to be occupied now and because no housing assistance was provided in connection with its prior occupancy, the demolition of Glendon Manor does not cause the loss of any "affordable housing" units. (Revised Draft EIR, Page V.H-1.)

Comment No. 11.22

The Lot Area calculations on Table App. H-3 do not show the net lot area with yard requirements. This must be disclosed.

Comments to the first DEIR identified the density impacts of no setbacks and yards as a controversial aspect of the project. This is not addressed in the second DEIR.

Response No. 11.22

The Revised Draft EIR provides adequate information with respect to the lot requirements, building density and yard requirements for the Decision-Makers and public to be informed of the potential land use impacts of the Proposed Project. Potential impacts related to building density are discussed on pages V.F-26-27 of the Revised Draft EIR. Height and setback requirements are disclosed on pages V.F-30-39 of the Revised Draft EIR. Additional data is also available in Appendix H-3 of the Revised Draft EIR. (Reprinted as Appendix B to this Final EIR.) Please also see Response No. 11.7 for information on this issue.

Comment No. 11.23

The DEIR is unresponsive to the points raised in the May 23, 2002 letter to Emily Gabel Luddy included in the Appendices.

Response No. 11.23

See Topical Response 1 for a discussion of responses to previously submitted comments.

Comment No. 11.24

The failure to include the grocery alternative violates CEQA Section 15088.5 .a.3”A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lesson [sic] the environmental impacts of the project, but the project’s proponents decline to adopt it.” In this case, the alternative was never even disclosed or analyzed.

CEQA Section 15088.5.a.4 applies to the failure to adequately identify and analyze impacts. “The draft EIR was so fundamentally an [sic] basically inadequate and conclusionary in nature that meaningful public review and comment were precluded.”

This was true for the first DEIR and it is true with this second one because the City failed to require full responses to comments received during the comment period and subsequent meetings with community leaders (documents attached). The failure to address the city’s liability is one of the most glaring defects of this DEIR.

Failure to respond to comments in the DEIR: responses must be in the text of the at a minimum, marginal notes indicating where these comments are addressed (15088.c.2)

This meeting could be construed as a scoping meeting (CEQA Section 15083) and should have become part of the process to assure that areas of pubic controversy were addressed in the revised DEIR. They were not.

Response No. 11.24

For a discussion regarding analysis of project alternatives, including the issue of a grocery-store on the ground floor, see Topical Response 12.

With regard to the statement that the Revised Draft EIR fails “to adequately identify and analyze impacts,” this comment is noted. The commenter objects that the City “failed to require full responses to comments received during the comment period [on the first DEIR] and subsequent meetings with community leaders (documents attached).” CEQA does not require the City to respond to comments filed before the circulation of a revised draft EIR, as has happened here, and particularly where the Revised Draft EIR made clear that only comments submitted during this comment period would receive responses. (See CEQA Guideline 15088(f)(1); see also Revised Draft EIR, Cover Letter and Page I-1.) See Topical Response 1 for a complete discussion of this issue.

The meeting to which the commenter refers was granted at the request of several individuals to address specific issues of concern about the Project and the prior draft EIR. The only individuals present were a

few individuals in the community and several City of Los Angeles departmental staff. This meeting was not a “scoping” meeting pursuant to CEQA Guideline Section 15083. Scoping meetings are a suggested mechanism to allow the lead agency to meet and consult with concerned individuals prior to completing the Draft EIR so that the lead agency can define the scope of the issues to be evaluated in the Draft EIR. Once the Draft EIR is released, concerned individuals may express their views in comment letters on the Draft EIR.

After reviewing the comment letters received on the Proposed Project, the City prepared a Revised Draft EIR to address issues raised and to clarify portions of the prior draft EIR. Concerned individuals were again invited to submit comments on the Revised Draft EIR to further express their views. There is no requirement under CEQA that the meeting held at the request of certain individuals should be formalized as part of the environmental review process.

With respect to the comment alleging the Revised Draft EIR’s failure to address the City’s liability, it is not clear what is meant by the commenter. If the commenter is referring to perceived liability with respect to the temporary closure and narrowing of Glendon Avenue or to the proposed subsurface vacation of Glendon, those issues are addressed in the Revised Draft EIR. (Revised Draft EIR, Pages V.L-3-7). Please see Topical Response 9 for a discussion of the proposed narrowing of Glendon Avenue and Topical Response 11 for a discussion of the proposed subsurface vacation of Glendon Avenue.

Comment No. 11.25

Notice to easement owners is a known area of controversy

The Notice of Completion was not posted on the site (CEQA 15087) nor was it mailed to owners within 500 feet, per CEQA Section 21092. Many neighboring owners have not received notice and the property was not posted.

Response No. 11.25

The Notice of Completion (NOC) is a notice that is filed with the California Office of Planning and Research pursuant to CEQA Guidelines Section 15085. The referenced CEQA Guidelines Section 15087 notice to the local public that the draft EIR is available for public review (“Notice of Availability” or “NOA”). CEQA Guidelines Section 15085 does not require the NOA to be posted on the Project site, nor does it require notice to be provided by more than one of the three options. The requirements of Section 15087 (a) state that:

“The lead agency shall provide public notice of the availability of a draft EIR at the same time it sends a notice of completion to OPR. This notice shall be given as provided under Section 15105. Notice shall be mailed to the last known name and address of all organizations and individuals who have previously requested such notice in writing, and shall also be given by at least one of the following procedures:

- (1) Publication at least one time by the public agency in a newspaper of general circulation in the area affected by the proposed project. If more than one area is affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.
- 2) Posting of notice by the public agency on and off the site in the area where the project is to be located.
- 3) Direct mailing to the owners and occupants of property contiguous to the parcel or parcels on which the project is located. Owners of such property shall be identified as shown on the latest equalized assessment roll.”

This form of notice also complies directly with California Public Resources Code Section 21092.

The City complied with the noticing requirements of Section 15087 by publishing the NOC/NOA in the *Los Angeles Times*. As an additional measure, the City also mailed the notice to the owners and occupants of property contiguous to the parcel or parcels on which the Project is located.

Comment No. 11.26

Who is entitled to notice beyond 500 feet is an area of known controversy

A known area of controversy is the impact of the subsurface vacation an the revokable [sic] subsurface encroachment permit on easement holders. The analysis provided in the DEIR does not acknowledge that the owner sin [sic] the Village have a subsurface easement, but the conditions for approval of the vacation make clear that consents are required by owners in the area. The analysis of the private easements is inadequate.

Response No. 11.26

The subsurface vacation is listed as an area of known controversy in the Revised Draft EIR, Page, II-39. Liability issues are not an environmental impact subject to CEQA review. The short and long term environmental impacts of the proposed subsurface vacation of Glendon Avenue and the subsurface easement rights are disclosed in Section V.L of the Revised Draft EIR. Property owners in Westwood Village do not have easement rights in the subsurface of the street, and consent by owners in the area are therefore not required. With regard to the private easement rights of Village property owners, please see Topical Response 9 for a discussion of the proposed narrowing of Glendon Avenue and Topical Response 11 for a discussion of the proposed subsurface vacation of Glendon Avenue.

Comment No. 11.27**Another area of known controversy that was not addressed or listed in this section is the liability of the city vis-a-vis the vacation and closure of Glendon Avenue.**

Reference was made in comments by Friends of Westwood regarding the Pedestrian Mall Act, but there was no review of City liability. This DEIR has not addressed the liabilities for the City of granting a revokable [sic] subsurface encroachment permit or a subsurface easement for Glendon Avenue. Both the short term and long term damages of these actions must be disclosed to taxpayers.

Clearly, the private easement of Village property owners and businesses is not limited to ingress and egress.

Response No. 11.27

Liability issues are not an environmental impact subject to CEQA review. However, the short and long term environmental impacts of the proposed subsurface vacation of Glendon Avenue and the subsurface easement rights are disclosed in Section V.L of the Revised Draft EIR. With regard to the private easement rights of Village property owners, please see Topical Responses 9 and 11.

Comment No. 11.28**Plan Protections for An Historic Building Not Accorded Glendon Manor**

For CEQA purposes, according to the NOP, Glendon Manor is to be treated as a historic resource. Therefore, for CEQA purposes, no subsurface vacation should be permitted if Glendon Manor is demolished, as proposed (Section 9.B. It is to be accorded the same mitigation protections as the Plan accords to Cultural Resources shown on the map in 1989.

Since the state's review occurred in 1998 and 1999, there is no way for it to be shown on the map. But it's historic status is not in dispute (per City Commission). Therefore, the DEIR is incorrect by claiming that Section 9.B does not apply because the city had not reviewed the application (due to political pressure from Mayor Riordan and Councilman Feuer).

Response No. 11.28

Section 9(B) of the WVSP states: "If a cultural resource is demolished or relocated, subsurface parking in conjunction with any replacement structure may not extend into the public right-of-way." The commenter is of the opinion that this restriction should apply to Glendon Manor to prevent the subsurface parking thereunder. However, the WVSP defines a "Cultural Resource" as a "structure determined to have local significance or potential national significance with respect to its architectural and/or historical characteristics and which is designated as such in Section 6 of this Specific Plan." Section 6.A of the WVSP, entitled "Designation of Cultural Resources," states that "[t]he structures listed on Table 1 ... are

hereby designated as cultural resources.” In fact, Glendon Manor is not listed in Table 1 and therefore is not a “cultural resource” under the WVSP. As such, Section 9(B) does not apply to the Project. Due to its eligibility for listing on the California Register, the Revised Draft EIR treats Glendon Manor as an historic resource for purposes of CEQA review. (Revised Draft EIR, Pages V.C-10-13.) This treatment, however, does not require that Glendon Manor “be accorded the same mitigation protections as the Plan accords to Cultural Resources,” as suggested by the commenter. In fact, the Revised Draft EIR observes that Figure 2 of the WVSP designates the proposed site, including Glendon Manor, as a potential redevelopment “Receiver Site,” suitable for redevelopment. (Revised Draft EIR, Page V.F-20.) This comment will be forward to the Decision-Makers.

See Topical Response 2 for additional discussion of the removal of Glendon Manor.

Comment No. 11.29

Landscaping is also an area of known controversy.

Community comments were filed requesting landscaping along Tiverton and elsewhere along the street frontage. Instead, the Project now seeks zero front yard for its entirety. So not only is landscaping not listed as an area of known controversy, this was not disclosed in the NOP, and is against the spirit and the letter of the Specific Plan.

Response No. 11.29

The list of areas of known controversy contains those issues that were most consistently raised by members of the public. Although some comments inquired about landscaping, these remarks did not amount to “an area of known controversy.” Please see Topical Response 16 regarding the sufficiency of the NOP. Regarding the landscaping, please see Figures III-23 and III-24 of the Revised Draft EIR for landscape plans of the street and podium levels to the Project. See also Topical Response 7 for further discussion of the setback along Tiverton. The project Applicant has requested only a temporary interim exception from the 15-foot setback along Tiverton. Ultimately, a full 15-foot landscaped setback will be maintained along Tiverton.

Comment No. 11.30

Please provide in writing the determination made by the City that an update of the Specific Plan EIR is not required.

Who and how was this determination made, and what are the administration regulations adopted by the Department regarding when Plan rather than Project EIRs are required?

To date, the only response we know of is the email to the Council Office acknowledging that the EIR is out of date but begging budget considerations for the choice not to do a plan EIR rather than a project

EIR. We hereby request a copy of that email (already previously requested) and an opinion from the City Attorney as to whether or not this is a valid reason not to prepare a plan rather than project EIR.

It is also our understanding, based on our May 10 2002 meeting with the Planning Department, Council Office and City Attorney, that the City Attorney's office does not get involved in reviewing the legality of project applications and EIRs until they get to the Council level.

When legal questions are posed in the DEIR process, they should be answered by any responsible agency, including the City Attorney's office. That is how this project keeps moving forward, only to be pulled back because glaring legal irregularities have been made by the Planning Department which appears to be unsupervised by the City Attorney's office.

In order to avoid repetition of the same cycle of procedural errors requiring new circulations, it would be advisable to include the City Attorney's office in the review of this project from the beginning. **We therefore request that the City Attorney review the issue of plan EIRs and the basis for determining that an 1985 EIR certified in 1989 satisfies the city's standards of review.**

Response No. 11.30

The City's determination that the WVSP is not in need of updating is stated on page I-1 of the Revised Draft EIR: "The Los Angeles Department of City Planning has determined that an update of the entire Westwood Village Specific Plan is not required or necessary for the proposed Project." There is no requirement under California law that general plans (with the exception of their housing elements) or specific plans be updated at any specific time interval. The 1989 certification for the WVSP EIR remains current. The comment's arguments to the contrary (as well as the arguments regarding the City Attorney's review of the Project) will be forwarded to the Decision-Makers for their consideration.

Comment No. 11.31

Page I-1 also claims in footnote 1 that the analysis does not underestimate Project impacts. However, nowhere in the analysis is there the option of movie theaters as part of the project (see comments in first DEIR).

Response No. 11.31

The Revised Draft EIR does consider the development of a movie theater in two of the alternatives. Alternative 4 would include a 652-seat theater in conjunction with the construction of the hotel tower previously entitled at this site. (Revised Draft EIR, Page VI-28-34.) Alternative 5 includes a 3,400-seat movie theater as part of a retail shopping and entertainment complex. (Revised Draft EIR, Pages VI-35-39.) Both of these alternatives were evaluated and determined to have greater impacts, including on traffic and land uses, over the Proposed Project. A movie theater is not part of the Proposed Project.

Comment No. 11.32**The City failed to provide early public involvement and consultation for a General Plan Amendment**

Early public involvement in a General Plan Amendment is mandated by the Westwood Community Plan, May 2001, page I-2, and CEQA Section 15083.²¹ The City has excluded interested parties already identified in the record, from its deliberations. The result has been an inadequate document.

Given the extensive comments submitted by community groups, the issues raised in May 2002 in a meeting with the City, and subsequent letters protesting demolition on the project site and the discovery of a feasible environmentally superior alternative, it is extremely disappointing that the Planning Department never initiated a meeting to review the outstanding issues and assure that this second revised DEIR would be acceptable.

Similarly, a request for a meeting to discuss these issues during the comment period with the Council Office never resulted in a meeting.

Also, *this General Plan Amendment was not only not disclosed in the NOP.* It did not involve public input or consultation.

Notice was never received by property owners within 500 feet that the General Plan was going to be amended.

Fundamental due process rights have been violated and the city has failed to follow state-mandated public involvement for a General Plan Amendment. Rather than a public benefit, this is spot zoning at its worst, for private benefit.

Not only that, the DEIR failed to disclose that as a consequence of granting the General Plan Amendment, the Applicant would not be subject to the R-3 dedication on other frontages such as Glendon and Weyburn. This demonstrates the collusion between the City and the Applicant to fail to disclose and analyze the impacts of the request.

Response No. 11.32

The City Decision-Makers have not yet conducted deliberations on the proposed General Plan amendment or any other requested approvals regarding the Proposed Project. Section 15087 of the CEQA Guidelines requires the Revised Draft EIR to be available to the public during the circulation

²¹ *Prior to completing the draft EIR, the Lead Agency may also consult directly with any person or organization it believes will be concerned with the environmental effects of the project. Many public agencies have found that early consultation solves many potential problems that would arise in more serious forms later in the review process" (CEQA Section 15083).*

period for comments on the potential environmental impacts of the Project. Once the final EIR is prepared, noticed public hearings in accordance with all legal requirements will be conducted at the Planning Commission and the City Council before the General Plan is amended. Please see also Topical Response 16 regarding the sufficiency of the NOP and Topical Response 8 for a discussion of spot zoning.

Comment No. 11.33

We believe that several significant adverse impacts were not checked off in the initial CEQA Checklist for the NOP, including but not limited to:

Spot zoning. The Applicant seeks several plan amendments that benefit their property only with regard to a new definition of height, eliminating setback requirements next to cultural resources and everywhere else in the project, FAR averaging, and a new unexplained basis for density bonuses. This amounts to spot zoning since only the Applicant's property benefits from these changes. And also, the plan already had addressed projects that were on sloping properties.

Response No. 11.33

With respect to "spot zoning," see Topical Response 8. For a complete discussion regarding density bonuses, see Section V.F, Land Use. For a discussion of the proposed "density bonus" for ground floor retail, see Topical Response 15. For discussion regarding FAR averaging, see Response No. 5.23. See also Response No. 11.21 for a discussion of the purpose of the initial study.

Comment No. 11.34

The project proposes tandem parking for commercial uses which is something that the plan never envisioned. It is not good planning and requires a plan exception or variance. Given the Applicants' limited experience with commercial retail development, two fatal flaws exist: tandem commercial parking, and sunken retail that is below grade. The plan requires that ground floor retail be no more than 3 feet below grade.

With an 8 foot grade difference, perhaps going as low as 13 feet at certain points, the project requires a plan amendment for this site that would permit sunken retail would qualify for any bonuses. In the absence of such a request, which also would be flagrant spot zoning, the city is acting in a biased manner to overlook the fact that the Applicant does not qualify for any bonuses and has not provided additional public parking.

Very simply, the Applicant has failed to qualify for any bonus, and yet it appears that the city is permitting these bonuses to be granted without a plan amendment or plan exception. And if it did make an amendment or exception, this would constitute spot zoning. No other owner would be permitted to obtain bonuses for below-grade retail.

The Master Land Use Application should have been made part of the DEIR so that the public could see that what is analyzed in the DEIR is not what the Planning Department is processing.

Response No. 11.34

As noted on Page III-8 of the Revised Draft EIR, the lowest single point of the ground floor retail will be 8 feet below grade along Glendon. However, “the overall height of the retail space will be between 15 and 16 feet, rendering the retail space substantially above grade.” (Revised Draft EIR, Page III-8.)

A plan exception for tandem parking is not required because when the WVSP is silent on an issue, the L.A.M.C. prevails. Tandem Parking is allowed by the L.A.M.C. if approved by the Decision-Makers.

For a discussion of the “sunken retail” issue and its relationship to the requested density bonus, see Topical Response 15. For a discussion of “spot zoning,” see Topical Response 8. Pages II-8-9 of the Revised Draft EIR set forth a list of each requested approval. This list mirrors the approvals requested in the Revised Project Application; the Planning Department is processing the same entitlements as those analyzed in the Revised Draft EIR.

Comment No. 11.35**Tract Map or Parcel Map?**

The Bureau of Engineering has stated that a Tract Map is required for the subsurface vacation of Glendon Avenue.

1. This was not disclosed in the NOP;
2. A Parcel Map, not a Tract Map is being processed by the City. Which is the correct process, and what are the differences in findings, for example?

Response No. 11.35

See Topical Response 11 for a discussion of the subsurface vacation process and Topical Response 16 regarding the sufficiency of the NOP. A Parcel Map is the appropriate vehicle for the requested entitlements because of the number of parcels involved. (See Los Angeles Municipal Code § 17.50.B.1 and Government Code § 66426.) The findings for the Parcel Map are outside the scope of the environmental review in this Revised Draft EIR and will be made by the Decision-Makers if they approve the Parcel Map request. See Response No. 11.3 regarding the findings required under CEQA.

Comment No. 11.36

Example of bias in analysis: Table II-1 “Existing-Built and Proposed Project Land Uses.”

This table, if it were responsive to DEIR comments or standard analysis, would have a fourth column inserted after “existing-built” that could be called “Permitted Built” under the current plan, and then the “Proposed Project.” The net new development should be based on the difference between permitted and proposed square footage, not current square footage and proposed square footage. This table shows bias on the part of the Decision maker and a refusal to provide this information.

This failure to provide this information is glaring because it shows a presumption that the developer is entitled to the additional density, and does fails [sic] to disclose to the public the massive additional entitlements being requested.

If there is one thing CEQA must do, it is to disclose to the public what the requests are and how they will impact the environment. Since the old entitlements were based on an old EIR, we submit once again, that this Applicant must disclose and analyze the net increase in entitlements being requested.

Response No. 11.36

It is assumed the commenter is referring to Table III-1 in the Revised Draft EIR. This table is intended to describe the Project, not to analyze its impacts. Please see Tables V.F-2 (Revised Draft EIR, Page V.F-18) and V.F-4 (Revised Draft EIR, Page V.F-27) in the Land Use Analysis Section of the Revised Draft EIR, which identifies the net change in square footage under the proposed project as compared to the density permitted under the existing WVSP.

Comment No. 11.37

Footnote 5, Page II-3 is intentionally deceptive, because the project is not “slightly below street level,” it is 8 feet, a basement level below the street. The Specific Plan clearly delineates what qualifies as ground floor retail. This EIR makes a deceptive and incorrect assumption regarding what constitutes ground level in order to maximize density bonuses for which it does not qualify. The Applicant would need to apply for a plan exception or plan amendment to change the definition of ground floor retail, and disclose the density impacts of such a change.

In a sworn affidavit (attached), the architect, Johan Van Tilburg, has stated that no ground level scheme had ever been developed because of the slope differential.

For the City to process a DEIR which is fraudulent -- the Applicant knows it is not ground floor retail -- shows bias and precommitment.

Response No. 11.37

Page II-3 of the Revised Draft EIR states that, as a result of the site’s grade differential, the lowest point of the ground floor retail will be 8 feet below grade. For additional discussion of the proposed ground floor retail, please see Topical Response 15. It should also be noted that the applicant has requested a density bonus under Section 7.B.4. of the WVSP, which relates to provision of residential uses above the

ground floor of a commercial building, but has not requested a “density bonus” under Section 7.B.2., which relates to the provision of “ground floor neighborhood retail.” (Revised Draft EIR, Pages V.F-22 through 24.) The commenter’s opinions regarding the City process are noted and will be forwarded to the Decision-Makers for their consideration.

Comment No. 11.38

Page II-4: the roadway for Glendon, when paced-off is 46, not 42 feet. Please verify the accurate measurement.

Under current Bureau of Engineering standard street dimensions, a local street roadway in a commercial area must be a minimum of 40, not 36 feet. A variance is required. Such a narrow street roadway will create bottlenecks when delivery trucks attempt to back into the loading docks on the southerly portion of the east side of Glendon. Customers seeking to go to Expo Design or Ralphs, for example, will have to wait until the trucks complete their maneuvers. This disruption is not analyzed in the DEIR. It should be included.

Response No. 11.38

With respect to the width of Glendon Avenue, the commenter is correct; Glendon Avenue adjacent to the Project frontage is 46 feet wide. Glendon Avenue in the vicinity of the Project site is designated as a “Local Street” on the Generalized Circulation Map of the Westwood Community Plan. According to the City of Los Angeles Standard Plan (D-22549), the standard street dimension for local non continuous streets is 36-feet. As stated in the Revised Draft EIR, street improvement plans for the Glendon Avenue right-of-way will be above the subsurface parking structure and will be submitted for plan check by the Department of Public Works, Department of Transportation, and Department of Building and Safety under the City’s B-Permit process prior to the issuance of a building permit. (Revised Draft EIR, Page V.L-19). The Project proposes to increase sidewalk width by five feet on each side of Glendon Avenue to a total of 17 feet in order to promote a more pedestrian-friendly environment. On-street parking will be removed, and replaced within the Project’s parking structure. However, travel capacity of Glendon Avenue will not be affected, since the current condition is a 23-foot half street with parking (generally assumed as eight feet), leaving a 15-foot vehicular travel path. The proposal by the Project will provide 18-foot travel lanes in each direction, reducing “friction” on vehicles using this stretch of Glendon Avenue.

Trucks accessing the loading docks on Glendon Avenue will temporarily disrupt through traffic movements as they back into the dock area. However, truck deliveries will be scheduled so as to create the least impact on the area traffic or neighborhoods. See also Topical Response 9 for discussion of the proposed narrowing of Glendon Avenue and Response No. 5.49 for a discussion of truck delivery times.

Comment No. 11.39**The R-3 dedication applies to all frontages. Why is only Tiverton discussed?**

Why is there no R-3 dedication being requested for Weyburn and Glendon Avenues? Only the Tiverton dedication is discussed, and the Applicant seeks exemption from it.

Response No. 11.39

The comment suggests that additional public right-of-way dedications may be required along Glendon and Weyburn Avenues. The Revised Draft EIR analyzes the request for a General Plan Amendment to redesignate Tiverton Avenue from Secondary Highway to a Collector street, see Section III, Project Description, page III-34 (E)(1). As a result of this request, the R3 dedication otherwise required along Tiverton Avenue would no longer be necessary, see discussion Pages V.F-47. See also Topical Response 7 for a discussion of the set-back on Tiverton.

Dedications on Weyburn and Glendon Avenues are not being sought because the streets meet the minimum required engineering standard, and therefore, no dedications are required. The Planning Dept.'s conclusions are based on the following analysis:

The R3 dedication requirements set forth in LAMC 12.37 apply to any site located in an R3 or less restrictive zone, which abuts a major or secondary highway or collector street. The Project's site is zoned C4-2D-O (Revised Draft EIR, Section F. Land Use, Page V.F-9) and abuts a designated Secondary Highway only along Tiverton Avenue.

The R3 dedication would be required in order to increase the width of the public right-of-way to meet the adopted engineering standards. The City's official standard street dimensions are depicted in the Department of Public Works Standard Plan, which reflects street standards adopted by the City Planning Commission, as recommended by the City's Street Standards Committee, pursuant to LAMC 17.05-A. The generalized cross sections represent fully dedicated and improved streets by designation and type. The City Council may by ordinance adopt specific standards for individual streets, which differ from these generalized cross sections.

Revised Draft EIR Figure V.L-3 is the generalized circulation map of Westwood Village. General Plan/Circulation Element street designations are as follows:

- Tiverton Avenue is designated as a Secondary Highway. The required public right-of-way is 90 feet. The current right-of-way width is 70 feet, see Fig. III-3A. Therefore, a 10-foot dedication would be required on each side of Tiverton Avenue, see discussion Page V.F-47.
- Weyburn and Glendon Avenues are designated as Local streets. The required public right-of-way is 60 feet. The current right-of-way width is 70 feet, see Figure III-3A. Therefore, no dedication is required.

Note that the Revised Draft EIR Page V.L-5 incorrectly identifies Glendon Avenue as a Collector street. The correct designation is provided in Figure V.L-3.

Comment No. 11.40

A mitigation measure for parking impacts and traffic impacts would be to require the R-3 dedication for Tiverton, both sides of Glendon and the south side of Weyburn. This space could be used to provide *diagonal parking* for this parking - short area (see parking discussion).

Response No. 11.40

One of the intended uses of the Revised Draft EIR is to analyze the Project Applicant's request to remove on-street parking and replace each space within the subterranean parking structure. (Revised Draft EIR, Page V.F-43.) The Revised Draft EIR discloses that the Proposed Project will comply with all applicable vehicular parking requirements (Revised Draft EIR, Pages V.F-39-46 and Table V.F-5-9); and will provide replacement parking for on-street parking at a one-to-one ratio. The Revised Draft EIR concludes that the Proposed Project would result in a less than significant impact to parking, and therefore, no mitigation measures are required. (Revised Draft EIR, Page V.F-46.) The commenter's suggestions were not adopted because mitigation measures are not required for effects which are not found to be significant. (CEQA Guidelines, § 15126.4 (a)(3).)

Comment No. 11.41**Until the EIR is certified, this application is not in conformance with the Westwood Specific Plan, the Community Plan or the General Plan.**

This DEIR claims that the project is in conformance with the plan because the plan has been totally rewritten to accommodate the project. This is advocacy and conclusionary in nature.

This must be corrected by: a revised NOP that clearly discloses all discretionary approvals sought and their environmental impacts; and then a revised DEIR that analyzes those impacts individually. This is clearly an area of known controversy.

Despite repeated requests from many organizations, **there has never been an analysis shown, as requested in the NOP to show the impacts of each separate request, e.g., how much additional density results from no setbacks, zero yards, etc.** CEQA requires that the environmental impacts of each discretionary approval be disclosed, analyzed and mitigated. This DEIR still fails to perform this fundamental task.

The DEIR fails to meet the substantial evidence test, and the City has failed to provide an objective review of the document. It is purely an advocacy document, not an analytical document:

Response No. 11.41

See Topical Response 16 for discussion regarding the sufficiency of the NOP. See also Topical Response 3 for a discussion of Project consistency with the WVSP.

In accordance with the Los Angeles CEQA Thresholds Guide, the land use impact analysis in the Revised Draft EIR analyzes project impacts with regard to land use consistency by reviewing whether the Project is consistent with existing adopted land use/density designation and with the General Plan goals and policies. Table V.F-1 of the Revised Draft EIR, Pages V.F-13 through V.F-15, provides a matrix summary of the WVSP amendment requests, including a comparison of the respective results under the current WVSP text with the results under the proposed amendments. Pages V.F-15 through V.F-48 of the Revised Draft EIR describe each proposed amendment in detail and analyze the permitted dimensions and uses of the site under both the existing regulations and under the proposed amendments. Similarly, Table V.F-2 of the Revised Draft EIR on Page V.F-18 indicates the total square footage and maximum density that would be permitted under the existing regulations and those that would be allowed under the proposed amendments.

The commenter's opinions regarding the adequacy of the Revised Draft EIR are noted.

Comment No. 11.42

Deficiencies of the NOP are included in the attached letter. A new NOP is required to be revised and circulated, and a revised DEIR prepared in response to those comments and circulated.

Response No. 11.42

Please see Topical Response 16 for discussion regarding the sufficiency of the NOP.

Comment No. 11.43

The Applicant failed to respond to many major questions submitted by various organizations. We therefore incorporate by reference all questions previously submitted to the first DEIR, and call upon the Applicant and the city to require answers for each and every question.

An example of the unresponsiveness of the Applicant and city to the first set of questions submitted is the request to provide an explicit table that shows current entitlements in comparison with requested entitlements. The EIR is written as though the new entitlements have already been granted and therefore does not explain the magnitude of the upzoning, spot zoning, and height requests.

Response No. 11.43

Please see Topical Response 1 for discussion regarding responses to previously submitted comments. The Revised Draft EIR provides a comprehensive list of all of the entitlements, amendments and

variances the Applicant is requesting. See Section III, Project Description (pages III-34 through III-36) of the Revised Draft EIR. Each of the requested amendments and entitlement requests are analyzed in further detail in Section V.F, Land Use of the Revised Draft EIR.

Comment No. 11.44**Failure to provide the basis for density bonuses or to meet the requirements for those bonuses.**

The assertion is made that the Applicant is entitled to these bonuses, but nowhere in the DEIR is there an analysis of exactly how much more of density bonus is being granted, and more to the point, the justification for the extra density.

This is probably because the Applicant does not qualify for any bonuses, and because of the **failure to provide ground floor retail**, or to provide housing above ground floor retail. Further, there is no extra parking being provided, that would qualify for a density bonus.

For the city to take on faith that the Applicant is entitled to massive density bonuses that virtually double the height and density of the project is to fail to objectively review the DEIR as required by CEQA.

The fact that this was pointed out in the first DEIR, and a revised DEIR was issued by the City should have been a warning that the City failed to critically review the proposal. That this error/omission is still there, raises grave concerns over the nature of the City's review process and standards for review.

CEQA Section 15088(b) makes it clear that "There must be a good faith, reasoned analysis in response. Conclusionary statement unsupported by factual information will not suffice."

The DEIR treatment of bonus density is bogus, and reflects bad faith and deception on the part of the Lead Agency.

Response No. 11.44

Please see Topical Response 15 regarding the qualifications for the ground floor retail bonus under Section 7.B of the WVSP and Response No. 5.36 for a discussion of the density bonus requested by the Applicant and calculations related thereto.

Comment No. 11.45**6. Precommitment, Piecemeal Approvals**

The city has permitted the Applicant to answer only the questions they chose to answer. This shows bias and **precommitment** on the part of the lead agency.

Issuance of the demolition permit for the western structures violates CEQA by showing precommitment, piecemeal approval, etc. The city has never answered the protest letters (even though they were in possession of the Planning Department, they were not included in the DEIR. **This was an error reflecting bias.**

They were addressed to the Planning Department and the Council Office and copied to the City Attorney. We were told that the City Attorney would get back to us. No such response has ever been provided. All of this correspondence is included here to be incorporated into the record as evidence of precommitment, piecemeal approval and total disregard for CEQA.

Response No. 11.45

With regard to the statement that the City, as lead agency, has shown “bias and precommitment,” the comment is noted. With regard to responses to previously submitted comments, see Topical Response 1. See Topical Response 14 for discussion regarding the removal of the building on the west side of Glendon.

Comment No. 11.46

Has the Community Planning Section of the Planning Department reviewed this DEIR for accuracy regarding compliance and requests to change the plan? There is no staff analysis or report included in the Appendices to substantiate that an independent analysis has occurred.

Based on many incorrect representations of the Specific Plan, it would appear that once again, those responsible for compliance with the Community an [sic] Specific plans have either not reviewed it, or displayed a major bias in favor of the Applicant. The law requires objective analysis, not advocacy.

Page I-1 states that a Plan EIR is not required or necessary. It does not state what we were told by the Council Office that the resources to update the plan are not available, and that other plans have a higher priority for updating. Once again, we point out that the resources could be made available to the city by the Applicant who is seeking to turn the plan on its head.

Under several city policies, EIRs that have certified more than a certain number of years cannot be relied upon. Since the population and housing figures for the Village Plan are from 1985 studies, **the Population and Housing Elements are not in conformance with the General Plan, which has been updated more recently.**

Response No. 11.46

The Community Planning Section of the Planning Department reviewed the Revised Draft EIR in connection with the Applicant’s requested WVSP amendments; the analysis of that section is incorporated into the Revised Draft EIR. There is no requirement that separate staff analyses or reports be included as attachments to prove that independent evaluation. No staff report has been prepared.

With respect to the comment on the use of a project EIR as opposed to a plan EIR, see discussion in Response No. 11.30.

Regarding the consistency of the population and housing estimates of the WVSP with the most recent general plan update in December 2001, it is not clear to what the comment refers because the WVSP does not contain population and housing estimates. Thus, there is no inconsistency or lack of conformance. Please see Response No. 11.17 for a discussion of the population and housing estimates used in the Revised Draft EIR. It also is unclear what City policies the commenter is referring to regarding the reliability of older environmental documents.

Comment No. 11.47

Lack of Public Involvement in the Formulation of Plan Amendments

Community leaders have shared their objection to massive amendments generated by a single developer that did not open the whole plan up and involve the public. The Westwood Community Plan states:

The State of California requires citizen participation in the preparation of the General Plan. Government Code Section 65351 reads 'During the preparation or amendment of the General Plan, the planning agency shall provide opportunities for involvement of citizens, public agencies, public utility companies, and civic, education, and other community groups, through public hearings and any other means the city or county deems appropriate.'

Community participation occurred through focus group meetings, a public workshop, an open house and a public hearing. Community members assisted in identifying major issues and formulating the land use policies and objectives to be contained in the Westwood Community Plan.²²

This Application includes a General Plan Amendment (which was not even noted on the NOP). Despite repeated requests for a full and open discussion of plan amendments, no such involvement has occurred. **This Application is purely special interest legislation.** Indeed, not only has there not been public input in the formulation of the amendments, there hasn't even been the legally required notice to the property owners within 500 feet!²³

Response No. 11.47

This comment letter and the 36 other comment letters submitted on the Draft EIR are proof that public involvement has been solicited throughout the environmental review process in accordance with applicable CEQA statutes and guidelines. The City received comment letters from a number of organizations both during the circulation of the NOP and the circulation of the prior draft of the EIR,

²² Westwood Community Plan, May 2001, p. 1-2.

²³ Several property owners within 500 feet have told me that they have not received any notice.

representing a significant portion of the surrounding community; including Friends of Westwood, Save Westwood Village, Holmby-Westwood Property Owners' Association, and Westwood Homeowners' Association. Based in part on the comments from the community received on the prior draft of EIR, the City prepared the Revised Draft EIR and, as this Final EIR indicates, received and responded to numerous comments from community leaders and others. The entire Project, including all proposed WVSP amendments and other requested entitlements, will be discussed in multiple public hearings, at which time community leaders are again invited to share their views and opinions.

Although not required by CEQA or local law, the mailing list for the notice of availability of the Revised Draft EIR (which analyzes the proposed general plan amendment) did include all owners and occupants of property within 500 feet of the Project site. Notice to owners within 500 feet is required by law before any public hearing on the Proposed Project approvals. As stated above, the City has not yet conducted deliberations on the proposed General Plan amendment or any other requested approvals regarding the Proposed Project. Once the final EIR is prepared, noticed public hearings in accordance with all legal requirements will be conducted at the Planning Commission and the City Council before the Proposed Project is considered. The commenter's opinions are noted.

Comment No. 11.48

Significant and Long-Term Environmental Effects

P.VII-1 is incorrect: in addition to the significant adverse unmitigated impacts discussed in the first paragraph, there are also unmitigated significant:

- traffic impacts (Intersection 17)
- parking impacts (shortfall)
- park space (inadequate funds to purchase additional park space)
- shadow impacts (internal shadows and external shadows over sensitive receptors)
- Aesthetic (views) for Tiverton residents
- high-rise development in a pedestrian oriented, low-rise area
- violation of the Community Plan re. no density increase if the capacity of streets do not have the capacity to carry more traffic
- scale and mass violating development standards
- net loss of affordable housing

- the cumulative impacts of permitting subsurface vacations and street closures of 36 months

Response No. 11.48

With regard to the unmitigated traffic impact at intersection number 17 (Weyburn Avenue and Hilgard Avenue), see Response No. 5.91. With respect to the commenter's claim that there are significant and long term environmental effects associated with parking impacts, park space, shadow impacts, Aesthetic (views) for Tiverton residents, high-rise development in a pedestrian oriented, low-rise area, and Community Plan inconsistency, scale and mass violations of development standards, net loss of affordable housing, and the cumulative impacts of permitting subsurface vacations and street closures of 36 months, the reader is referred to each respective issue area of the Revised Draft EIR. While the commenter disagrees with the conclusions of the Revised Draft EIR, this comment does not include any specific evidence substantiating the comments. As such, no specific response can be provided.

Comment No. 11.49**Growth-Inducing Impacts**

P.VIII-1 discusses the benefits of the project, but not the economic damages to adjacent businesses damaged by the closure of Glendon Avenue for three years. The net benefit is likely to be negative. It also fails to analyze the cumulative impacts of subsurface vacations for private purposes.

Response No. 11.49

This comment is beyond the scope of the Revised Draft EIR and CEQA. Economic aspects of a project are not treated as significant effects on the environment under CEQA. (CEQA Guidelines § 15131.) There is no evidence that adjacent buildings will be harmed economically by the temporary closure of Glendon Avenue during construction of the Project.

Comment No. 11.50-A**Incompatibility with Adjacent Cultural Resources**

The Applicant seeks to eliminate any and all development standards that create a pedestrian-scale and a regard for adjacent cultural resources. **This is antithetical to the spirit and letter of the Plan, and accomplished only through spot zoning for this Project.**

Section 2.C "Purpose"

"To limit the amount of new development at intensities and heights that are incompatible with the predominant character and pedestrian scale of the Village and the capacity of the Village street system."

Further, the request to eliminate setbacks above 40 feet for the entire project, even when adjacent to cultural resources, is antithetical to the purpose of the plan. Those step backs make buildings truly pedestrian-friendly. In terms of bulk and height, they are far more than ever calculated for the Village because the setbacks account for almost 25% of the buildable area, according to the architect at a community meeting.

The Plan does not require compatibility with cultural resources that abut, but are adjacent, and that includes across alleys, per the City's interpretation for the Broxton City Parking Structure in response to comments submitted to that EIR by Friends of Westwood (P. V.C-11).

Maintaining the relationship and scale of historic buildings and their new neighbors is a theme expressed throughout the Westwood Village Specific Plan.

Response No. 11.50-A

The commenter challenges the Project's compatibility with Purpose C of the WVSP. Purpose C is to limit the amount of new development at intensities and heights that will facilitate other policies of the Specific Plan, such as compatibility with the predominant character and pedestrian scale of existing Village development and to encourage the provision of neighborhood-serving uses. The commenter states that the Project seeks to "eliminate any and all development standards" in the Specific Plan intended to further this purpose. To the contrary, as discussed in detail in Topical Response 3, the Project has been designed pursuant to the Specific Plan's development standards with the plan's goals in mind. (Revised Draft EIR, Pages V.F-53 and 54.)

The Project site is surrounded primarily by commercial properties as well as multi-family residential buildings. (Revised Draft EIR, Pages III-32 and V.F-1.) The intensities of these uses are compatible with the Project's proposed mixed-use development with residential units above retail uses. The retail space contemplated for the Project will encourage neighborhood-serving uses for both the future residents of the Project and their neighbors. Accordingly, the Project furthers the goals of Purpose C.

This comment also includes several statements about why the commenter believes the Proposed Project is not consistent with the WVSP's provisions regulating development adjacent to cultural resources. This issue is addressed in the Revised Draft EIR on Page V.C-10 under the subsection "*Adjacent Specific Plan Culturally Significant Resources.*" The Westwood Village Specific Plan identifies individual locally significant historic resources throughout the Specific Plan Area. (WVSP, Figure 2 and Table 1; Revised Draft EIR, Page V.C-7.) There are five buildings adjacent to the Project that are included on the list of historic properties. These include the Moustache Café building to the south (1071-73 Glendon Avenue) and four historic buildings on Westwood Boulevard.

Under the WVSP provisions on adjacent cultural resources, the Director of Planning has the authority to permit certain projects to exceed 40 feet in height provided that the portion of a building (including roofs and roof structures but excluding towers) which exceeds the highest elevation of any adjacent cultural resources must be stepped back at a 45 degree angle from the permitted height along the frontage.

(Revised Draft EIR Page V.C-10.) The frontage of the Project on the west side of Glendon Avenue immediately adjacent to the Moustache Café complies with the WVSP because it is physically stepped back from the Moustache Café, as shown on Figure III-14 and explained on Page V.C-11 of the Revised Draft EIR. The presence of the alley in conjunction with the physical stepback of the building satisfies the 45 degree angle requirement.

The rear of the Project buildings along the west side of Glendon Avenue will be adjacent to the rear of the four culturally significant buildings along Westwood Boulevard. However, because the regulation that new development “step back” from cultural resources applies to the portion of the Project along the street frontage, the rear of the Project buildings are not stepped back at these locations. (See Director of Planning Specific Plan Interpretation, date October 25, 1991, in Appendix H to the Revised Draft EIR.) The Project has been designed specifically to comply with the other WVSP requirements pertaining to projects adjacent to cultural resources, including the requirements for cornice lines and physical setbacks. (Revised Draft EIR, Pages V.C-10-11.)

With respect to the commenter’s claim the entitlement requests constitute “spot zoning,” see Topical Response 8.

Comment No. 11.50-B

Perhaps no other subject has as many repeated provisions as how to build adjacent to cultural resources. The reason for this exceptional attention was the commitment that new development be compatible in the following provisions:

Cultural Resource Provisions of Westwood Village Specific Plan Impacting Glendon Manor and other Neighboring Cultural Resources

Section 2.B “Purpose”

“To permit, encourage and facilitate the preservation, renovation and ongoing maintenance of historically and architecturally significant buildings.”

Section 2.C.1 “Purpose”

“To limit the amount of new development at intensities and heights that are 1. compatible with the predominant character and pedestrian scale of the Village and the capacity of the Village street system.”

Section 6.C “Preservation of Cultural Resources”

“Certificate of Appropriateness. No cultural resource in the Specific Plan area shall be demolished, relocated, significantly altered or removed unless a Certificate of Appropriateness has been approved by the Planning Commission in accordance with the standards and procedures set forth in Sections 12.20.3F through 12.20.3 N of the Los Angeles Municipal Code. The Westwood Community Design Review

Board (Design Review Board) shall perform the functions of the ‘Historic Preservation Association’ specified in those sections.”

For purposes of CEQA, Glendon Manor is a cultural resource and the Plan is out of date and therefore there is no way, even if the city had designated it a cultural resource, it should show up on the map. It should be afforded the same protection and mitigation as a cultural resource with respect to CEQA.

Response No. 11.50-B

To the extent this comment further addresses the Project’s compliance with the WVSP regulations regarding development adjacent to cultural resources, see Response No. 11.50-A.

Regarding the reference to a “Certificate of Appropriateness” from Section 6.C of the WVSP, that provision is not applicable to the Project’s proposed demolition of Glendon Manor because Glendon Manor is not designated as a cultural or historic resource in the WVSP. (Revised Draft EIR Page V.F-20.) While the structure is treated as an historic resource for CEQA purposes, Glendon Manor is not listed as a significant cultural resource in the WVSP. (Revised Draft EIR, Page V.C-5.) Accordingly, Section 6.C does not apply to the Project. See additional discussion regarding the proposed removal of Glendon Manor in Topical Response 2.

See Response No. 11.30 in response to the statement that the “Plan is out of date.”

Comment No. 11.50-C

Section 8.A.4. “Height and Setback”

“The Director of Planning, acting on the recommendation of the Westwood Community Design Review Board, shall have the authority to permit projects referred to in Subdivisions 2 and 3 of this Subsection to exceed a maximum height of 40 feet, provided the Director determines that the project meets the following standards:

- a. If adjacent to a cultural resource, the project will be compatible in scale to that resource.
- c. The project shall be compatible with the architectural character of the surrounding area.
- d. That portion of a building (including roofs and roof structures but excluding towers) which exceeds the highest elevation of any adjacent cultural resource must be stepped back at a 45 degree angle from the permitted height along the frontage.
- e. The cornice lines of new buildings must meet the cornice line of any abutting cultural resource.”

Section 8.C “Height and Setbacks along Building Frontage”

1. The height of a building, including roofs, roof structures, but excluding unoccupied towers, shall not exceed 40 feet within a five foot horizontal distance of any building line or any lot line parallel to a public street if there is no building line. Above 40 feet, the building, roof and roof structures shall be set back from the building line or lot line at a 45 degree angle.”

2. The height of a building adjacent to one or more cultural resources shall not exceed a height that is within five feet of the average height of the adjacent cultural resources or 30 feet, whichever is greater. Above this height, the building shall be set back from the building line or lot line at a 45 degree angle.”

Response No. 11.50-C

For a detailed analysis of the Project’s consistency with the height and setback requirements of the WVSP, including a comprehensive discussion of how the requested plan amendments address these requirements, see Page V.F-28 of the Revised Draft EIR. See also Response No. 11.50-A and Topical Response 6.

Comment No. 11.50-D

Section 9.B. “Subsurface Parking”

If a cultural resource is demolished or relocated, subsurface parking in conjunction with any replacement structure may not extend into the public right-of-way.”

Response No. 11.50-D

The subsurface parking restriction of Section 9.B in the WVSP does not apply to the Project because Glendon Manor is not recognized in the Plan as a cultural resource, as explained above in Response Nos. 11.28 and 11.50-B. See also Topical Response 2 for a discussion of the proposed demolition of Glendon Manor and Topical Response 11 regarding the proposed subsurface vacation of Glendon Avenue.

Comment No. 11.50-E

Section 13.B “Design Review Criteria”

6. The massing of the building shall relate in scale to surrounding cultural resources and shall be appropriate to the pedestrian-oriented character of Westwood Village.”

7. The architectural style of the building shall relate to surrounding cultural resources.”

If the Project is granted the requests to be out of scale in terms of massing and height, then the fundamental premise of the Plan is violated.

Response No. 11.50-E

With regard to massing, Figure V.A1-13 of the Revised Draft EIR contains a simulated computer rendering designed to show the massing and general architectural style of the Project in relation to other buildings south on Glendon. The text that accompanies that figure discusses the potential for Project impacts in that context: “The Project is taller, but very compatible in architectural style with the Mediterranean-style structures further south on Glendon, which remain visible in the center left background of the photograph. [etc.]” (Revised Draft EIR, Page V.A1-21.)

The architectural style of the Project is consistent with its adjacent properties, including cultural resources. The Project has been designed specifically to comply with the WVSP’s requirements pertaining to projects adjacent to cultural resources, including the requirements for cornice lines, physical setbacks and stepping back of building facades. The criteria used for this analysis are discussed in the Revised Draft EIR, which explains that the Proposed Project is consistent with all three requirements of the WVSP pertaining to development adjacent to culturally significant resources. (Revised Draft EIR, Pages V.C-10-11.)

Comment No. 11.50-F

But there has never been an analysis shown, as requested in the NOP, to show the impacts of each separate request, e.g., how much additional density results from no setbacks, zero yards, etc. CEQA requires that the environmental impacts of each discretionary approval be disclosed, analyzed and mitigated. This DEIR still fails to perform this fundamental task.

Instead, it seeks to analyze an aggregate project, and assumes that the project is in conformance with the plan because the plan has been totally rewritten to accommodate the project. This is not what CEQA permits and must be corrected by: a revised NOP that clearly discloses all discretionary approvals sought and their environmental impacts; and then a revised DEIR that analyzes those impacts individually.

Response No. 11.50-F

The Revised Draft EIR provides a comprehensive discussion of all of the entitlements the Applicant seeks for the Proposed Project. (Revised Draft EIR, Pages III-34 through III-36.) Each of the requested amendments and entitlement requests is analyzed in detail in Section V.F, Land Use, of the Revised Draft EIR. The commenter’s opinions regarding the analysis in the Revised Draft EIR is noted and will be forwarded to the Decision-Makers for their consideration.

Comment No. 11.50-G

There is no reason to drop the setbacks for the western side adjacent to Westwood Boulevard, which is in the Village Center and limited to the lowest height (40 feet) Section 8.A. Permitted Height “Except as otherwise provided in this Section, no project shall exceed a height of 40 feet.”

Also, Section 8.C.2 states

“The height of a building adjacent to one or more cultural resources shall not exceed a height that is within five feet of the average height of the adjacent cultural resources or 30 feet, whichever is greater. Above this height, the building shall be set back from the building line or lot line at a 45 degree angle.” The plan does not state that only the residential portion of the project needs to step back. Any structure adjacent to a cultural resource must be compatible in height and stepped back.

To grant any additional height above 40 feet, the Director of Planning must make the following findings per *Section 8.A. c. “the project shall be compatible with the architectural character of the surrounding area “-- this means stepped back, not big boxes.*

Section 8.A.4.a. repeats the requirements for stepping back adjacent to cultural resources: “If adjacent to a cultural resource, the project will be compatible in scale to that resource. “There is no way the proposed project is compatible in scale with the neighboring cultural resources.

Response No. 11.50-G

See Response No. 11.50-A, which explains how the Project complies with the WVSP’s requirements for new development adjacent to cultural resources. See Topical Response 6 for a detailed discussion of the Project’s height. The commenter’s opinions regarding the compatibility of the Project with adjacent cultural resources is noted and will be forwarded to the Decision-Makers for their consideration.

Comment No. 11.50-H

By placing Glendon Manor outside the parcel map, the developer is attempting to obtain a subsurface vacation that would not be permitted for a cultural resource, and then ostensibly, return after approvals to include Glendon Manor (Parcel B), in clear violation of the spirit and intent of the purpose and provisions of the S

The city has interpreted the plan’s use of “adjacent” to include projects across an alley from a cultural resource. For example, the City’s Broxton Avenue Parking Structure was redesigned to comply with this provision of the plan.

Other than wanting excessive entitlements, there is no special circumstance to justify this request. The western side should be built according to be compatible with its historic neighbors. Indeed, this is exactly the scaling that was sought by the plan.

Response No. 11.50-H

This comment is a re-statement of issues raised previously in this comment letter. For the statement regarding the subsurface vacation under Glendon Manor, see Response No. 11.50-D. See Response No. 11.50-A regarding the Project's compatibility with cultural resources adjacent to the Project site.

[Portions of this comment letter have not been reproduced here, as they were duplicated within the text of the original letter. The original comment letter, including the duplicated text, has been reproduced in its entirety in Appendix A, Revised Draft EIR Comment Letters.]

Comment No. 11.52**GLENDON MANOR****General Plan Inconsistencies and State Preemption**

There is no dispute that Glendon Manor is an historic building and should be preserved (see letter from City Commission on Cultural Resources, below and findings from California Historical Preservation Office already in the record). Even the Applicant's consultant, Jeanette McKenna, who recently opposed a nomination for apartments on Kelton Avenue in Westwood, supports preservation (see Appendix).

The state determination preempts the Specific Plan's designation. Glendon Manor is now officially a cultural resource as defined by CEQA, which in turn triggers its protection under the Specific Plan, especially the prohibition against granting a subsurface encroachment for the replacement structure (the Project).

The purpose of the plan was to preserve *all* historic buildings, not just cultural resources designated by the City and shown on the map. The demolition of Glendon Manor blatantly violates the purpose of the Specific Plan:²⁴ "To permit, encourage and facilitate the preservation, renovation and ongoing maintenance of historically and architecturally significant buildings."

In September 2001 the City Los Angeles adopted the *General Plan Conservation Element*. Its purpose is: "To identify, protect and preserve historic sites and structures for the enrichment of future generations . . ." ²⁵ It goes on to list five types of historic designations, including by the state.

By contrast, the Westwood Village Specific Plan has only one designation possible: designation by the City Cultural Heritage Commission and being shown on an out-of-date 1989 map.²⁶ At the time it was

²⁴ Westwood Village Specific Plan Section 2.B.

²⁵ Section 5 "Cultural and Historical," City of Los Angeles Conservation Element, Adopted September 2001, p. II-6.

²⁶ It is important to note that in a letter of May 23, 2002 addressed to the Planning Department and Council Office (in the DEIR Appendices), all community organizations requested that a total plan update and

written, state designation was not an option. The Specific Plan is inconsistent with the General Plan and must now conform with it.²⁷

Furthermore, the Element goes on to explain that CEQA, starting in 1998, broadened the protections for significant cultural and historic resources. “Additional protections apply to structures or sites that are listed on the state or national registers.”²⁸ Glendon Manor was deemed to be eligible for the California Register of Historical Resources and therefore is entitled to those extra protections.

The **objective** of the Conservation Element is to “protect important cultural and historical sites and resources for historical, cultural, research, and community educational purposes.”²⁹ Demolition of Glendon Manor does not meet this objective.

The **policy** of the Conservation Element is to: “continue to protect historic and cultural sites and/or resources potentially affected by proposed land development, demolition or property modification activities.”³⁰ Demolition of Glendon Manor violates this policy.

Response No. 11.52

Although preservation of the building would avoid a significant environmental impact of the Project, the Applicant can proceed with the removal of Glendon Manor if the Department of City Planning as lead agency adopts a Statement of Overriding Considerations in deciding upon the Final EIR and the Project, as explained in Topical Response 2.

There is no evidence that supports the comment’s assertion that the “purpose of the [Specific Plan] was to preserve *all* historic buildings, not just cultural resources designated by the City and shown on the map.” (Emphasis in original.) The fact that the Specific Plan contains a process for designating buildings as cultural resources shows that not “all historic buildings” receive the designation. Section 6.A of the WVSP, entitled “Designation of Cultural Resources,” states that “[t]he structures listed on Table 1 ... are hereby designated as cultural resources.” Glendon Manor is not listed in Table 1 and therefore is not a “cultural resource” under the WVSP. Moreover, the only Specific Plan designation of Glendon Manor is as part of a “receiver site” suitable for redevelopment.

Plan EIR be conducted in order to properly analyze the Plan Amendments proposed by the Project Applicant, and specifically, to amend the plan to show Glendon Manor on the map. We were told that no funds existed to update the plan (see May 23, 2002 letter, Appendix). The City’s refusal to update the Specific Plan has resulted in the denial of Cultural Resource protection for Glendon Manor merely because it is not shown on the map. But the city could have obtained the funds to update the plan by charging the Applicant for the cost of processing the plan amendments and preparing a new Plan EIR.

²⁷ “All elements and parts of a general plan are required to be integrated, internally consistent and compatible (California Government Code Section 65300.5).

²⁸ *Ibid.*, p. II-8.

²⁹ *Ibid.*, p. II-9.

³⁰ *Ibid.*, p. II-9.

The comment also is incorrect as a matter of law when it claims that Glendon Manor's eligibility for listing on the California Register, as determined by the State Historical Resources Commission, "preempts the Specific Plan's designation" of the building. State and federal law allow various types of historic designations and the corresponding protections deemed appropriate by the designating jurisdiction and other jurisdictions that may elect to consider those designations. (See General Plan Conservation Element, regarding the "five types of historic protection designations" recognized in the City, on Page II-7.) The designation of a building as a historic or cultural resource (or eligibility for) does not prevent its removal, as suggested by the comment, but only triggers certain additional protections. Here, the State's determination that Glendon Manor is eligible for listing on the California Register requires the Revised Draft EIR to consider it as an historic resource for purposes of CEQA review, which is how it was considered. (Revised Draft EIR, Pages V.C-5-13.) The eligibility for listing does not prevent the building's removal.

To the extent the comment contends that the Specific Plan is inconsistent with the General Plan, that issue is discussed in Response No. 11.3.

Comment No. 11.53

This internal inconsistency violates California law.

Therefore this application, which includes a demolition permit for Glendon Manor, cannot be approved by the City. **The finding cannot be made that the demolition of Glendon Manor is in conformance with the General Plan Conservation Element.**

The Specific Plan needs to be amended to include other designations, and to update the map of cultural resources. It has not been amended since 1991, in violation of the City's policy of updating community plans (of which the Specific Plan is an element) every five years (Westwood Community Plan, II-5, 2001).

If Glendon Manor were a person, it would have been denied due process by the City's refusal to recognize its status and intentionally refuse to update the plan's map. The City appears to have the resources to gut the plan, but not to uphold the spirit and letter of the plan.

Furthermore, the **Historic Preservation and Cultural Resources Element of the General Plan** is unavailable on the Web. We do not know if the finding can be made that the demolition of Glendon Manor is in conformance with that element.

Organizations on record in support of Glendon Manor include the following:

- California Historical Resources Commission
- West Los Angeles Chamber of Commerce
- Los Angeles Conservancy
- Westwood Hills Property Owners Association
- California Preservation Foundation

Holmby-Westwood Property Owners Assn.
Society of Architectural Historians/So. Cal. Ch.
Westwood Homeowners Association
Center for Preservation Education and Planning
North Village Improvement Committee
Westwood Historical Society
Metcalf Associates, Urban Design & Dev. Plng.
Friends of Westwood Scherer,
Bradford, Lyster & Ballsun
Save Westwood Village
Neighborhood Effort

Response No. 11.53

The commenter is correct that the Historic Preservation and Cultural Resources Element of the City's General Plan is not available for review on the City's website. It should be noted, however, that such element is not one mandated by California law for inclusion in the General Plan. (Cal. Govt. Code § 65302.)

For discussion regarding Project consistency with the General Plan, see Responses Nos. 11.3. and 11.52. For a discussion regarding the proposed demolition of Glendon Manor, see Topical Response 2.

Comment No. 11.54

City Cultural Heritage Commission urged the developer to preserve the building because of the State's determination:

Full text of L.A. Cultural Heritage Commission letter

February 25, 2003
Gregory S. Smith, Senior Project Manager
Casden Properties LLC
9090 Wilshire Blvd.
Beverly Hills, CA 90211

Re: Notice of Application for Demolition Permit 1070 Glendon Avenue-Glendon Manor Apartments
ENOV-2000-3213-Palazzo Westwood

Dear Mr. Smith:

Thank you for the information included with your February 19 letter.

As you may know, the Cultural Heritage Ordinance process for the determination you requested in the last paragraph of your letter would follow our Commission's receipt and consideration of a new application for Historic-Cultural Monument status.

Also, as you know, the Cultural Heritage Commission previously (9/17/97) declined to consider the application for this apartment building, as outlined in the tape transcription included in the material you provided. If a new application were received, I would appoint a committee of the Commission. This committee would convene and find that either substantial new historical information has been documented and included in the new application, or determine substantial rehabilitation that meets the Secretary of the Interior's Standards has been performed. Without one or both of these findings, a new application cannot be placed on the Commission's agenda for the Board to consider the matter and make a determination.

Though your submittal also questions Glendon Manor's eligibility for the California Register of Historical Resources, the Commission would note that this issue has already been settled definitively. Glendon Manor was officially determined eligible for listing in the California Register of Historical Resources in a vote by the State Historical Resources Commission that weighed detailed information from both sides.

As you know, this action requires that Glendon Manor be treated as a historic resource by the City of Los Angeles under the California Environmental Quality Act (CEQA). This Commission therefore encourages Casden Properties to seriously explore the preservation of Glendon Manor, before you proceed with demolition.

We appreciate your consideration of this matter, and thank you again for the information you provided the Commission.

Sincerely,

CULTURAL HERITAGE COMMISSION

Michael A. Cornwell
President

c: Office of the Mayor of the City of Los Angeles
Office of the Councilman for the Fifth District
Jack Brown, Esq., Deputy City Attorney
Maya Zaitzevsky, Environmental Review Section, Planning Dept.
Art Wong, Case Manager, Dept of Building & Safety
Kenneth Bernstein, Los Angeles Conservancy
Terry Tegnazian, Save Westwood Village, Inc.

Response No. 11.54

The cited letter from the City's Cultural Heritage Commission does not recommend preservation of Glendon Manor other than to encourage the Applicant to explore the issue. The letter states that the City will not re-consider the 1997 application for Glendon Manor to receive Historic Cultural Monument status unless "substantial new historical information has been documented ... or determine substantial rehabilitation that meets the Secretary of the Interior's Standards has been performed." No such information has been presented and, therefore, the building will not be deemed an Historic Cultural Monument. The City's letter acknowledges the State Historical Resource Commission's determination that Glendon Manor is eligible for listing on the California Register. It states that, because of the State Commission's determination, "this issue has already been settled definitively." For this reason, the Revised Draft EIR treats Glendon Manor as an historic resource for purposes of CEQA review. (Revised Draft EIR, Page V.C-10.) For further discussion of the proposed demolition of Glendon Manor and the feasibility of preservation, see Topical Response 2.

Comment No. 11.55

2. **SHPO Conference** this year showcased Glendon Manor as an example of historic preservation of a cultural resource.

3. **California Preservation Foundation** Conference also showcased Glendon Manor as a stellar example of historic preservation.

Response No. 11.55

The Revised Draft EIR treats Glendon Manor as an historic resource for purposes of CEQA review. (Revised Draft EIR, Page V.C-10.) The comment's reference to certain organizations with respect to Glendon Manor is noted and forwarded to the Decision-Makers for their consideration.

Comment No. 11.56

4. **Parcel Map** shows Glendon Manor as a separate lot, not part of the other parcels and no subsurface vacation along its frontage. **This conflicts with the subsurface vacation application filed with the Bureau of Engineering**, which shows encroachment for all of the project site. This application should have been included as part of the DEIR and appended with all other applications in the appendices, and included all staff memoranda and analyses on all aspects of discretionary approvals from all departments.

If Glendon Manor is demolished and the parcel map is amended to include it, **no replacement structure may encroach into the subsurface of Glendon Avenue, not just the portion of that lot- the entire project is prohibited from an encroachment.**

Therefore the Parcel Map is misleading in not showing where subsurface vacation is sought, and does not correspond with the map provided in the subsurface vacation, which does show encroachment below

Glendon Manor. Please provide an accurate description of exactly where subsurface encroachment would occur, and respond to the issue that no subsurface vacation or revokable [sic] encroachment permit may be issued for a project which demolishes a cultural resource.

Response No. 11.56

Section 9B of the WVSP prohibits the erection of subsurface parking in the public right-of-way in conjunction with any structure that replaces a demolished or relocated “Cultural Resource.” The WVSP defines “Cultural Resource” as “[a] structure determined to have local significance or potential national significance with respect to its architectural and/or historical characteristics and which is designated as such in Section 6” of the WVSP. The WVSP does not designate Glendon Manor as such a resource. The WVSP prohibition with respect to subsurface parking is therefore inapplicable with respect to Glendon Manor and the Proposed Project. Please see Response No. 11.28 for additional discussion of Section 9B of the WVSP as it relates to the Project.

The Parcel Map is not incorrect with respect to the depiction of the subsurface vacation. The Parcel Map, included in the Revised Draft EIR as Figure III-3B, depicts encroachment for the entire length of the roadway abutting the Proposed Project, including that portion of Glendon Avenue that fronts Glendon Manor. Moreover, Page III-30 of the Revised DEIR states “an estimated 330,000 cubic yards of earth will be excavated for the 3-level subterranean garage, which will underlie the entire site.” There is no requirement under CEQA that an EIR include the subsurface vacation application and the other reports and analyses identified by the commenter.

Comment No. 11.57

What is the purpose of keeping Glendon Manor separate on the Parcel Map?

What process must be followed, and what public notice, to add Glendon Manor to the Parcel Map?

Response No. 11.57

The Applicant filed a parcel map which shows Glendon Manor as a separate parcel from the remainder of the Project area. (Revised Draft EIR, Figure III-3B.) Glendon Manor already was located on its own discreet parcel and would remain as such for the Project. Among other reasons, the Applicant indicates that it remains willing to entertain reasonable, market-based offers to purchase Glendon Manor for purposes of rehabilitation, which would remove it from the scope of the Project. To date, the Applicant has received no such offers. The City has the discretion to approve or deny the requested map, as submitted, according to applicable regulations and standards, but may not dictate a specific parcel arrangement for the Project. With respect to the second part of this comment, the parcel map that appears in the Revised Draft EIR includes the real property on which Glendon Manor is located. Therefore, there is no process or public notice required to “add Glendon Manor to the Parcel Map,” because it already appears there.

Comment No. 11.58

Neighborhood Effort, an award-winning preservation developer has gone on record stating that they would like to buy and restore (not a stall tactic).

Response No. 11.58

The Applicant has advised the City that it has not received any reasonable offers to purchase the building. CEQA does not require the Applicant to sell the building, and a discussion of any proposed sale is outside the scope of the EIR. The Revised Draft EIR analyzes the Project design as proposed by the developer and discloses the potential and foreseeable impacts associated therewith to provide the Decision-Makers with the information necessary to make an informed decision on the Project. See also Response No. 11.58 regarding the Applicant's willingness to entertain reasonable offers to sell, which it has not received.

Comment No. 11.59

Page V.C-6: False statements are made regarding the requirements for restoration under Adaptive Reuse regulations and Federal tax incentives, historic buildings are not required to meet all building code requirements (e.g., parking).

Response No. 11.59

Page V.C-6 in the Revised Draft EIR contains no statements pertaining to the City's adaptive Reuse Ordinance or regulations, federal tax incentives, or parking requirements.

Comment No. 11.60

Developer's sworn deposition stating that he could make his money without any city approvals if he built a one story market (and saved Glendon Manor).

Response No. 11.60

Please see Response No. 11.9 for a response to this comment. See also Topical Response 12 for discussion regarding analysis of project alternatives, including the issue of grocery-store use on the Project site.

Comment No. 11.61

Section 13.B.6 states "The massing of the building shall relate in scale to surrounding cultural resources and shall be appropriate to the pedestrian-oriented character of Westwood Village."

The Applicant seeks to build a high-rise project (their term)*February 7, 2000 letter from Andrew Starrels to Ralphs, describes it as a “new high-rise apartment complex.”

This is not in keeping with the Village scale.

The fundamental protection afforded by the Specific Plan was to create a height limit where none had existed before, to avoid any further high-rise (cite press release by Zev and articles).

Section 13.B.7. “The architectural style of the building shall relate to surrounding cultural resources.” The Applicant has no interest in relating to cultural resources. He seeks to amend the plan to eliminate the need to lower height and step back from them. This defeats a fundamental purpose of the plan, to make new development compatible with historic buildings. This site is ringed by historic buildings that must be respected.

And we would argue that the Macy’s building is adjacent to the site, since the mid-line of the street is the boundary between the two properties, just as the midline of the alley on Broxton was the boundary between a cultural resource and the Broxton city parking structure.

Since the new procedure to directly nominate a building to the state supercedes the adoption of the Specific Plan, we believe that Glendon Manor is a cultural resource, having met the criteria under state review.

Response No. 11.61

The Proposed Project has been designed to be consistent with the overall aesthetic goals of the WVSP. (Revised Draft EIR, Page III-1.) The Revised Draft EIR observes that there are no significant environmental impacts related to height in addressing Purpose C of the WVSP, which relates to development heights. (Revised Draft EIR, Pages V.F-53 and 54.) Additionally, in terms of aesthetics, the Revised Draft EIR found that the Project “would result in a less than significant impact as seen from north, south, and west; and significant alteration of view impact from the east.” (Revised Draft EIR, Page VA.1-21.) Simulated views of the Proposed Project that depict the scale in relation to existing buildings are provided in Figures V.A1-10 through 13 in the Revised Draft EIR.

The Project has been designed to complement the architectural character of Westwood Village through the use of Spanish Colonial Revival architecture with substantial architectural detail. (Revised Draft EIR, Page III-1.) This architectural style is designed to be compatible and in character with Westwood Village, including cultural and historic buildings. (Revised Draft EIR, Page VA.1-15.) The Revised Draft EIR states that the “architectural design of the Project is consistent with the existing valued aesthetic image and character of Westwood Village, and therefore, would not represent a negative aesthetic effect.” (Revised Draft EIR, Page VA.1-15.)

The Project does not include any actions that would impact the cultural values of the Macy’s Building. For discussion regarding Glendon Manor, see Topical Response 2. For discussion regarding Project

consistency with the WVSP, see Topical Response 3. Please see Response Nos. 5.54, 5.55 and 5.56 for discussion regarding compatibility with cultural resources.

See also Response No. 11.52 in response to the comment's statement that the State's nomination procedures supersedes the Specific Plan, which it does not.

Comment No. 11.62

Not only is a subsurface vacation precluded if the building is demolished, but a Certificate of Appropriateness must be obtained from the DRB, per Section 8.C. "No cultural resource in the Specific Plan area shall be demolished, relocated, significantly altered or removed unless a Certificate of Appropriateness has been approved by the Planning Commission in accordance with the standards and procedures et [sic] forth I Section 12.20.3F through 12.20.3N of the Los Angeles Municipal Code.

The Historic Preservation and Cultural Resources Element of the G4eneral Plan [sic] is unavailable online. Is it complete, and if so, it would be expected that the proposal to destroy a state-designated historic building would violate the General Plan. No General Plan amendment or exception is being sought to destroy Glendon Manor.

Page II-5, Table II-2 "Proposed Project Parking" footnote (d) assumes that Glendon Manor is not a cultural resource because it is not shown on the Specific Plan map. If the Specific Plan were updated, it is reasonable to assume that its historic status would be shown on the map and therefore no subterranean vacation should be permitted.

To the state, it's historic, under CEQA it's historic. Note that the Specific Plan and Community Plans, because they are out of date, do not show a number of designated cultural resources and monuments, which were designated when they were threatened by demolition. Thus the argument used by the Applicant that Glendon Manor is not a cultural resource because it is not shown on the map is specious. The Plan is out of date, and new procedures have been established for the designation of cultural resources outside the city process that existed at the time the plan was adopted.

Response No. 11.62

A Certificate of Appropriateness from the DRB is not required because Glendon Manor is not a "cultural resource" under the WVSP and has not been designated a cultural resource by the Cultural Heritage Commission. The WVSP defines a "Cultural Resource" as a "structure determined to have local significance or potential national significance with respect to its architectural and/or historical characteristics and which is designated as such in Section 6 of this Specific Plan." The WVSP does not designate Glendon Manor as a Cultural Resource, thus Section 8.C does not apply to the Project. Additionally, the Cultural Heritage Commission previously (9/17/97) declined to consider the application for this apartment building. Therefore, the fact that Glendon Manor is not designated as a cultural or historic resource on the WVSP is not an error. See also, Response to Comment 11.54.

The result of Glendon Manor's eligibility for listing on the California Register is not that it cannot be removed but rather than its removal be evaluated as a significant environmental impact. The Revised Draft EIR treats it as such and recognizes that the Decision-Makers must adopt a Statement of Overriding Considerations prior to its demolition. (Revised Draft EIR, Pages V.C-10-13.) The Revised Draft EIR also observes that Figure 2 of the WVSP designates the proposed site, including Glendon Manor, as a potential redevelopment "Receiver Site," suitable for redevelopment. (Revised Draft EIR, Page V.F-20.)

See Topical Response 2 for additional discussion regarding Glendon Manor and Topical Response 11 for additional discussions regarding the proposed subsurface vacation of Glendon Avenue. See Response No. 11.30 in connection with the comment's statement that the Specific Plan is out of date and Response No. 11.53 regarding the Historic Preservation and Cultural Resources element.

Comment No. 11.63

What precautions will be taken to safeguard the structure of Moustache Cafe when excavation occurs? According to the title report, there appears to be some confusion regarding where the footings are for the building. Safeguards need to be taken to protect this historic building.

Response No. 11.63

Building codes, grading codes, and engineering investigation report requirements are in place as safeguards for construction workers to prevent unsafe design and construction practices related to surface stability, grading and unsatisfactory geotechnical and foundation conditions. (Revised Draft EIR, Page V.D-12.) The Revised Draft EIR requires as a mitigation measure that the Project comply with all such requirements, including that the "dewatering analysis must consider mitigation of settlement to neighboring structures." (Revised Draft EIR, Page V.D-14.)

Comment No. 11.64

For the purposes of the EIR, Glendon Manor is analyzed as a "significant historic resource." As a result, the proposal to demolish this significant historical resource is in direct violation of the Specific Plan's goals and objectives.

Response No. 11.64

Because it evaluates Glendon Manor as an historic resource, the Revised Draft EIR concludes that its demolition will result in a significant environmental impact. (Revised Draft EIR, Page V.C-10.) Therefore, a Statement of Overriding Considerations will be necessary following certification of the Revised Draft EIR to permit the removal. (Page V.C-13.) The Revised Draft EIR also recognizes that the Proposed Project does not support Specific Plan purpose B to the extent this purpose encourages the preservation of buildings not identified in the Specific Plan as historically or architecturally significant. (Revised Draft EIR, Page V.F-54.) The Project otherwise is consistent with the Specific Plan's goals and

objectives. (Revised Draft EIR, Pages V.F-48 through 52; see also discussion on WVSP consistency in Topical Response 3.) See also Topical Response 2 and Response Nos. 6.13 and 11.62 .

Comment No. 11.65

What safeguards will be taken to avoid subsidence for nearby properties due to dewatering? (p. II-17).

The DEIR does not provide the mitigations, but instead proposes subsequent studies. This is not mitigation up front, but speculation that there are ways to safeguard the buildings.

Response No. 11.65

The Revised Draft EIR states that the design and mitigation must include proper shoring to stabilize the proposed structure, and surrounding properties, utilities and roadways. (Revised Draft EIR, Page V.D-14.) The Revised Draft EIR concludes that development of the site is feasible, from a geotechnical hazards and public safety standpoint. (Revised Draft EIR, Page V.D-15.) The Revised Draft EIR states that subsequent geotechnical studies are required prior to construction to determine the specific design parameters for excavation, dewatering and construction, which requirements the Decision-Makers can impose as conditions of the Project approval. The existing geotechnical engineering investigation concludes, however, that building codes, grading codes, and engineering investigation report requirements are in place as safeguards for the Project's construction to prevent unsafe design and construction practices related to surface stability, grading, and unsatisfactory geotechnical and foundation conditions. (Revised Draft EIR, Page V.D-12.) See also Response No. 11.63 for additional discussion regarding construction safeguards.

Comment No. 11.66

Page II-20 claims that demolition of Glendon Manor is not significant because most of the project complies with the plan. This is false, if it did comply with most of the policies and procedures of the plan, there would be no need for so many amendments, adjustments, exceptions, etc.

The DEIR failed to note that demolition of Glendon Manor directly violates the Purpose of the Specific Plan (Section 2) including limiting height, preserving historic buildings, and the intensities of development. This project violates every major stricture [sic] of the Specific Plan and the DEIR must disclose this.

In order to qualify for height above 40 feet, the Director of A [sic] Planning has to make the finding that (Section 8.A.4.a) "If adjacent to a cultural resource, the Project will be compatible in scale to that resource." A 65 foot building is not compatible in scale to a 30 foot building (e.g., Moustache and the Westwood Boulevard historic resources).

This and other provisions of the Specific Plan are totally unanalyzed in the DEIR. Analysis of the findings required to grant additional height must be made in the DEIR and found to be significant adverse impacts which are not mitigated down to the level of significance.

Compatibility with cultural resources is a theme throughout the Specific Plan that is essentially ignored by the Applicant and thus the analysis of height, scale and density is incomplete and does not pass the substantial evidence test.

The pattern is clear, when it doesn't suit the Applicant, the Plan is ignored. If there is anything in the plan that supports an aspect of the project, it is cited. Such selectivity shows tremendous bias and should not be permitted by the city.

P. V.C-13 claims that preservation of Glendon Manor does not work for a unified development, but the same architect has successfully incorporated a cultural resource into a project in Pasadena. It's not that the project won't work, it's that the client doesn't want to do this.

The project does not qualify for any bonus because it is not providing ground floor retail (the retail is 8 feet, not 3 feet, from grade). There is no evidence of neighborhood serving uses such as a market. The only way this project would qualify for additional buildable would be through the Transfer of Density provision for Cultural Resources. No such proposal has been made.

Page V.-F-20 continues the "big lie" of this DEIR, that only cultural resources are to be protected under this plan. See above discussion.

Response No. 11.66

Page II-20 does not claim the demolition of Glendon Manor is not significant. Page II-20, a summary of the Project's overall consistency with the WVSP, concludes that the Project is consistent with all but one of the WVSP's policies, and the Project would have a less than significant impact with regard to land use consistency. Page V.C-10 of the Revised Draft EIR, within the comprehensive discussion of Glendon Manor, states that "Demolition of this building would cause a substantial adverse change in the significance of this historic resource, and therefore, the Proposed Project will result in a significant impact." (Revised Draft EIR, Page V.C-10.) Page V.F-54, which discusses the Project's consistency with the purposes, policies and objectives of the WVSP also states that, because of the proposed demolition of Glendon Manor, the Project would not be consistent with WVSP Purpose B, which encourages the preservation of historically significant buildings, to the extent this purpose encourages preservation of buildings not identified in the Specific Plan as historically or architecturally significant. (Revised Draft EIR, Page V.F-54.)

For additional discussion regarding the proposed demolition of Glendon Manor, see Topical Response 2. For additional discussion regarding Project consistency with the WVSP, see Topical Response 3. See Topical Response 15 for discussion regarding eligibility for a "density bonus" for ground floor retail. See Response Nos. 5.54, 5.55 and 5.56 for a discussion regarding compatibility with cultural resources.

The commenter's opinions regarding the Project and the Applicant will be forwarded to the Decision-Makers for their consideration.

Comment No. 11.67

Page V.H-3: Demolition of Glendon Manor violates the SCAG Regional Comprehensive Plan and Guide provision to "encourage the implementation of measures aimed at the preservation and protection of recorded and unrecorded cultural resources"

Response No. 11.67

See Response No. 3.1, which responds to the comment from SCAG. SCAG reviewed the Revised Draft EIR, including the discussion of the Project's planned removal of Glendon Manor, and did not conclude that any SCAG policies were violated. See Response No. 11.28 for discussion regarding Glendon Manor and the fact that it is not designated as a cultural resource in the WVSP.

Comment No. 11.68

Preservation of Glendon Manor as a stand-alone project or as part of the Project, would potentially provide *affordable housing* for the Village and thereby comply with the General Plan Framework's Housing Chapter Goal 4A: "An equitable distribution of housing opportunities by type and cost accessible to all residents of the city" (P. V.H-3). The Project as proposed, is limited to luxury only and therefore the language in Table V.H-1, P. VH-7 is misleading.

Response No. 11.68

Regarding the statement that retaining Glendon Manor would provide affordable housing, please see Response No. 11.21, which explains that any future occupancy of Glendon Manor – if it were to be retained and rehabilitated – would be at market rates. The building owner receives no subsidy or assistance in connection with the occupancy of Glendon Manor that would cause its units to be considered "affordable housing." (Revised Draft EIR, Page V.H-1.) The proposed Project is not limited to "luxury only" housing. Planned housing units range in size from 750 square-foot one-bedroom flats to 2,000 square-foot two-story townhouses. (Revised Draft EIR, Page III-24.) The proposed Project would provide market rate rental apartments in an area of predominantly high-priced single-family homes. (Revised Draft EIR, Page V.H-7.) The condition and layout of Glendon Manor renders its preservation infeasible to the Applicant, as discussed in Topical Response 2 and Response No. 4.5.

Comment No. 11.69**Subsurface Encroachment and Vacation of Glendon Avenue Violates Due Process for Owners of Private Easements**

The DEIR has failed to analyze the surface and subsurface easement impacts of excavation and of closure, even temporary closure, of Glendon Avenue. The Applicant and the City, by virtue of issuing this DEIR, are ignoring fundamental property rights of easement owners within Westwood Village.

Further, this closure and vacation of a Westwood street sets a very bad precedent. What would stop owners of property on both sides of Westwood Boulevard, for example, from closing the street and excavating the street to build additional parking?

The Applicant seeks to privatize a public street by narrowing it and removing on-street parking, and excavating below the public right-of-way. **Both a revokable [sic] encroachment subsurface permit and a subsurface vacation tract map violate those easement rights.**

Further, under the California Streets and Highways Code Section 8353(b), all easement owners have **two years** to file a **Notice of Non-Extinguishment of Private Easement after** project approval. Knowing this, the use of a revokable [sic] permit is an attempt to skirt the law and to deny due process rights to easement owners.

The City must require the same waivers and consents for the revokable [sic] permit as for the subsurface vacation.

Response No. 11.69

The Revised Draft EIR addresses easement related potential impacts both in connection with the Project's proposed elimination of the metered parking spaces on Glendon and the Glendon subsurface vacation. (Revised Draft EIR, Page V.L-6 through 9.) It observes the Project "will not result in any permanent loss of surface easements for ingress or egress or unobstructed passage across Glendon," which are the extent of private easement rights in connection with Glendon Avenue. (Revised Draft EIR, Page V.L-7.) See Topical Response 9 for a further response to the comment's concerns regarding the Project's impacts to property rights across the surface of Glendon Avenue. The Project will dedicate a five-foot deep utility service area beneath Glendon Avenue, which the Revised Draft EIR notes has been determined by the City as adequate to "ensure all future utilities that may foreseeably be required to serve the area could be accommodated." (Revised Draft EIR, Page V.L-7.) See discussions in Topical Response 11, which explains there are no private road easements in the subsurface of Glendon.

The comment's citation to the Pedestrian Mall Act contained in the California Streets & Highways Code, is inapplicable to the Proposed Project because no "pedestrian mall" is being created as defined in the legislation. The Act would apply only if the Project were to permanently close any street to vehicular traffic in favor of pedestrian use, which it does not. (Revised Draft EIR, Page V.L-8 and 9.)

Comment No. 11.70

The statement is made on P. V.L-3 that “The conveyance of a road easement only grants a right of ingress and egress and a right of unobstructed passage across the easement.” This is not true. We assert that:

- **the private easement includes subsurface rights for private utilities such as those the Applicant proposes for Glendon Avenue.**
- **a three year closure of the street represents the deprivation of the right of unobstructed passage across the easement that will damage the easement holders**
- **The subsurface vacation will have significant adverse impacts on emergency services.**³¹

The Applicant does not have the right to close Glendon Avenue for even a single day. Thus the CEQA Thresholds that the Applicant proposes totally ignores the damages and liabilities of a temporary closure. A three year closure is far from “temporary.” The DEIR must analyze the impacts of the temporary closure of Glendon Avenue.

In *Neff v. Ernst*, the California Supreme Court established very clearly that “Private rights so accrued [through a recorded tract map] are unaffected by an abandonment or vacation of the street” (p. 636). *The City as well as the developer will be held jointly liable.*

Response No. 11.70

A complete environmental analysis addressing re-routing public utilities, easement rights, and temporary impacts due to closure of a portion of Glendon Avenue during the construction period is provided in Chapter V.L-6 of the Revised Draft EIR. See Response No. 11.69 and Topical Responses 9 and 11 for responses regarding the Revised Draft EIR’s discussion of the Project’s impacts on easement rights. With respect to the Project’s proposed temporary closure of a portion of Glendon Avenue for approximately 24 (not 36) months, this issue is addressed in the Revised Draft EIR on Pages V.L-8 and 9.

Comment No. 11.71

Glendon Subsurface Vacation (p. II-39) states that Bureau of Engineering requires a Tract Map, but the DEIR only analyzes a Parcel Map. This discrepancy is not addressed.

Notice for a tract map or parcel map has not been provided in the NOP as required under the Subdivision Map Act and CEQA.

³¹ *In the Traffic analysis of this DEIR the argument is made that adjacent streets, such as Westwood Boulevard, have more capacity and therefore no adverse impact will occur with emergency services. But Westwood Boulevard is at capacity and therefore cannot be used for emergency services.*

Notice should include all business and property owners within the Village who by virtue of the original Janss Tract Maps' offers of dedications, own private easements for both the surface and subsurface of Glendon Avenue and all other streets and alleys within Westwood Village.

Response No. 11.71

The Bureau of Engineering requires a Tract or Parcel Map with respect to the proposed subsurface vacation of Glendon Avenue. The Applicant has filed a Parcel Map. As explained in Topical Response 16, California law does not require that specific notice be included for such a map in the NOP. Additionally, the private easements for Glendon Avenue and other right-of-ways in Westwood Village apply only to the surface of those right-of-ways, not to the subsurface areas. As explained in Topical Response No. 11, the private easements for Glendon Avenue are not implicated by the proposed subsurface vacation. However, as stated previously, all owners and occupants within a 500-foot radius of the Project site will be notified of all hearings associated with the Proposed Project.

Comment No. 11.72

The same findings required for the vacation must be obtained for the subsurface revokable encroachment permit, otherwise the easement owners will have been denied due process.

The findings required for a vacation include language that makes it clear that consent is required by more than just abutting property owners. That the city has chosen to interpret this to mean only abutting owners is in error: If the City meant to limit the consents to abutting, contiguous, or adjacent neighbors, it would have stated these limitations. It has not.

Under current procedure, in order to vacate on the surface or subsurface, the City Engineer must find:

“A. That consents to the public streets and easements being merged and waivers of any damages that may accrue as a result of such merger be obtained from all property owners who might have certain rights in the area being merged.”

Note: The Advisory Agency hereby finds that the public streets and easements to be merged are unnecessary for present or prospective public purposes and **all owners of interest in the real property within the subdivision have or will have consented to the merger prior to recordation of the map.”**

This language has been ignored by the Planning Department in its processing of the DEIR, despite the fact that it was submitted to the city and is found in the Appendix of this DEIR.

Response No. 11.72

The language of the City's current vacation procedure requires that consents and waivers be obtained from “all property owners who might have certain rights in the area being merged.” Under California

law, there are no private easements affected by the Project's proposed subsurface vacation. Therefore, there are no property owners who may have certain rights in the area being merged such that there is no consent and waiver required. See Topical Response 11 for additional discussion regarding the proposed subsurface vacation of Glendon Avenue.

Comment No. 11.73

Letters of opposition from owners of real property in the original tract to any surface or subsurface vacation or encroachment have been submitted to the City and are included in the Appendices to this DEIR. The evidence is clear that there is no consent or waiver of damages from these owners.

Response No. 11.73

As explained in Response No. 11.72 and Topical Response 11, the Proposed Project does not require consents or waivers from owners of real property in the original tract.

Comment No. 11.74

Yet the city is continuing to process this request, and to subvert the due process protections accorded under the Map Act by permitting the Applicant to receive a so-called revokable subsurface encroachment permit with the only condition that if the vacation conditions are not approved (they will not be approved, based on the evidence already in the record), that the parking including in the street does not apply to code required parking.

Such a condition is a total abdication of the City's authority to require code-required parking as a condition of Plan Check approval and for the issuance of a certificate of occupancy. The whole purpose of CEQA is to provide mitigation prior to construction, not to permit an illegal building to be constructed.

Response No. 11.74

In the event the Applicant is granted a revocable encroachment permit for the subsurface, the City will require that code-required parking be provided by the Proposed Project. The Applicant may begin construction prior to the approval of the vacation conditions, however, it does so at its risk because there are no assurances the vacation ultimately will be approved. The Commenter's opinions will be forwarded to the Decision-Makers for their consideration.

Comment No. 11.75

There are several fundamental problems involved with the encroachment/vacation of Glendon Avenue:

1. **The City is going to be liable for damages to other property owners and businesses in the area.**
In the first DEIR we had asked about City liability. It has not been addressed in this DEIR.

2. Likewise, in the first DEIR we asked why there was no process such as the *Pedestrian Mall Act of 1960*³² to protect the City from liability prior to construction. No response was provided. Section 11101(d) “Powers of legislative body” make clear that widening sidewalks would qualify as an improvement under the Act.³³

While this law is optional, it clearly applies to these conditions, and could be used by the City to protect itself from exposure to damage claims from owners who refuse to waive their easement rights both for surface and subsurface, and for temporary and permanent takings.

Furthermore, the requirement for consent of private easement owners was what prompted the City to switch from a street vacation to the Pedestrian Mall for the predecessor project, Village Center Westwood. That is exactly what occurred, and prompted an unsuccessful attempt by the developer to change state law to not provide compensation *prior* to construction.

The benefit of the Pedestrian Mall Act is to provide an organized fashion to quantify the liability before construction. It enables the City to assure that any liability is met by the developer rather than running the risk for two years that major claims against the city will come out of the woodwork.³⁴

The alternative of waiting two years for notices of non-extinguishment of easements to be filed is reckless.

Given this extensive knowledge of the nature of private easements within the City Attorney’s Office, and the decision to not expose the City to liability claims, there appears to be a reversal of city policy in the handling of these claims. We do not understand or agree with this abdication of responsibility to shield the city from such claims.

Response No. 11.75

The predecessor project, Village Center Westwood, sought to completely vacate the surface of Glendon Avenue, including the roadway. Such a vacation would have implicated the private easements of

³² *A Pedestrian Mall is defined under Section 11006 of the Pedestrian Mall Act of 1960: “‘Pedestrian Mall’ means one or more “city streets,” or portions thereof, on which vehicular traffic is or is to be restricted in whole or in part and which is or is to be used exclusively or primarily for pedestrian travel.”*

³³ *11101(d): To construct on city streets which have been or will be established as a pedestrian mall improvements of any kind or nature necessary or convenient to the operation of such city streets as a pedestrian mall, including but not limited to, paving, sidewalks, curbs, gutters, sewers, drainage works” These are the very improvements proposed by the Applicant.*

³⁴ *Under the Streets and Highways Act Section 8353(b) owners of private easements have two years to file a notice of non-extinguishment of private easement. For the City to permit a project to move forward and wait for claims to be filed after the fact would appear to be reckless. The City and the developer will both be liable for two years after project approval. Given those uncertainties, the Pedestrian Mall Act is the best vehicle for the City to identify claims and resolve them prior to construction.*

property owners in the subdivision. Therefore, the applicability of the Pedestrian Mall Act to the predecessor project was appropriate. The Proposed Project does not propose to vacate the surface of Glendon Avenue. Only a subsurface vacation is being requested. No private easements are implicated by a subsurface vacation of Glendon Avenue. The Pedestrian Mall is therefore inapplicable.

Please see Response Nos. 11.69, 11.70, 11.72 and 11.74 in further response to the comment's statements regarding easement rights. See Topical Response 9 for additional discussion of the proposed narrowing of Glendon Avenue and Topical Response 11 for additional discussion of the proposed subsurface vacation of Glendon Avenue.

Comment No. 11.76

We therefore request that all memos regarding this issue be included in the Appendices to this DEIR.

This failure to provide a response to why the City would process a vacation in light of the liability issues already raised in the record demonstrates the bias of the Lead Agency and the failure to meet the substantial evidence test. The Applicant has not addressed these issues.

3. The revokable encroachment permit is an effort to build without meeting the findings of the Map Act and to deny just compensation to easement owners.
4. The City has not notified all of the owners of interest to obtain their consent.
5. The City is ignoring the fact that closing Glendon Avenue for three years is a taking.
6. The City is ignoring the fact that permitting the revokable subsurface encroachment permit is conferring a special gift to the Applicant.

Article 5, Section 15.00 describes the procedures to be followed for changes such a narrowing...abandoning or vacating of any public street...ground or open space. Specifically, it calls for the city Attorney to issue a report to the Planning Department "for report and recommendations thereon by the Commission." Does this report exist? Does it address the issues discussed above, and why is it not addressed and incorporated into the DEIR, since this is an area of known public controversy.

Response No. 11.76

The City is not required to obtain the consent of all of landowners in the subdivision with respect to the subsurface vacation of Glendon Avenue. See Topical Response 11 for additional discussion on this issue. Additionally, the temporary closure of Glendon Avenue will not result in a compensable taking. See Topical Response 9 for discussion regarding this issue. Finally, any report issued by the City Attorney with respect to the proposed subsurface vacation and the other reports requested by the commenter are beyond the scope of the Revised Draft EIR and CEQA. The comments are noted for the record.

Comment No. 11.77**Narrowing Glendon Violates the Purpose of the Plan**

Section 2.C “Purpose”

“To limit the amount of new development at intensities and heights that are 1. compatible with the predominant character and pedestrian scale of the Village and the capacity of the Village street system.”

It is not logical to reduce Village street capacity, making Glendon a sub-standard roadway for a local street in a commercial area. Also, part of the street capacity of the Village is its on-street parking capacity, which would be diminished by the Project, in directly violation of the purpose of the Plan.

Response No. 11.77

The Project’s proposal to narrow Glendon Avenue only involves the removal of metered-parking spaces, and there will be no impact on vehicular access because the existing two lanes of vehicular traffic will remain after the Project’s construction. (Revised Draft EIR, Page V.L-7.) All metered parking eliminated by the Project along Glendon will be replaced within the Project’s parking structure. (Revised Draft EIR, Page 111-24.) Please see Topical Response 9, and Response No. 11.38 for additional discussion regarding the proposed narrowing of Glendon Avenue.

Comment No. 11.78**Private Utilities**

The project will require a new private eight-inch waterline within Glendon. This is evidence that there will be an ongoing need for private easements for utilities in the foreseeable future (P. II-34). Evidence of the need for subsurface space has already been submitted in earlier comments. Please respond.

The Project is forcing expenditures to upgrade fire hydrants, but is only paying a share of the costs. It should be required to pay the marginal cost of augmenting capacity. (P. II-34).

On Page II-34, the Applicant states that there will be a “a new private eight-inch waterline would be provided within Glendon Avenue for fire hydrant connection.”

All the other property owners and businesses within Westwood Village, by virtue of the original Tract Map dedications, hold private easements for subsurface utilities. They maintain their right to provide new utilities as the need arises, throughout all Village streets. The subsurface vacation and revokable encroachment permit fail to obtain the [sic].

The statement is made on Page IV-1 that “The street [Glendon Avenue] is subject to an easement granted to the City for public access, which will not be affected.” This is not true, because for three years, the public will be denied access to Glendon Avenue.

It also ignores the subsurface easements that are privately held.

Glendon Subsurface Vacation (p. II-39) states that Bureau of Engineering requires a Tract Map, but the DEIR only analyzes a Parcel Map. This discrepancy is not addressed.

Response No. 11.78

The Revised Draft EIR, on Page V.K3-5, states that there is an existing deficiency in the Westwood Village area with respect to water fire flow requirements as a result of the cumulative impact of existing development in the Village. The Project, if approved, therefore would not be the sole source of water infrastructure impacts. That is why the Revised Draft EIR states that the Applicant of the Proposed Project would be responsible for a fair share portion of the cost to replace the water main in Wilshire Boulevard and to enlarge the pressure regulator.

The temporary and short-term impacts associated with the closure of Glendon Avenue are analyzed in the Revised Draft EIR as discussed in Response No. 11.70 and Topical Response 9.

Regarding the last paragraph of this comment, the Bureau of Engineering requires a Tract or Parcel Map with respect to the proposed subsurface vacation of Glendon Avenue.

Comment No. 11.79

Notice for a tract map or parcel map has not been provided in the NOP.

Response No. 11.79

Please see Topical Response 16 regarding the sufficiency of the NOP, which explains that state law does not require the inclusion of the map in the NOP. The proposed Parcel Map is contained in the Revised Draft EIR, as Figure III-3B.

Comment No. 11.80

Section 2.C “Purpose”

“To limit the amount of new development at intensities and heights that are 1. compatible with the predominant character and pedestrian scale of the Village and the capacity of the Village street system.”

It is not logical to reduce Village street capacity, making Glendon a sub-standard roadway for a local street in a commercial area.

Discussion on Pages V.L-I-19 ignores request to analyze the role of the Pedestrian Mall, liability exposure for the city, etc.

Response No. 11.80

Please see Response No. 11.77 for discussion regarding the compatibility of proposed improvements to Glendon Avenue (which do not reduce Village street capacity) with the pedestrian character of the Westwood Village.

With respect to the commenter's concerns regarding the City's liability and the Pedestrian Mall Act, see Response No. 11.75.

Comment No. 11.81

There is no information in the DEIR about the Parcel Map findings and requirements.

This is an unique benefit that is not conferred upon any other property owner within the Village and constitutes spot zoning (see letter in Appendices from Arden Realty).

Response No. 11.81

The inclusion of the Parcel Map findings and requirements are beyond the scope of the Revised Draft EIR and CEQA. See Response No. 11.3 regarding the findings required under CEQA. See Topical Response 8 for a discussion of why the Project's entitlements do not constitute spot zoning.

Comment No. 11.82

Section 12.21H states that required **parking cannot be located within future street or alley** (see Zoning Engineer Interpretation, Appendix).

Response No. 11.82

Private parking may not be located on property that will become subject to an easement for use by the City or public. (LAMC 12.21E.) One of the intended uses of the Revised Draft EIR is to analyze a request for a Parcel Map to perfect the vacation of the subterranean area beneath Glendon Avenue in order to construct a subterranean parking structure serving the Proposed Project. (Revised Draft EIR, Page III-36, (E)(7).) The Revised Draft EIR discloses the request for a revocable encroachment permit, if necessary, to allow the private parking structure to be built in the public right-of-way, pending the recordation of the Final Parcel Map to perfect the vacation of the subsurface area beneath Glendon Avenue. (Revised Draft EIR, Page V.L-1.)

Comment No. 11.83**Land Use****The increase in density violates the Westwood Community Plan Policy I-2.2:**

“The residential densities proposed by the Plan are predicated upon the full development of the designated major and secondary highways. In no case shall any density increase be effected by zone change unless appropriate consideration has been given to adequate capacity to accommodate the traffic generated on the local streets and major and secondary highways serving the property involved. Changes of zone permitting densities in excess of those designated shall only be approved only if adequate access and public service are available” (emphasis added).

The streets serving this property are among the busiest in the entire City. There isn't the additional capacity available, pre or post mitigation³⁵ Furthermore, page 22 of the Crain Traffic Study, Appendix, the street network in the vicinity of the project, particularly along Wilshire and Sunset Boulevards, “are operating at or beyond their design capacities during the AM and PM peak travel hours.”

For Westwood's businesses and residents, gridlock is life-threatening. In the event of disasters, UCLA Hospital is one of the few trauma centers. For the city to approve any density increase for an area that is already at capacity would be a violation of Policy I-2.2 and represent a public safety crisis. **The streets of Westwood do not have the capacity to accept an increase in the density. Therefore the Project is in violation of the Community Plan and cannot be approved.**

The situation may be worse than presented because the analysis assumed an overly high pass-by discount rate, may have used a VPD count for Glendon of 3000 rather than the stated value of 7200, and they have failed to demonstrate a proven efficacy of the recommended technology. Also, the calculations assume no breakdowns, accidents or jaywalkers.

Response No. 11.83

As stated on page V.F-26 of the Revised Draft EIR, amending the Plan to allow floor area averaging (Amendment 6) would not increase the maximum permitted floor area (base plus bonus density) allowed under the WVSP on the Project site as a whole. Rather, the amendment seeks to average the floor area permitted on the parcels on each side of Glendon. Thus, the Project does not seek to increase the total density already permitted across the site. (Revised Draft EIR, Page V.F-17 and Table V.F-2, on Page V.F-18.) The Project will mitigate all of the significant traffic impacts identified in the Draft EIR to less than significant levels after implementation of the required mitigation measures approved by the Los Angeles Department of Transportation. (Revised Draft EIR, Page V.J-32 through 34.) The Revised Draft EIR discusses the Project's consistency with the Westwood Community Plan, on Pages V.F-48 through

³⁵ Note that Intersection 17 (Weyburn and Hilgard) has a significant adverse impact even after mitigation. A 2% increase is significant. This LOS would be 3.8% after mitigation (DEIR, Page V.J-33).

52. The commenter's opinions regarding the Revised Draft EIR's traffic analysis will be forwarded to the Decision-Makers for their consideration. Thus, the Proposed Project is not in violation of Policy 1-2.2 of the Community Plan.

Comment No. 11.84

Land Use

P. II-40 claim is made that the current plan permits buildings from 45 feet to 64 feet. This is false. The Village Center limit is 40 feet. In other areas, the maximum height is 55 feet, including roofs and parapets, with approval from the Director of Planning, *if* the required findings can be made (which we believe cannot be made).

Specific Plan Section 8.A.1 "Projects on sites which are not located in the shaded or stippled areas on Figure 3 shall not exceed a maximum height of 40 feet."

This is very important because the project is not in scale with the buildings along Westwood Boulevard, which are limited to 40 feet. They would have to step back at 40 feet from those buildings along the alley, and along the Moustache Cafe on the southern boundary of the Westside. The concept of the plan was to have new buildings appear to be the same height as old ones by stepping back at 40 feet.

Section 8.B.1 permits a height of 45 feet if on a sloping site, including the roof structure or parapet wall. Thus the justification that there are unique circumstances of slope differentials that should permit the redefinition of height and violation of the 55 foot height limit from the lowest point on the property, is not accurate.

Response No. 11.84

As noted on Page V.F-31 of the Revised Draft EIR, the WVSP permits heights of buildings located in the "shaded or stippled" areas of Specific Plan Figure 3 to be built up to 55 feet with approval of the Director of Planning, with an additional 10 feet above that height allowed for roofs and roof structures. (WVSP Sections 8.A.1. and 8.B.2) All portions of the Project site are within the shaded or stippled area of Figure 3 of the WVSP. (Revised Draft EIR, Page V.F-31.) Therefore, provided that approval is received from the Planning Director, the current height limit for the Project site is 55 feet, or 65 feet including roofs and roof structures. (Revised Draft EIR, Page V.F-31.)

With respect to Section 8.C.1 of the WVSP, which concerns setback requirements along building frontages, the Applicant has requested Amendment 8 to the WVSP. Amendment 8 would allow unified developments within Subarea 2 to be 65 feet in height (including roof structures) without a building setback at 40 feet along the frontage. It should be noted that the Project does not contain any frontage facing buildings along Westwood Boulevard or the Moustache Cafe.

With respect to the requirements of the WVSP regarding culturally significant resources, see Pages V.C-10 and V.C-11 of the Revised Draft EIR. As noted in this portion of the Revised Draft EIR, the Project is consistent with all three of the Specific Plan provisions pertaining to development adjacent to culturally historic resources. (Revised Draft EIR, Page V.C-11.)

WVSP Section 8.B.1 recognizes that sites with slope differentials of 5 feet or greater may be permitted to exceed the otherwise allowable height by the amount of the slope with approval of the Planning Director. Amendment 7 to the Specific Plan would allow the Project to account for the 19-foot slope differential of the Project site.

Additional discussion of the above issues is contained in Section V.F of the Revised Draft EIR and in Topical Response 6.

Comment No. 11.85

Page III-34 claims that the project complies with the Plan's mandate to "Improve the function, design and economic vitality of commercial areas." But the removal of readily-accessible on-street parking profoundly harms local businesses. Replacement of street parking with underground, valet tandem parking is not conducive to viable retail not just for the Project, but for the adjacent property owners and businesses.

There is no evidence in the record that this Project will help rather than harm, its commercial neighbors. These statements are all conclusionary in nature, in violation of CEQA.

In fact, statements in the record indicate that a number of commercial neighbors assert that they will be harmed by the Project's construction and operation, principally over the closure of Glendon Avenue and the subsurface vacation. The DEIR is unresponsive to these claims.

Response No. 11.85

There is no substantial evidence that the Project will harm rather than help its commercial neighbors. The Decision-Makers may not rely on argument, speculation or unsubstantiated opinion in evaluating the adequacy of the Revised Draft EIR. (Cal. Pub. Res. Code § 21082.2.) Either way, economic changes resulting from a project are not treated as significant effects on the environment. (CEQA Guidelines § 15064.)

Comment No. 11.86

Page V.F-5 claims that the Project does not violate the land-use significant impact thresholds. We believe that this is conclusionary in nature. If one examines the impacts, they are indeed significant violations of land use, based on the following impacts:

1. Three years of a street closure on the third busiest [sic] street in the Village.

2. High-rise in a low-rise area
3. Demolition of an historic building
4. Removal of previous on-street parking
5. Creation of a bottleneck on Glendon by narrowing the street below standard dimensions
6. Disregard for making Project compatible with adjacent cultural resources
7. Denial of due process for private easement holders
8. Elimination of the successful Farmers Market (not addressed at all)
9. Excessive density 400 sq. ft. lot area instead of 800 square feet.
10. Failure to meet parking requirements for replacement parking
11. Failure to provide recommended parking for multi-family housing in Westwood (not compatible with east side of Tiverton with regard to parking)
12. Failure to provide ground floor retail and pedestrian-scaled development by virtue of basement/sunken retail below grade.
13. Failure to qualify for bonuses.
14. Spot zoning.
15. Shadow, massing, scale violations
16. Financial damages to neighboring businesses whose customers may not patronize them because of the closure of Glendon Avenue and loss of on-street parking.
17. Failure to analyze movies as an alternative commercial use with its attendant added traffic and parking requirements
18. Failure to adhere to the bicycle parking requirements of the plan intended to reduce auto trips within the Village.
19. Net loss of 42 units of affordable housing.

Response No. 11.86

This list of claimed “significant violations of land use” correlates to more specific arguments presented in this comment that are addressed in the Revised Draft EIR and elsewhere herein as follows:

1. See Response No. 11.70. As noted on page II-5 of the Revised Draft EIR, Glendon Avenue is expected to be closed for only approximately 24 months for excavation and construction of the Project’s subterranean parking structure. The Revised Draft EIR indicates that “intermittent short-term closures” would occur during the 12 months following construction. However, there will continue to be vehicular and/or pedestrian access to all adjacent buildings during this time. (Revised Draft EIR, Page V.L-8 and 9.)
2. See Response Nos. 11.61 and 11.84 and Topical Response 6.
3. See Response Nos. 11.3, 11.28, 11.52, 11.53, 11.54, 11.66 and Topical Response 2.
4. See Response Nos. 11.6 and 11.40. The Project proposes to provide a total of 1,452 parking spaces, of which 135 spaces include required replacement parking spaces. The Project’s parking component is introduced in Section III, Project Description, and is evaluated in detail in Section F, Land Use of the Revised Draft EIR.
5. See Response Nos. 11.38 and 11.72 and Topical Response 9.
6. See Response Nos. 11.50 and 11.66.
7. See Response Nos. 11.69, 11.70, 11.72 and 11.74.
8. The elimination of the farmer’s market is not an environmental issue subject to CEQA review. The commenter has not provided any information substantiating any environmental consequences that could arise from elimination of the farmer’s market. See also Response No. 11.85.
9. See Topical Response 4.
10. See Response Nos. 11.6, 11.34 and 11.40.
11. The Project proposes to provide enough parking to meet the City code requirements for multi-family residential housing. (Revised Draft EIR, Page V.J-19.)
12. See Response Nos. 11.7 and 11.37 and Topical Response 15.
13. See Response Nos. 11.5, 11.6, 11.44 and 11.83.
14. See Response Nos. 11.20, 11.81 and Topical Response 8.

15. Shading impacts are analyzed in Section V.A.3 of the Revised Draft EIR. The Project's massing and scale are analyzed in Sections V.A.1 and V.F of the Revised Draft EIR.
16. Financial loss to neighboring properties is not an environmental impact issue subject to CEQA review unless there is substantial evidence indicating such financial loss could result in physical adverse effects upon the environment. See also Response No. 11.49.
17. See Response No. 11.31 and Topical Response 12.
18. As indicated in the Project Description of the Revised Draft EIR, on Page III-24, the Proposed Project includes 73-bicycle parking spaces. An analysis of the WVSP's bicycle parking requirements is found on Pages V.F-45 and 46 of the Revised Draft EIR, which states that the Project's proposed bicycle parking is consistent with the ratio endorsed in the Citywide Bicycle Plan.
19. See Response Nos. 11.21 and 11.86. The Project would not result in a net loss of 42 housing units. The Project proposes to demolish 42 existing vacant housing units and construct 350 new units for a net increase in 308 units.

Comment No. 11.87

Page V.F-6 does not analyze the impacts of diverted traffic on the quality of residential life along Tiverton Avenue.

It does not analyze the impacts of moving vans on the street capacity of an unimproved Tiverton.

There is no demonstrated need for a new definition of mixed use or unified development, other than the desire to maximize density. This is a self-imposed hardship and does not justify creating a unique benefit for this project.

Response No. 11.87

Short-term construction impacts, including alternative traffic routes during the approximate 24-month closure of Glendon Avenue are discussed in Section V.L, Subsurface Vacation of Glendon Avenue of the Revised Draft EIR. As discussed on Page V.L-16 of the Revised Draft EIR, much of the existing traffic that uses Glendon Avenue accesses land uses adjacent to the Street. As those land uses are removed to allow for redevelopment of the site, the vehicle trips associated with these land uses would also be eliminated. Thus, the temporary closure of Glendon Avenue is not anticipated to generate additional detour traffic on adjacent roadways. In addition, the Revised Draft EIR states that no truck staging or travel is planned to occur on the adjacent Weyburn or Tiverton Avenues. (Revised Draft EIR, Page V.J-31.)

With respect to the impact of moving vans on Tiverton Avenue, the Proposed Project includes a residential loading dock along Tiverton Avenue in the southeast portion of the Project site. This loading dock has been carefully located and designed to permit a full-size (60-foot) semi truck and trailer combination to back into and exit from the dock in a single move, thus reducing the time and amount of maneuvering necessary. Therefore, moving vans would be able to use this loading dock for residential purposes and would cause minimal or no impact to traffic along Tiverton. See Topical Response 10 for additional discussion regarding loading docks included as part of the Project.

The Applicant is requesting Amendment 2 to incorporate definitions for mixed use and unified developments from the City of Los Angeles Zoning Code into the WVSP. (Revised Draft EIR, Page V.F-25.) Amendment 2 is intended to ensure that interpretations of the WVSP would be consistent with current citywide standards. However, Amendment 2 would not allow for greater density or result in any land use impacts. (Revised Draft EIR, Page V.F-26.)

Comment No. 11.88

Table V.F-1 still does not show the current entitlements and the impacts/benefits of each separate amendment. For example, the Applicant is creating a de facto bonus by claiming that the Project qualifies as ground floor retail. This is never acknowledged. The project does not qualify for any bonuses.

Response No. 11.88

Table V.F-1 on Pages V.F-13 through 15 in the Revised Draft EIR lists each proposed WVSP amendment, the result of the Proposed Project from the amendment, the current WVSP language, and the result of the Proposed Project based on the current WVSP provisions. The pages that follow elaborate on those impacts and provide a comprehensive review of the Project's impacts based upon the current WVSP text. See also Table App. H-1 in the Appendices to the Revised Draft EIR. It should also be noted that the Applicant has requested a density bonus under Section 7.B.4. of the WVSP, which relates to provision of residential uses above the ground floor of a commercial building, but has not requested a "density bonus" under Section 7.B.2., which relates to the provision of "ground floor neighborhood retail." (Revised Draft EIR, Pages V.F-22 through 24.)

See also Topical Response 15 regarding ground floor retail.

Comment No. 11.89

Page V.F-17 makes claims of bonuses that are never quantified or qualified. As it stands now, it is not ground level retail, there is no additional public parking (see parking analysis), and the residential is not above ground floor retail.

The additional density in the Project is derived by violating the height limit and upzoning from R-3 to R-4, not through bonuses. The DEIR does not meet the substantial evidence test.

Page V.F-18 claims that the density is consistent with the C-4 zoning. But it is not. There is a D Condition that limits development to R-3, 800 square feet/unit

Response No. 11.89

Page V.F-17 of the Revised Draft EIR does not make claims regarding density bonuses on behalf of the Project. With respect to the Project's density bonus qualifications for ground floor retail uses, see Topical Responses 3 and 15. Project impacts related to the proposed residential density (Amendment 4) are discussed on page V.F-18 of the Revised Draft EIR. The statement referred to in the last paragraph of this comment is: "R4 zone density would permit 420 dwelling units." It does not state the Project is entitled to R4 zone density provisions. (Revised Draft EIR, Page V.F-18.)

Comment No. 11.90

No analysis was ever provided for the zero yard plan amendment (Page V.F-23).

If Glendon Manor is preserved, there must be side yards provided. This is not addressed. Please address. (Page V.F-23).

The request to FAR average violates the concept of stepping-down in density and height from the outer boundary of the Plan to the Village Center. The western parcels must be compatible with the Village Center and thus stepped back, not excessive in height or density, particularly because so many of cultural resources. By allowing a unified development, the transitional density/height foundation of the Specific Plan is violated. Furthermore, the plan never envisioned one ownership/project for both sides of Glendon.

Response No. 11.90

The yard setback requirements are analyzed on Pages V.F-23 and V.F-33 of the Revised Draft EIR. As stated in the Revised Draft EIR, the requested Amendment 8 would not change the "build-to-line" requirement under the WVSP, which requires that at least 80 percent of the exterior wall along the building frontage shall be located no more than five feet from any lot line parallel to a public street, up to a height of 30 feet for the top story, whichever is less.

The Project as proposed by the applicant includes the demolition of Glendon Manor. If the Decision-Makers choose to reject the applicant's request to demolish Glendon Manor, side yards may have to be provided for that site as a separate building. However, the Revised Draft EIR analyzes the Project as proposed by the applicant and provides the Decision-Makers with the information necessary to make an informed decision on the Project. In other words, the Revised Draft EIR need not analyze the side yard and other implications of preserving Glendon Manor because such preservation is not part of the Proposed Project.

For a response to the comment regarding FAR averaging, see Response No. 5.23.

Comment No. 11.91

“Customization” of A Subarea is really spot zoning and illegal.

The Project adjacent to the Moustache is not compatible because it starts its setback not at 5 feet of the average height of the Moustache, but at 40 feet. The Plan requires a lower point for stepping back. Note: the height of the Moustache is not revealed in Figure V-F-4. Please provide this information for every cultural resource adjacent to the Project.

Examples of Spot Zoning:

Height

far averaging

unified development

reduced bicycle parking

increased residential density

bonuses without qualifications

no R-3 dedication for Glendon and Weyburn

unified developments to exceed the setback and height limits of the plan

zero yard requirement

upzoning from R-3 to R-4 just for this site

averaging open space, just for this site

substandard roadway (Glendon Avenue) just for this Applicant

tandem parking for a grocery store/drug store

elimination of setbacks above 40 feet

creation of bonus for basement retail

Response No. 11.91

Historic resources adjacent to the Proposed Project as referenced in the WVSP are the Moustache Café building to the south (1071-73 Glendon Avenue,) and four historic buildings on Westwood Boulevard. These four buildings are: Brite/Hunter's Books-Original Bullock's Department Store (now The Gap/UCLA Extension) at 1000-10 Westwood Boulevard, Tower Records/Chanin's/Burtons (now solely Tower Records) at 1030 Westwood Boulevard; The Limited/Jay's Jewelers (now Victoria's Secret) at 1046 Westwood Boulevard, and Yesterday's (now vacant) at 1056 Westwood Boulevard. (Revised Draft EIR, Page V.C-7). The Revised Draft EIR analyzes the Proposed Project's compliance with the WVSP's requirements pertaining to projects adjacent to cultural resources. (Revised Draft EIR, Pages V.C-10-11). As explained in the Revised Draft EIR, the Proposed Project is consistent with all three requirements of the WVSP pertaining to development adjacent to culturally significant resources.

With respect to the commenter's notations about instances of spot zoning, see Topical Response 8.

Comment No. 11.92**Parks**

Non[e] *sic* of the comments submitted to the first DEIR are addressed in this section.

Response No. 11.92

To the extent the commenter refers to comments submitted on the first Draft EIR, see Topical Response 1 for a discussion on responses to previously submitted comments. If, however, the commenter is concerned that comments related to parks raised in connection with the first draft have not been addressed by the Revised Draft EIR, see Section V.I.4 for the discussion of parks. This discussion concludes that, with implementation of recommended mitigation measures, the Project does not cause a significant impact on parks. This discussion is adequate under CEQA to inform the Decision-Makers

Comment No. 11.93

There will be no mitigation because there aren't adequate funds in the City's Quimby Fund to purchase new park space. (p. II-27). A statement of overriding consideration is required for impacts on parks.

Response No. 11.93

The Revised Draft EIR states that the Proposed Project will pay an in lieu fee calculated pursuant to the City's Quimby Act to mitigate the Project's impact on parks and recreation to a less than significant level. (Revised Draft EIR, Page V.14-3.) The payment of in lieu fees, or Quimby fees, is recognized by the City of Los Angeles Municipal Code (Section 17.12) as an acceptable means to mitigate impacts upon parks and recreation facilities. Since the EIR has identified this impact as one that can be mitigated to a less than significant level, a Statement of Overriding Considerations is not required. There is no evidence in

the record regarding the solvency of the City's Quimby Fund, which is beyond the scope of CEQA and the Revised Draft EIR.

Comment No. 11.94

Page II-29 claims that the parking provided by the project is more than enough to meet parking demand. Why is it not 1550 parking as stated in the NOP?

After other replacement parking is added, the project does not meet required parking, especially if tandem parking is provided for the commercial parking demand. The DEIR should analyze parking with non-tandem parking. Clearly, the project has a severe shortfall in required parking.

Response No. 11.94

The 1,550-automobile parking stalls identified in the NOP project description was an initial estimate. The total off-street parking required for Project pursuant to the existing requirements in the Specific Plan and the City's Zoning Code is the 1,452-automobile parking spaces. (Revised Draft EIR, Page V.F-41.)

The Revised Draft EIR states that up to 25% of the total required parking spaces would be proposed to be tandem. (Revised Draft EIR, Page V.F-43.) The tandem parking would be provided in connection with some of the retail uses, with a parking attendant present, and the two-bedroom residential units, both of which are allowed by the City's Zoning Code. However, the total number of parking spaces required for the Project is not reduced by the provision of tandem parking, and therefore, analysis of required parking does not change if the Project includes tandem parking.

Comment No. 11.95

Page V.14-2: Because the Community Plan is out of date and no Plan EIR was prepared, there is no way to make the finding that there are no significant impacts on the demand for parks.

Response No. 11.95

The Westwood Community Plan, which was updated as recently as July 27, 1999, is current and valid. There is no requirement under California law that general plans (with the exception of their housing elements) or specific plans be updated at any regular interval. See Response No.11.93 for discussion related to impact on parks.

Comment No. 11.96

Also, this DEIR assumes that the units will be occupied by families, rather than students doubling or tripling up. Therefore the population projections are suspect and unreliable (PV.14-2).

Response No. 11.96

The occupancy assumptions applied to the project are based on the occupancy multiplier of 1.92 persons per unit, which is consistent with the multiplier used on page III-3 of the Westwood Community Plan for High Medium residential development. (Revised Draft EIR Page V.14-2.) Furthermore, whether the residential units are occupied by families of two or three rather than students, “doubling or tripling” is of no event because in either scenario occupancy is the same.

Comment No. 11.97

As stated in our earlier comments, there are no funds available to purchase more parkland, therefore this is a significant adverse impact that is not mitigated (PV.14-3). This analysis is not responsive to comments submitted previously.

Response No. 11.97

See Response No. 11.93, which addresses the commenter’s earlier comment regarding funding availability for parkland.

Comment No. 11.98**Housing**

The Plan is out of date, and therefore the population projections are incorrect, and the Specific Plan is no longer in conformance with the General Plan. Furthermore, “Community Plan capacity does not include housing located within commercial districts nor the current residential vacancy rate.”³⁶

Normally, the only provision for additional density in housing is if it is affordable. Such bonuses already exist in the City and could be applied to this site. But the Applicant isn’t seeking to provide a mix of incomes in the project. Rather, the Applicant seeks to double the density for luxury housing while at the same time having evicted seniors and veterans from affordable housing at Glendon Manor. This violates Objective I-1 of the Westwood Community Plan: “To provide for the preservation of existing housing ...”³⁷ The logic of asking for a density bonus while removing affordable housing defies reason. Further, the Community Plan Policy I-1.4 state “Promote neighborhood preservation, particularly in multi-family neighborhoods.

Program: Make funds available to rehabilitate multi-family housing and to correct code violations on small residential buildings through the Neighborhood Preservation Program...administered by the City’s

³⁶ Westwood Community Plan, May 2001, p. II-4.

³⁷ Westwood Community Plan, May 2001, page III-3.

Housing Department.”³⁸ Thus the demolition of Glendon Manor is not in conformance with this policy and program.

Response No. 11.98

There is no requirement under California law that general plans (with the exception of their housing elements) or specific plans be updated at any regular interval. The 1989 certification for the WVSP EIR remains current, and there is no evidence that the Specific Plan is inconsistent with the General Plan. See also Response No. 11.3 regarding the plans’ consistency.

As discussed on page V.H-9 of the Revised Draft EIR, the Proposed Project will result in the removal of 42 units (bachelor, studio and one-bedroom) and will add 350 multi-family residential units for a net increase of 308 dwelling units. Because the building is now vacant, without any tenant having been evicted, and because the building never received rent assistance or subsidies, Glendon Manor’s removal does not cause the loss of any “affordable housing” units. See also Response Nos. 11.21 and 11.88 on the claimed loss of affordable housing. For a discussion of the Project’s consistency with applicable population growth and housing policies, see Table V.H-1 on page V.H-5 of the Revised Draft EIR. For discussion regarding Project consistency with the WVSP, see Topical Response 3. With regard to population projections, please see Response No. 11.17.

As explained on Pages V.F-21 and 22 in the Revised Draft EIR, the Westwood Village Specific Plan authorizes additional density through many methods other than the provision of affordable housing. The Proposed Project qualifies for additional floor area under provision 4 of Section 7.B of the Specific Plan for residential units above ground floor commercial use. Additionally, Page V.F-49 of the Revised Draft EIR specifically analyzes the Proposed Project’s consistency with Objective 1-1 and Policy 1-1.4 of the Westwood Community Plan because the Project will result in a net gain of 308 multi-family housing units and add retail uses to serve the surrounding residential neighborhoods.

Comment No. 11.99

Page II-7, footnote 7: “According to the new economy and jobs/housing balance in Southern California,” SCAG, April 2001 (Available on the SCAG web site), the Project site is in a jobs-rich area.”

That statement involves a regional analysis, and not a community plan analysis. Westwood has the highest density permitted for housing along the Wilshire corridor. It is facetious to claim that Westwood is short of housing and that the upzoning for this project is justifiable. The Applicant is welcome to buy and build high density in the Wilshire corridor, as long as it is no higher than 75 feet (lower than sought for this project in a low-rise area)!

³⁸ *Ibid.*, p. III-4.

Response No. 11.99

This comment is noted and will be forwarded to the Decision-Makers for their consideration.

Comment No. 11.100

Page V.F-49 claims that the Project meets the Objective of preserving *existing housing*. It does not! It proposes to destroy existing affordable housing. Please correct this error.

Response No. 11.100

Please see Response Nos. 11.21 and 11.68 for an explanation of how the Project does not destroy existing affordable housing. The Proposed Project will result in the removal of 42 multi-family units and the addition of 350 multi-family residential units for a net increase of 308 dwelling units. Objective 1-1 of the Community Plan states that it is to “provide for the preservation of existing housing and for the development of new housing to meet the diverse needs of the existing residents and projected population of the Plan area to the year 2010.” The intent of this objective is to preserve the existing housing stock, as opposed to preserving actual existing housing structures and to provide for the development of new housing. The Project’s increase of 308 units is consistent with this objective.

Comment No. 11.101

The Project does not protect the transitional multi-family housing along Tiverton from out-of-scale development. It towers above it, casts illegal shadows over it, and blocks views. All of these are significant adverse impacts that are not mitigated. (P. V.F-49).

A high-rise of 82-91 feet is not compatible with one and two story residential buildings. This is taller than permitted in the Wilshire Corridor!

Again, the Project violates the Specific Plan’s Policy I-3.1 of requiring compatibility in height, scale and massing with existing residential properties (P. V.F-50). The adjacent residential properties on Tiverton are predominantly one and two story buildings. No new building on Tiverton would be permitted above 45 feet under the current ordinance.

Response No. 11.101

A complete description of the building height is provided on page III-7 of the Revised Draft EIR and repeated here as follows:

“Project Height

The Proposed Project buildings (including roofs, roof structures and parapet walls) will be no higher than 65 feet from the highest point of the roof to the elevation of the ground surface below

that point of measurement. The building excluding roof and roof structures shall be no more than 55 feet as measured from the top of the habitable space to the ground surface below that point of measurement. As permitted in the Specific Plan, unoccupied towers would be permitted to 40 feet above the building/roof height at corners and 20 feet above the building/roof height elsewhere. The highest point of the building relative to the ground surface below is 70 feet; this height occurs at an unoccupied tower. Because of the significant slope of the Project site (up to 19 feet at some points), the highest point of the building relative to grade (the lowest point of the site) is 82 feet.”

See also Topical Response 6 and Response Nos. 5.54, 5.55 and 5.56 that responds to the comment.

Comment No. 11.102

The Project is inconsistent with the General Plan Framework goal of preserving all housing by demolishing Glendon Manor (P. V.H-9).

Mitigation is required for the net loss of affordable housing. This is a significant adverse impact on the Housing Element of the General Plan (P. V.H-10).

Response No. 11.102

In response to the referenced General Plan Framework goal, see Response No. 11.100. The Project involves a net gain of 308 housing units and does not eliminate any affordable housing as explained in Response Nos. 11.21 and 11.68.

Comment No. 11.103

Impacts on Neighbors

P. II-21 claim is made that the project is compatible with the Westwood Marketplace. It is not because it threatens these businesses by proposing to close Glendon Avenue, one of only three Village streets that connect with Wilshire Boulevard. Indeed, Glendon is the direct access to Expo's front door. These businesses will suffer irreparable harm if Glendon is closed.

P. V.B-11 reveals the 320 truck trips along Glendon. It does not analyze the adverse impacts on the operation of adjacent businesses, e.g., how will customers see and access the valet parking for the Napa Valley Grille when the trucks are blocking that lane? How will the outside dining space be impacted by the noise and fumes of 320 dump trucks each day?

Response No. 11.103

While “economic or social effects of a project shall not be treated as significant effects on the environment,” a complete discussion on the temporary impacts of closing a portion of Glendon Avenue

for a period of approximately 24 months is provided on Pages V.L-8 and 9 of the Revised Draft EIR. All businesses will continue to be served by vehicular and/or pedestrian access throughout Project construction. The Westwood Marketplace is accessible from Le Conte Avenue, which will not be affected by the Proposed Project. The Expo Design Center fronts Weyburn Avenue, on which both lanes of travel will remain open and access to the next intersecting street in both directions will be maintained. (Revised Draft EIR, Page V.L-8.) The Revised Draft EIR specifically observes that access to the Napa Valley Grill also will not be significantly impacted.

With respect to air quality impacts from the Project during the construction phase, the Revised Draft EIR finds that, impacts will be less than significant with the exception of NO_x and Reactive Organic Gas. (Revised Draft EIR, Page V.B-17.) Mitigation measures to reduce air quality impacts during the construction phase are described on Pages V.B-17 and 18. These measures will reduce dust and other emissions from construction and truck movement. For example, mitigation measures 3 and 4 on Page V.B-17 would both assist to reduce fugitive dust from the Project site. However, notwithstanding these mitigation measures, the Project will still result in significant short term air quality impacts during the construction phase.

Construction related noise impacts are discussed on Pages V.G-10 and 11 of the Revised Draft EIR. This section indicates that the Project would result in short-term construction related noise impacts. (Revised Draft EIR, Page V.G-11.) Project construction noise from demolition, excavation, equipment, and trucks would also impact nearby businesses.

Comment No. 11.104

Page V.F-19 claims that commercial would have been permitted within the hotel. The hotel provided the setback, landscaping, and height restrictions of the Plan. Commercial uses were banned from Tiverton in order to preserve the residential character of the street. The Project seeks to violate this character by having the neighbors to the east face a parking structure-like facade. Please note that the DRB does not encourage above-grade parking structures in Westwood, and thus this is not a satisfactory mitigation strategy. No commercial uses should be permitted from the mid-block of Glendon east. That is the only way to maintain Tiverton as a residential street.

Figure V.F-6a: at grade garage-like facade along Tiverton is not pedestrian friendly and violates the Specific Plan. Figures V.F-6c and d fail to show the smaller adjacent neighbors.

Response No. 11.104

See Topical Responses 5 and 7 for a complete discussion on the Project's proposed use of Tiverton. The façade along Tiverton Avenue will resemble a residential use with screened parking garage façade on the ground floor.

Comment No. 11.105

The project is inconsistent with Goal 2: “A strong and competitive commercial sector which promotes economic vitality...while preserving the community’s unique commercial, historic and cultural character.” (P. V.F-50). The adverse economic impacts of closing Glendon Avenue to excavate it, and to eliminate on-street parking make this Project a significant adverse impact on this goal.

It also threatens the viability of existing stores and businesses which support the needs of local residents and are compatible with the neighborhood (P. V.F-51). We believe that the tenants of Westwood Marketplace and other adjacent businesses will be harmed by the Project’s three year closure of Glendon Avenue, removal of on-street parking; and inadequate replacement parking in a tandem-parked commercial garage.

Response No. 11.105

See Response No. 11.103 and Topical Response 9 in response to this comment regarding the temporary closure of Glendon (which is anticipated to last for approximately 24 months, not 3 years). Since the Proposed Project will maintain access to the existing commercial uses in the immediate vicinity during construction, the economic viability of the neighboring businesses will not be threatened. Additionally, the Project does not provide “inadequate replacement parking.” The total number of parking spaces required for the Project is not reduced by the provision of tandem parking which the Revised Draft EIR states will consist of not more than 25% of the total required parking spaces. (Revised Draft EIR, Page V.F-43.) The commenter’s opinion regarding perceived harm to adjacent businesses is noted for the record and will be forward to the Decision-Makers for their consideration.

Comment No. 11.106**Landscaping**

Since the Podium Level starts at the ‘building line, where is the landscaping around the project in the public area, other than the problematical 15 strip along Tiverton? See Page II-4 “As noted the Project will include landscaping at street level”. What are the dimensions and locations of the landscaping, other than replacement of street trees which cannot have deep roots because of the shallow soil (five feet) above the subterranean garage?

Since the Applicant is requesting zero front yards, what landscaping is provided? This appears to be a sterile, un-landscaped project from the street.

A landscaping amenity that should be incorporated is a planted median along Glendon Avenue (see Traffic Section of these comments).

Misrepresentation of the Specific Plan

The claim is asserted by the Applicant that the reason why they seek additional entitlements is because the plan was for a hotel. Not true: see Section 10.

Section 2.G states that a purpose of the Specific Plan is “To mitigate the impacts of Village development on nearby residential areas.” This project is **not compatible** with the low-rise structures on Tiverton and their landscaped set-backs. Same for P. V.H-9.

Response No. 11.106

Please see Figures III-23 and III-24 of the Revised Draft EIR for landscape plans of the street and podium levels and Topical Response 7 regarding the 15-foot landscaped setback along Tiverton Avenue. See Response No. 5.3 for the prior proposed use of the site as a hotel. See Topical Response 3 for a discussion of Project consistency with the WVSP.

Comment No. 11.107

The height proposed causes shadow impacts on adjacent residential properties.

Even greater shadow impacts would be discovered if the calculations had been done for a 65 foot high building, not a 55 foot building,

Response No. 11.107

A detailed shade and shadow analysis is presented in Section A.3 of the Revised Draft EIR. (Revised Draft EIR Page V.A3-1.) As stated on Page V.A3-3 of the Revised Draft EIR, the analysis of shadows was based on Project “architectural plans and elevations, taking into account the actual heights of the rooflines.” This analysis involved an evaluation of all building shadows reflecting the configuration of the Project’s proposed site plans and elevations, including some building heights that are less than 55 feet and other buildings designed with roof and roof structures that exceed 55 feet, but in no case exceed 65 feet from the ground surface below that point. (Revised Draft EIR, Page V.A3-3.)

The Revised Draft EIR concluded, based on an analysis of the Summer and Winter Solstice and Fall and Spring Equinox shadow patterns, that the Project will not result in any significant shade and shadow impacts. (Revised Draft EIR, Page VA3-10.) See Topical Response 6 for discussion of the Project’s building height.

Comment No. 11.108

Section 5.B.14.b: “If Subarea 2 is not developed with a hotel, commercial development shall be permitted on the lots fronting Glendon Avenue provided the uses are permitted in this section, and the lots fronting on Tiverton Avenue shall be limited to residential uses only.”

This was done to provide a buffer and transition between the R-3 area (and thus the 800 square foot lot area limit) and the commercial areas of the Village. That's why there is a landscape buffer of 15 feet, and all yard requirements would have to be met.

Response No. 11.108

With respect to the 15-foot setback along Tiverton Avenue, see Topical Response 7. For a discussion of commercial uses on Tiverton, see Topical Response 5.

Comment No. 11.109

Further, while a hotel project could have gone up to 75 feet for 25 percent of its area, this project proposes 65 feet minimum (82-91 feet elsewhere) for 100% of the site. It is therefore far more dense than a hotel would have been permitted. Further, it is claimed on p. II-7 that the project 'meet[s] the spirit and intent of the Westwood Village Specific Plan.'

It certainly does not meet the pedestrian scale when it eliminates the setbacks above 40 feet; It does not provide residential use above the ground floor as defined in the plan;

It does not provide additional public parking; rather than providing more short-term daytime parking, it is removing on-street public meters -- the most convenient short term public parking possible.

With the request for tandem commercial parking, the parking is not short-term -- waiting for a valet can take a lot of time, so can negotiating several levels of subterranean parking. Both make the time required to park far from short term and convenient for the public. Removal of street parking exacerbates the short term public parking shortage in Westwood Village.

Further, the claim is made that the Project will encourage and facilitate non-automobile access...to the Village (p. II-7). To the contrary, it is severely reducing the amount of bicycle parking for the project, a practical TDM strategy for the Village and the adjacent UCLA campus.

The project claims these benefits when it is actually doing the reverse, stressing a limited infrastructure in a chronically congested retail area that is short of free and affordable short-term public parking. Reliance upon bicycles in the Village, as compared with Downtown, for example, is a credible traffic mitigation measure. That's why higher standards were required in this Specific Plan. There is no public benefit in reducing the required bicycle parking under current law.

The DEIR repeatedly makes assertions that are not borne out in the document, that the project complies with current regulations when in fact it does not. For example, on p. II-8, the claim is made that it meets Objective 2-2 "To promote distinctive commercial districts and pedestrian-oriented area." But the project is in point of fact, not pedestrian oriented because the retail is sunken below grade (basement retail, if you will), and because it is not scaled back above 40 feet. There is nothing pedestrian friendly about the project. It is a big boxy structure.

Response No. 11.109

This comment raises many of the same issues already identified in this comment and responded to herein. See Response No. 11.86, which addresses all of these issues. The commenter's difference in opinion is noted for the record and will be forwarded to the Decision-Makers for their consideration. It should be noted that the Proposed Project incorporates a number of pedestrian friendly features, including: streetscape and sidewalk improvements, widened sidewalks along Glendon Avenue (Revised Draft EIR, Page V.F-46), ground floor neighborhood commercial retail uses (Revised Draft EIR, Page V.F-48), and outdoor dining areas which will promote the pedestrian oriented scale of Westwood Village. With respect to the ground floor retail uses, see Topical Response 15. In regard to Project consistency with the WVSP, see Topical Response 3.

Comment No. 11.110**SHADOWS**

The analysis was done for a 55 foot building, not for a 65 foot building as proposed. Thus all of the shadow impacts will be greater than revealed. This analysis must be redone.

Response No. 11.110

As stated in Section V.A3 of the Revised Draft EIR, the analysis of shadows was based on Project "architectural plans and elevations, taking into account the actual heights of the rooflines." This analysis involved an evaluation of all building shadows reflecting the configuration of the Project's proposed site plans and elevations, including some building heights that are less than 55 feet and other buildings designed with roof and roof structures that exceed 55 feet, but in no case exceed 65 feet from the ground surface below that point. (Revised Draft EIR, Page V.A3-3.)

Comment No. 11.111

The Plan makes it clear that (Section 13.B.r. "The project shall not cast shadows onto adjacent residential buildings outside the Specific Plan area for more than two hours between 10 am and 4 pm on December 21 or between 10 am and 4 pm on March 21." It does not state a percentage of shadow over the building (e.g., Page V.A3-6). *Any shadow over that period violates the plan.* Thus the shadow analysis, though flawed as stated above, violates the limit for buildings east and north of the site.

Response No. 11.111

The commenter's interpretation of the thresholds is incorrect. The threshold for identifying a significant shadow impact is defined on Page V.A3-3 of the Revised Draft EIR. As stated in the EIR,

“This EIR analysis will consider both the provisions of the Specific Plan and the Westwood Village Design Guidelines to determine if the Proposed Project would cast shadows that would result in significant impacts. Accordingly, shadow impacts would be considered significant if:

- *The project structures would cast shadows onto adjacent residential buildings outside the Specific Plan area for more than two hours between 10:00 a.m. and 4:00 p.m. on December 21 (the winter solstice) or between 10:00 a.m. and 4:00 p.m. on March 21 (the spring equinox), and*
- *The project structures would cast shadows on one-third or more of any adjacent residential structure as projected on a plan view for more than two hours between the hours of 9:00 a.m. and 3:00 p.m. on December 21 (the winter solstice).”*

These thresholds were derived from Pages 4-11 of the WVSP and Section 11, Article B(2) of the Westwood Community Design Review Board Ordinance 163,204.

Comment No. 11.112

The shadow cast over the clubhouse of Westwood Horizons is extremely significant and unmitigated. This is not a commercial building, but a **residential** building used by residents only. Furthermore, it is a sensitive receptor, since it is a seniors residence. This was not revealed in the shadow analysis.

That space is not open to the public and it is for lease to the public. It is an integral unit of a residential complex for seniors. Thus the project violates the shadow requirements of the Specific Plan.

The Plan doesn't say that the amount of shadow has to be at least over 1/3 of the building. A total fabrication by the Applicant.

Response No. 11.112

The Revised Draft EIR used criteria from the WVSP and the Westwood Village Design Guidelines in order to determine shading significance. Section 13.B of the WVSP, from which the criteria are taken, applies specifically to “residential buildings,” not to “residential complexes.” While the clubhouse and visitor parking support residential buildings, they are not residential buildings in and of themselves. The clubhouse is an appurtenant structure to the high-rise Westwood Horizons senior citizens residence building. Even if the clubhouse were to be open (or leased) to residents of Westwood Horizons or open (or leased) to members of the public, it is not used as a residence that can be occupied. Therefore, the analysis properly excluded these non-residential structures.

Furthermore, the cited thresholds for shadow impacts (Page V.A3-2 to V.A3-3) explain that the “one-third of the building” standard comes from the Westwood Village Design Guidelines. As noted in Footnote 9 on Page V.A3-3 of the Revised Draft EIR, the referenced threshold is from Section 11, Article B(2) of the cited document.

Comment No. 11.113

There is no analysis, although it was requested, of the internal shadows caused by the project on itself, i.e., the shadows cast by one project building on the other, which are in violation of the Specific Plan, but not disclosed. It therefore fails to comply with the Design Review Criteria of the Specific Plan. This is not disclosed as an unmitigated adverse impact.

The shadow analysis attempts to create an additive shadow impact by including shadows cast by pre-height limit buildings. Shadow impact analysis is not additive, and therefore the inclusion of the shadows cast by other buildings is specious.

Response No. 11.113

The Revised Draft EIR analyzes the potential shadow impacts of the proposed structures on existing adjacent land uses. The analysis employed in the Revised Draft EIR is consistent with the methodology and significant impact criteria of the City of Los Angeles CEQA Thresholds Guide and the Westwood Village Design Guidelines.

Comment No. 11.114

Page V.A3-4 Summer Solstice: the analysis was done for a 55 foot structure, not the 65 foot structure proposed. Please recalculate and include the impacts of unoccupied towers as well.

Response No. 11.114

As stated in Section V.A3 of the Revised Draft EIR, the analysis of shadows was based on Project “architectural plans and elevations, taking into account the actual heights of the rooflines.” See Response No. 11.110, which addresses the same issue made elsewhere in this comment.

Comment No. 11.115

Figure V.A3-1 illustrates the internal shadow impacts of the Project, which are in direct violation of the shadow regulations of the Specific Plan. This impact is not disclosed in the text or addressed as an unmitigated significant impact.

Also, on page V.A3-6 the DEIR admits that “varying amounts of some nearby structures would be shaded during these hours.” This means that there will be significant adverse shadow impacts. That must be addressed.

Response No. 11.115

The threshold for identifying a significant shadow impact is defined on Page V.A.3-3 of the Revised Draft EIR. As stated in the EIR,

“This EIR analysis will consider both the provisions of the Specific Plan and the Westwood Village Design Guidelines to determine if the Proposed Project would cast shadows that would result in significant impacts. Accordingly, shadow impacts would be considered significant if:

- *The project structures would cast shadows onto adjacent residential buildings outside the Specific Plan area for more than two hours between 10:00 a.m. and 4:00 p.m. on December 21 (the winter solstice) or between 10:00 a.m. and 4:00 p.m. on March 21 (the spring equinox), and*
- *The project structures would cast shadows on one-third or more of any adjacent residential structure as projected on a plan view for more than two hours between the hours of 9:00 a.m. and 3:00 p.m. on December 21 (the winter solstice).”*

These thresholds were derived from Page 18 of the WVSP and Section 11, Article B(2) of the Westwood Community Design Review Board Ordinance.

The WVSP contains criteria related to shadows from a proposed project in Section 13.B.4. This section states that a “project shall not cast shadows onto adjacent residential buildings outside of the Specific Plan area for more than two hours between 10 a.m. and 4 p.m. on December 21 or between 10 a.m. and 4 p.m. on March 21.” This criterion is incorporated into the thresholds used in the Revised Draft EIR, as set forth above.

Neither the WVSP nor the Design Review Ordinance considers shadows cast “internally” (i.e., shadows from a Project onto itself) as relevant criteria for determining shadow impacts. Therefore, the extent to which the Proposed Project is impacted by internal shadows is not considered to be determinative for purposes of evaluating shadow impacts.

The impact analysis concerning shadows cast by the Proposed Project is set forth in the Revised Draft EIR, on pages V.A.3-3 through 10. The Revised Draft EIR concludes that no significant shadow impacts would occur based on the thresholds of significance and criteria used to evaluate shade and shadow impacts.

Comment No. 11.116**PARKING**

Parking Shortfall of at least 759 spaces (52%)

The total project parking shortfall is over 759 spaces::

- 187 replacement parking spaces
- 352 residential parking spaces
- 220 bicycle parking spaces
- ??? spaces below Glendon Avenue³⁹

Therefore the statement on Page V.F-46 that there are no parking impacts is false. Likewise, the claim that the project is providing additional public parking is false, and no bonus can be granted.

Furthermore, since many easement owners will not grant waivers or consents for the subsurface vacation, none of the parking beneath Glendon Avenue may be counted toward code required parking. This makes the shortfall even greater. The DEIR does not disclose the number of spaces below Glendon Avenue. This information must be disclosed (see P.V.L-2).

Residential Parking

	WW Multifamily Spec. Plan	Project Parking	Parking Shortfall
Guest Parking	88	88	0
Residential Parking	965.5	614	352
Total Parking	1,054	702	352

This represents a shortfall of 352 spaces, or 50 percent more parking than the proposed residential Parking.

The Applicant utilizes the guest parking of the Multifamily Specific Plan, but not that same plan's parking requirements for residents. See the table below that shows the differences for both Guest Parking and Residential Parking. We request at a minimum that all aspects of this plan be required.

This is particularly important because students may very well double, triple or quadruple up and require substantially more parking than the Project proposes. These higher parking standards were developed exactly because this has been a problem for multi-family housing adjacent to UCLA.

This additional parking is essential for a project located so close to campus. There is a tendency for apartments to be shared by several students, each with a car. That is why the other side of Tiverton

³⁹ *Since the conditions of approval will not be met due to opposition from owners in the area with private easements) - this parking cannot count toward code-required parking - it amounts to several hundred spaces and must be disclosed in the parking analysis.*

requires so much more parking. The same parking should be provided as if it were within the Multi-Family Specific Plan, since it is a multi-family project.

Response No. 11.116

At the request of earlier comments, the Revised Draft EIR includes detailed calculations for required off-street parking, (Table V.F-5 through 8.) The Revised Draft EIR concludes that the Proposed Project would comply with required parking ratios, and therefore, no significant impact would result. (Revised Draft EIR, Page V.F-46.) The commenter suggests that the Proposed Project would have a significant impact on parking. The commenter's suggestion was not accepted because it is inconsistent with Citywide standards for parking ratios and the Westwood Village Specific Plan.

The Proposed Project includes replacement of public parking as required by the Westwood Village Specific Plan. (See Table V.F-8 and Appendix H for Director of Planning calculation procedures.) The Proposed Project is intended to qualify solely for additional (bonus) density by providing residential units over ground floor commercial. (Revised Draft EIR, Page V.F-22.) Therefore, the Revised Draft EIR does not discuss additional (bonus) density for the provision of parking spaces for public use. (Revised Draft EIR, Page V.F-22, Bonus Mechanism No. 3.)

Also at the request of earlier comments, the Revised Draft EIR analyzes the issues concerning public easements rights within the Glendon Avenue right-of-way. (See Section V.L on Subsurface Vacation of Glendon Avenue.) The Revised Draft EIR states that the public right-of-way will be maintained, and therefore, no consents or waivers of rights would be required. The approximate number of parking spaces that would be constructed beneath Glendon Avenue is 240, (Revised Draft EIR, Page V.F-41.)

The Revised Draft EIR discloses that the proposed site lies within the Westwood Village Specific Plan area, and therefore, would comply with all applicable parking ratio requirements. The Westwood Village Specific Plan has no provision for guest parking ratios. The Proposed Project adopts the prevailing guest parking ratio from the Westwood Community Multi-family Specific Plan. (WVSP, Sec. 5.B.3, see Table V.F-6, note 2.)

The commenter suggests that the Proposed Project would impact the provision of parking in the Village, and therefore, higher parking ratios from the adjoining specific plan area should be applied to the proposed site. The commenter's suggestion was not accepted because the Proposed Project is consistent with Citywide standards for multi-housing parking and the applicable Specific Plan.

The Revised Draft EIR describes the Proposed Project as a 350-unit apartment building. The commenter's suggestion that the building would be used for dormitory housing, with several students sharing a single bedroom, is inconsistent with the stated goals of the project. While the Proposed Project is within the vicinity of UCLA and would be expected to house students, dedicated use for dormitory-style housing is not reasonably foreseeable. Therefore, City-wide parking ratios for multi-housing would be expected to be adequate for the provision of off-street parking.

Comment No. 11.117**Replacement Parking**

Comparing the Smedra project replacement parking with the Casden/AIMCO project, there is a **187 shortfall in replacement parking** that violates the Westwood Village Specific Plan Section 9.E. The Project is clearly not in compliance with the Specific Plan parking requirements. Please explain this discrepancy (DEIR p. V.F-44).

Replacement Parking	50% Public Parking	100% On-Street Public Parking	100% Covenanted Parking	100% Offsite Existing Buildings*	Total Replacement Parking
Smedra Project	249	96	57	0	402
Casden/ AIMCO	118	35	57	0	215

*Moustache Café and Gap Building

Both of these calculations assume that none of the public parking spaces currently on the parking lots on the site serve other existing buildings; if they do, 100% replacement of such spaces is required by Specific Plan Section 9.E. The table above shows no such replacement parking for the GAP Building or for the Moustache Café.

GAP Building and Moustache Building Replacement Parking Required.

Although the DEIR states that only 3 covenanted spaces for the GAP building need be replaced, **the GAP building utilized the parking structure through a bridge over the alley connecting the GAP building with the structure which was illegally demolished.**

One would not build a **bridge to a garage** if it were not required for the building. The physical connection between the Gap building and the parking structure/lot was approved by the City and indicates that the **GAP building required these spaces.**

This physical linkage over the alley is compelling evidence that the parking on this lot was required for the GAP Building and should be replaced 100% for the uses in the GAP building: retail at ground level and office above.

Further, the **Moustache Café** has used the west surface lot for employee parking (which has been terminated), and now validates parking on the eastern lot. It is therefore clear that replacement parking should be provided at 10:1 for a restaurant use per the Moustache parking contract.

Just as the assertion is made that the project is providing ground floor retail when it is not, and does not qualify for any bonus, on **Page II-7, the claim is made that the project is providing “additional**

parking” but there is no evidence in the record that there is an additional parking other than guest parking for the residential units (but they are still short for resident parking by 352 spaces (50 percent).

Response No. 11.117

At the request of commenters, the Revised Draft EIR calculates the required public replacement parking pursuant to the WVSP, Sec. 9.E. (See Table V.F-8.) The commenter suggests that calculations prepared for a previous project on the same site resulted in greater public replacement parking requirements. The previous EIR, Village Center Westwood, EIR No. 96-0075, April 1997, calculated the “Replacement/Covenant Parking” requirement to be 175 required spaces (118 plus 57), see Table 32, page IV-N-27. The requirement is consistent with the calculation of public replacement parking for the Proposed Project, and therefore, there is no discrepancy.

The Revised Draft EIR discloses that 57 parking spaces are covenanted to off-site uses. (See Table V.F-8.) Required public replacement parking includes 54 spaces covenanted for use by 1045 Broxton Avenue (Regent Theater) and 3 spaces covenanted for use by 1010 Westwood (GAP Building) to be replaced at 100 percent. (For recorded covenant numbers, see note 6, Table V.F-8.) According to the Applicant, the title report does not reveal any recorded parking covenants for the Moustache Café building.

Records indicate that three spaces were covenanted for use by the property located at 1010 Westwood. (Revised Draft EIR, Table V.F-8.) The Revised Draft EIR concludes that the Proposed Project would comply with all applicable parking ratios, and therefore, would not result in a significant impact to the provision of parking in the Village. (Page V.F-46.)

The commenter suggests that additional parking should be provided within the Proposed Project to accommodate the parking demand for 1010 Westwood (GAP Building) and 1071 Glendon (Moustache Café), which currently have no on-site parking. The commenter’s suggestion was not accepted because the Proposed Project would continue to serve these uses under the Village Validation System. (Table V.F-7, note 3.) The Proposed Project does not impact the provision of parking in the Village, and therefore, additional parking for under-parked buildings that are not a part of the Project would be disproportionate to the level of impact.

The existing site contained 554 existing surface and structured parking spaces. The Proposed Project would provide 1,412 parking spaces, excluding off-site replacement parking (1,452 minus 40). (Revised Draft EIR, Table V.F-5.) The net increase would be approximately 842 spaces. Approximately 635 of the total 750 commercial spaces would be made available to the Village Validation System, excluding up to one space per 1,000 square feet of floor area that may be reserved for employee use by future retail operators (750 minus 115) (Table V.F-7, note 3). The 702 residential spaces would be reserved for residents of the Proposed Project.

Comment No. 11.118**Tandem Commercial Parking**

It is not clear from the DEIR exactly how much **commercial tandem** parking is proposed. As it stands now, the project will have a significant adverse impact on parking.

Tandem parking should not be permitted. This is normally used for pre-code buildings attempting to augment parking. It creates tremendous congestion -- witness the Smedra project at Laurel and Ventura which was so under-parked that it has had triple tandem parking. Fist fights have broken out in that garage between frustrated patrons. Tandem parking for residential is fine, but not commercial. It is a recipe for retail disaster and negligent land-use planning. The DEIR is not clear exactly how much parking will be tandem.

Furthermore, the parking being provided for commercial use is proposed to be **tandem**. It is not clear how many spaces are tandem, how many are compact, etc. A detailed parking plan is required (Page V.F-42). Given examples of similar retail proposals that have tandem parking and their dysfunctional nature (e.g., Laurel Promenade at Laurel and Ventura), it is incredible that the City would entertain such a proposal. **Please require a project alternative that does not have tandem parking for commercial uses.**

The DEIR does not disclose how many spaces are standard, and how many are compact. Is any variance or exception to the standard rules for limiting compacts being sought?

Additional replacement public parking should not be counted if it is tandem. It takes time to wait for a valet to retrieve your car, and then a tip is also necessitated. This is not on a par with city meters on the street. Those spaces are quick, easy and less expensive than the proposed tandem valet spaces.

The DEIR does not analyze the parking requirements if movies were the retail use, rather than the grocery store/drug store (P. V J-12). This was noted in the letter of May 23, 2002 included in the Appendix, and ignored. If movies go in, then a major increase in parking would be required, and tandem parking would be a total nightmare.

Response No. 11.118

Proposed tandem parking is discussed on Page V.F-43 of the Revised Draft. That discussion provides that approximately 356 parking spaces for two-bedroom apartment units would be tandem; and approximately 150 of the parking spaces for commercial uses would be tandem.

The commenter's suggestion that tandem parking should not be allowed in commercial projects was not accepted because empirical evidence suggests that tandem parking facilities continue to function effectively in urban areas of Los Angeles. Tandem parking increases the efficiency of parking operations and reduces the overall size of the parking structure, which decreases the amount of grading required and

the length of construction. For example, the recently renovated 1100 Glendon office building, immediately adjacent to the proposed site, operates successful attendant parking operations. In addition, many restaurants in the Village offer valet parking services in tandem facilities. Such facilities provide an added benefit of reducing congestion for on-street parking.

The commenter's request for a detailed parking plan is provided in Figs. III-11, III-12, and III-13, which shows the proposed layout of the three parking levels. The commenter's suggestion that the configuration of the parking facility would function poorly, create congestion, and incite violence is too speculative to analyze. However, the commenter's general criticisms of tandem parking will be forwarded to the Decision-Makers.

The Proposed Project does not include a request to vary the ratio of standard to compact stalls permitted under the Zoning Code.

Replacement public parking is not proposed to be tandem.

The required parking ratio for a motion picture theater use is one space per each three fixed seats. The Proposed Project does not include a motion picture theater use in the project description, and therefore, no analysis is provided.

Comment No. 11.119

Creating Additional On-Street Parking Through R-3 Dedications

We recommend additional mitigation to augment the on-street parking supply in the Project vicinity:

- Do not approve the General Plan Amendment change Tiverton Avenue from a Secondary Highway to a Collector Street.
- Require R-3 dedications to widen Weyburn, Tiverton and Glendon (both sides) in order to create diagonal parking along these streets.

This would be a tremendous boost to the Village's economy and make the project a good neighbor.

If Tiverton Avenue is widened to its full dimension, then diagonal parking could be placed on both sides of the street, and perhaps residents could form a parking district for preferential parking at meters, and the public would have to pay to park at meters. This would help meet the deficit of residential parking for pre-Code buildings along Tiverton.

The required parking in Table V.I-7 is incorrect (see discussion above) regarding replacement parking, and the recommended parking for multi-family housing in Westwood. It also does not address the option of movies, which would require 3:1 parking. Please address this issue already raised in earlier comments filed on the first DEIR.

Response No. 11.119

The Revised Draft EIR concludes that the elimination of the Secondary Highway designation along Tiverton Avenue would not result in a significant impact. In addition, right-of-way standards along Weyburn and Tiverton Avenues do not require further dedications. The commenter suggests that an additional mitigation measure for consideration should be to widen Tiverton, Weyburn, and Glendon Avenues in order to create diagonal, on-street parking. The commenter's suggestion was not accepted because it is inconsistent with the goals of the Proposed Project.

The Westwood Village Specific Plan encourages the provision of streetscape improvements and additional public parking directly by developers. (WVSP, Sec. 2.C.4.) The Proposed Project would be required to participate in the Village Validation System, including public replacement parking and new commercial parking. Patrons shopping in the Village and the Project would benefit from validated parking, rather than having to pay for metered parking. In addition, a larger parking field would help reduce congestion due to limited on-street parking. The Proposed Project would also provide streetscape improvements to the Glendon Avenue segment, increasing the opportunity for pedestrian-oriented retail uses.

The commenter's suggestion that the entire frontage along Tiverton Avenue be improved for diagonal parking through dedications along the west side, and condemnation along the east side, was not accepted because it is disproportionate to the impacts of the Proposed Project. The Revised Draft EIR discloses that widening the entire length of Tiverton Avenue would be impossible in the foreseeable future due to the placement of the 1100 Glendon Avenue high-rise office building and Verizon telephone switching station.

Comment No. 11.120**Bicycle Parking Standard Should be Retained for TDM Purposes**

The higher bicycle standards of the Westwood Village Specific Plan are based on the high number of students residing in the vicinity of the campus. It is an excellent, reliable TDM measure and should be enforced and not lowered (P. V.F-45). The Applicant fails to provide a reason for why heavy bicycle use is not a factor in Westwood Village.

Response No. 11.120

The requested information is provided on Page V.F-46 of the Revised Draft EIR. The Citywide Bicycle Plan is a part of the Transportation Element of the General Plan. The General Plan may be reviewed at the public counter, Los Angeles City Hall, 200 S. Spring Street. The proposed reduction of bicycle spaces does not preclude Project residents from storing their bicycles in their units.

Comment No. 11.121**Discrepancy Between NOP and DEIR Parking**

The NOP claims 1550 parking spaces will be provided, but the DEIR only mentions 1452 spaces. Explain this discrepancy in project description and parking requirements.

Response No. 11.121

This commenter raised the same issue as above, to which a response is provided in Response No. 11.94.

Comment No. 11.122**Traffic****A statement of overriding consideration will be required**

The statement is made on P.V.J-34 that the mitigations will bring project impacts to less than significant levels at the thirteen affected intersections. This is not true: Intersection 17, Hilgard and Weyburn, will still experience a 3.8 percent increase in traffic after mitigation. This is almost twice the 2% significance level utilized by LADOT. **Impacting neighborhood streets in this manner violates the Specific Plan and the Community Plan and requires a Statement of Overriding Consideration.**

Response No. 11.122

See Response No. 5.91 for a discussion of Project impact on the intersection of Weyburn Avenue and Hilgard Avenue. As explained in that response, the Project impact on traffic at that intersection was found to be less than significant.

Comment No. 11.123**The streets of Westwood do not have the capacity to accept an increase in the density. The increase in density violates the Westwood Community Plan Policy I-2.2:**

“The residential densities proposed by the Plan are predicated upon the full development of the designated major and secondary highways. In no case shall any density increase be effected by zone change unless appropriate consideration has been given to adequate capacity to accommodate the traffic generated on the local streets and major and secondary highways serving the property involved. Changes of zone permitting densities in excess of those designated shall only be approved only if adequate access and public service are available” (emphasis added).

The streets serving this property are among the busiest in the entire City. There isn't the additional capacity available, pre or post mitigation.⁴⁰ Furthermore, page 22 of the Crain Traffic Study, Appendix, the street network in the vicinity of the project, particularly along Wilshire and Sunset Boulevards, "are operating at or beyond their design capacities during the AM and PM peak travel hours."

Response No. 11.123

The Revised Draft EIR contains a detailed traffic study which examines the effects of the increased density of the Project (through its resultant increase in traffic) on all of the streets and intersections within and surrounding the Village. While the traffic study notes that the major travel corridors are experiencing congestion, it also identifies that significant Project impacts would occur along the Sunset, Wilshire, and Westwood Boulevard corridors, and recommends that roadway and signal improvements be implemented to address these impacts. As shown in Table V.J-11, implementation of the recommended improvements will result in all impacted intersections along these major travel corridors operating at improved levels of service (e.g., better than "without project" conditions). (Revised Draft EIR, Page V.J-30.)

Comment No. 11.124

For Westwood's businesses and residents, *gridlock is life-threatening*. In the event of disasters, UCLA Hospital is one of the few trauma centers. If the city were to approve a density increase for an area that is already at capacity, it would create a public safety crisis.

DEIR P. II-25 statement that the closure of Glendon will not impede emergency service because "other larger capacity streets (Westwood Boulevard, for example) would serve the area in this short term [three years!] period is ridiculous! Westwood Boulevard may carry more cars, but it has no more capacity!

The situation may be worse than presented because the analysis assumed an overly high pass-by discount rate, may have used a VPD count for Glendon of 3000 rather than the stated value of 7200, and they have failed to demonstrate a proven efficacy of the recommended technology. Also, the calculations assume no breakdowns, accidents or jaywalkers.

Response No. 11.124

The Revised Draft EIR analysis related to these issues is based on a Critical Movement Analysis (CMA). The CMA methodology utilized to evaluate intersection conditions does not directly take into account such unpredictable and infrequent occurrences as vehicle breakdowns or accidents. This analysis methodology provides a simplified "planning level" assessment of "typical" or average traffic conditions in order to compare before and after project conditions. The CMA methodology does consider pedestrian interactions and other "normal" factors that affect intersection operations, such as on-street parking. These factors are considered in the establishment of conservative lane capacities that are generally lower

⁴⁰ Note that Intersection 17 (Weyburn and Hilgard) has a significant adverse impact even after mitigation. A 2% increase is significant. This LOS would be 3.8% after mitigation (DEIR, Page V.J-33).

than actual capacities. This is the reason it is possible to identify that an intersection operates at levels substantially “over capacity” (CMA over 1.000). The CMA analysis technique is generally recognized as a conservative and reliable method of evaluating and comparing intersection operations.

See Response No. 5.80 for discussion regarding the trip generation rates and assumptions used for the Project and adjustments for internal interaction, pass-by trips, and diverted trips. See Response No. 5.103 for discussion of traffic trip estimates for Glendon Avenue. See also Response No. 11.120.

Comment No. 11.125

Traffic counts on Glendon do not represent the full traffic carried by the street because it is closed during rush hours on Thursdays for the Farmer’s Market.

Response No. 11.125

The traffic analysis recognizes that the Farmer’s Market is in operation on Thursdays and results in adjustments to the typical area traffic flow. No traffic counts within the vicinity of Glendon Avenue were conducted on Thursdays. See also Response Nos. 5.83 and 5.84 for additional discussion regarding the period and times when traffic counts were conducted.

Comment No. 11.126

Page II-13 discussion of TDM measures fails to meet the substantial evidence test that these measures will mitigate. “Presumably, these measures would improve traffic flow.” That is weak and not the basis for determining if mitigation is adequate.

Response No. 11.126

The discussion referenced by the commenter deals specifically with air quality impact reductions as a function of traffic mitigation measures and is not meant as a justification of effectiveness of the traffic-related improvements resulting from the recommended mitigation improvements. The effectiveness of the traffic measures on operational levels and traffic flow are identified in Table V.J-11. (Revised Draft EIR, Page V.J-33 and 34.)

Comment No. 11.127

Page II-20 is incorrect. It claims that downgrading Tiverton would not be a problem. The project will generate a significant increase in traffic for Tiverton. Neighbors are concerned with safety issues of the one-way single block and request that the road be improved as a Secondary Highway, with full dedication and full landscaping along Tiverton. This would also facilitate traffic exiting from a potential request for a Tiverton exit from the Ralph’s parking lot.

Provision of diagonal parking along the east side of Tiverton would mitigate the loss of parking on the west side of Tiverton. Please provide mitigations that address increased pressure on the local streets of the Village and the loss of on-street parking by replacements on-street, not within a tandem-parked private project.

Response No. 11.127

Although the Project Applicant seeks a General Plan Circulation Element Amendment to downgrade Tiverton Avenue from Secondary Highway to Collector Street designation, the width of the existing roadway shall not change. (Revised Draft EIR, Page V.F-47.) The removal of existing on-street parking adjacent to the project frontage will permit better traffic flow along this street segment.

The Project would remove 5 on-street parking spaces from Tiverton, which would be replaced within the Project parking structure. (Revised Draft EIR, Page V.F-43.) There is no requirement to replace this parking on-street. (See Table V.F-8 on public replacement parking, on Page V.F-44 of the Revised Draft EIR.) The Project's parking is discussed on Pages V.F-39 through 46 of the Revised Draft EIR in which it is noted the no parking impacts will occur because the "Proposed Project complies with all vehicle parking ratios, replacement parking, ingress and egress and shared parking" requirements. (Revised Draft EIR, Page V.F-46.)

Potential significant Project traffic impacts along Tiverton Avenue or at the adjacent intersections with Weyburn Avenue and Lindbrook Drive/Glendon Avenue would be mitigated to less than significant levels. Traffic mitigation measures are discussed on Pages V.J-32 through 34 of the Revised Draft EIR.

Comment No. 11.128

Page II-25 is incorrect, claiming that closing Glendon Avenue, with its 7200 vpd would not adversely impact emergency services -- that Westwood Boulevard, for example, is available. Westwood and Gayley are gridlocked at rush hours -- that's why Glendon and Tiverton are needed as safety valves for emergency access.

No analysis is provided of fire apparatus serving the site along Glendon given the fact that the roadway is substandard for a commercial area.

Response No. 11.128

Pursuant to the mitigation measures outlined on Page V.II-4 of the Revised Draft EIR, the Proposed Project will be designed in accordance with all applicable fire department regulations, specifically with respect to maintaining adequate fire access both during construction and final development. At least two different ingress/egress roads are required for each development area to provide adequate access for major fire apparatus and emergency evacuation access. Major east-west access along Weyburn will be maintained during the construction period as well as additional access in the alley between Glendon Avenue and Westwood Boulevard. Major north-south access along Westwood Boulevard and Tiverton

Avenue will also be maintained during the construction period. See also Response No. 11.120. Additionally, as explained in Response No. 11.77, the Project will not cause Glendon Avenue to be a substandard roadway.

Comment No. 11.129

Page II-30 states that a mitigation program will be developed to the satisfaction of DOT. What happens if no such program can be developed?

Page II-30 claims that ATCS will significantly reduce traffic impacts. No quantification of the marginal improvement above and beyond ATSAC is provided in the DEIR. How reliable is this technology?

Response No. 11.129

The Project's "operational phase" mitigation program has already been reviewed and approved by LADOT. Development of a "construction phase" traffic mitigation plan involves addressing issues beyond the level of detail required for certification of a project's EIR, including development of detailed construction plans, specific contractor schedules, phasing timelines, identification of specific material delivery dates, etc. Construction traffic mitigation programs could change depending on modifications required of the development as part of the conditions of approval. Certification of a construction traffic mitigation plan is required prior to beginning any on-site construction. Therefore, if no plan is approved, no construction occurs.

The effectiveness of ATSAC and ATSC are described on Page V.J-20, which indicates that ATSAC provides an approximately 7 percent increase in capacity over non-ATSAC locations. ATCS provides an additional 3 percent capacity increase over ATSAC conditions (total 10 percent over non-ATSAC conditions). These values have been determined by LADOT as a result of their reviews and experience with actual system operations.

Comment No. 11.130

Further, this modeling assumes that there are no accidents, breakdowns or jay-walkers, which would severely impede the benefits of traffic capacity. Please quantify and provide the efficacy of the proposed mitigations if there are accidents, breakdowns and jaywalkers. Statistics on these problems can be obtained from LAPD Traffic Division.

Response No. 11.130

See Response No. 11.124.

Comment No. 11.131

Is a statement of overriding consideration required because of cumulative impacts that cannot be fully mitigated? (p. II-31)

Response No. 11.131

A Statement of Overriding Considerations is required under CEQA whenever a lead agency approves a project “which will result in the occurrence of significant effects which are identified in the Final EIR but are not avoided or substantially lessened.” (CEQA Guideline 15093(b).) The comment cites Page II-31 of the Revised Draft EIR, which covers the Executive Summary’s discussion of the Project’s cumulative impacts on transportation and traffic. The Revised Draft EIR there states that because “future project mitigation measures are not known, ... cumulative impacts are conservatively assumed to be significant before and after mitigation.” Therefore, a Statement of Overriding Considerations will be necessary to address this impact in connection with the certification of the Final EIR. The issue of cumulative traffic impacts is also discussed in the Revised Draft EIR on Pages V.J-34 and 35 in connection with identified related projects that might contribute to cumulative impacts.

Comment No. 11.132**A Planted Median along Glendon**

In terms of aesthetics, creating a planted median similar to the one on Glendon between Wilshire and Lindbrook Drive, would be a traffic-calming feature and pedestrian amenity.

Response No. 11.132

It is not clear where the commenter is suggesting that a median island should be placed, but it is assumed from the context that it is along Glendon Avenue adjacent to the Project site. Placing a median island here would preclude the locating of the project’s commercial loading docks on Glendon Avenue, and would necessitate moving them to Weyburn Avenue or Tiverton Avenue. Neither location would be acceptable to the community or LADOT. Additionally, aesthetics does not necessarily correlate to traffic-calming. Creating additional “side friction” for moving vehicles by installing a raised median adjacent to the project site would slow but not reduce traffic, resulting in increased congestion and delays. Furthermore, this comment is also inconsistent with previous comments made that Glendon Avenue should be made wider. A median would not achieve that goal.

Comment No. 11.133**Haul Route**

How will the haul route impact the UCLA construction on the west side of campus?

How will the haul route with 320 dump trucks a day impact the operation of the Palomino and Napa Valley Grill restaurants? For example, will outdoor dining be utilized given the noise, dust and view of the trucks lined up all day? How will customers access the valet parking along Glendon when the trucks will be blocking the closest lane?

How will customers at the Moustache Café have a loading zone for handicapped customers?

Response No. 11.133

The proposed haul route does not travel along the west side of the UCLA campus, so construction activities there will be unaffected. See also Response Nos. 5.10 and 5.32 for additional discussion of truck haul routes and staging. The Project will implement a construction phase mitigation program to address short-term impacts to the area caused by noise, dust, traffic and other factors. However, some temporary impacts will remain. The Project developer will work with area businesses whose outdoor activities may be affected to address issues that arise during this phase of Project development. No significant access issues for local businesses are anticipated. However, the construction phase traffic mitigation plan prepared for the Project will address these issues to the satisfaction of LADOT. See also Topical Response 9 for discussion regarding the proposed narrowing of Glendon Avenue. See Response No. 11.103 for additional discussion on this issue.

Comment No. 11.134

Glendon Avenue Should be designated a Secondary Highway

On behalf of its business members, requests that a General Plan Amendment be initiated by the City to make Glendon Avenue a Secondary Highway, demand the R-3 dedication on both sides of Glendon, and if space permits, continue the planted median for Glendon/Kinross and up Glendon. This should be a condition of approval in order to improve the circulation capacity of the Village.

Response No. 11.134

The traffic impacts have been mitigated to a less than significant level to the satisfaction of the Los Angeles Department of Transportation. As such, there is no nexus for requiring these improvements as conditions of approval. Please note that amendments to the City's General Plan are not initiated by comments on an environmental impact report. The commenter is referred to Section 555 of the Los Angeles City Charter and Section 11.5.6 of the Los Angeles Municipal Code for the methods of initiating an amendment. This commenter's opinion has been noted and will be forwarded to the Decision-Makers for their consideration.

Comment No. 11.135**Make Tiverton Two-Way, Do Not Approve General Plan Amendment for Tiverton**

Rather than approving the General Plan Amendment for Tiverton Avenue, the community requests that the City analyze making Tiverton two-way to improve traffic safety and the circulation system of the Village. The Traffic Report in the Appendix makes it clear that this is feasible, if a traffic signal is installed at Lindbrook Drive. We request an analysis of this improvement, and that the cost of the improvement and signal be met by the Applicant. "LADOT believes that Tiverton can be operationally adequate for two-way traffic."⁴¹

1. We suggest that the City require the R-3 dedication for Tiverton (as well as the 15 foot landscaped median) and that this additional area be used to provide parking for residents on the east side of Tiverton.
2. To improve the circulation capacity of the Village and safeguard public safety, we request that the Bureau of Engineering make Tiverton 2-way for its entire length, and have the Applicant pay for the installation of a traffic signal at Lindbrook and Tiverton.

Response No. 11.135

The commenter's request will be noted for the record and forwarded to the Decisions-Makers for consideration. As explained on Page V.F-47 of the Revised Draft EIR, the LADOT has said it is unlikely that Tiverton Avenue would be reconfigured to allow two-way traffic because of operational issues at the intersection of Tiverton, Lindbrook and Glendon Avenues. Tiverton Avenue was designated as a Secondary Highway in 1972 to accommodate emergency vehicle access to the UCLA Medical Center emergency center. However, in 2004, Tiverton Avenue will no longer be used as an emergency access route due to the relocation of the medical emergency center. Therefore, Collector Street designation is adequate to serve the anticipated future traffic along Tiverton Avenue. Also see Topical Response 7 for a discussion of the 15-foot landscaped setback along Tiverton Avenue.

Comment No. 11.136

3. It is not clear where the loading dock is for residential moving vans. Is this a separate driveway along Tiverton? Or will moving vans block Tiverton?

Please disclose the impact of moving vans after the project is completed.

This is very significant for traffic circulation, for example, at Wilshire and Westholme (SWC) where no loading dock is provided, and vans block the single southbound lane on a daily basis.

⁴¹ Tab 10, Request for Discretionary Approvals, February 2003.

Response No. 11.136

As shown in the Project site plans, two residential loading docks, each capable of accommodating a full-size semi-trailer truck, are located along Tiverton Avenue near the southern project boundary. (Revised Draft EIR, Figure III-5.) These docks will allow moving vans and other large residential-oriented delivery vehicles to park off the street and not block traffic flow on Tiverton Avenue. See also Topical Response 10 for additional discussion regarding loading docks as part of the Proposed Project.

Comment No. 11.137

Pass-by Trip Discounts are over-inflated and this is not the rate that the City previously recommended for this site (P. V.J-13).

Table V.J-5: faults identified in earlier comments regarding DOT policy of not permitting **vacant buildings** to count toward trip reductions if not occupied for several years.

No discussion of whether TIMP fees would be charged if uses are not neighborhood serving.

Response No. 11.137

It is not clear what previous recommendations the commenter is referring to. The pass-by discounts applied to the Project are standard reductions allowed for each site use, as identified by LADOT. Internal trip discounts are based on individual project descriptions, and include factors such as size and type of use, and percentage mix of the various project component uses. Different project use mixes can result in different internal discounts. The trip discount assumptions used have been reviewed and approved by LADOT, and are consistent with all previous assumptions made for this Project. Trip discount assumptions applied to other previous developments on this site are not applicable for comparison. See Response Nos. 5.26, 5.76, and 5.80 for additional discussion related to trip “credits” and adjustments for internal interaction, pass-by trips, and diverted trips.

With respect to whether Proposed Project uses are “neighborhood serving,” Section 5.F of the West Los Angeles TIMP Specific Plan indicates that land uses considered to be “local serving uses” are listed in Appendix B of that document and are referenced as “exempt.” Therefore, trip fees are applicable to all Proposed Project uses not specifically designated as “exempt” in Appendix “B” of the West Los Angeles TIMP Specific Plan. Designated “exempt” uses are: Shopping Centers (30,000 square feet or less); Apartments; Condominiums; Single Family-Houses; Elderly Housing; Self-Storage; Convenience Markets; Building Materials/Lumber; Discount Stores, Clubs (less than 30,000 square feet); Government Offices; Auto Care Centers; Furniture Stores (less than 30,000 square feet); Tire Stores; Gas Stations; Car Washes; Home Improvement/Hardware/Paint Stores (less than 30,000 square feet); Nurseries (Garden Centers); Supermarkets; Specialty Retail; Other Retail; Restaurants; Child Care Facility; Recreational Community Center; Banking; and Schools. Other uses, such as development of shopping in excess of 30,000 square feet, would be subject to the TIMP fee.

Comment No. 11.138

No analysis shown for turning radius requirements of the semi-trucks at Glendon loading dock for a substandard 36 foot wide roadway. Please provide and include impact of truck turning on Village circulation and emergency services. Same for moving vans on Tiverton.

Response No. 11.138

See Topical Response 10 for discussion of truck access to loading docks, which describes truck access to loading docks and demonstrates that traffic will only be temporarily blocked when large trucks access the loading dock areas.

Comment No. 11.139**Unproven Mitigation**

a) Page V J-21, etc., discuss mitigation measures in addition to the existing ATSAC, that do not quantify the amount of mitigation provided, and do not account for jaywalkers, traffic accidents and breakdowns in the LOS calculation. Also, there is no evidence that this new technology has significantly improved LOS beyond ATSAC.

b) Traffic counts are not dated or cited (P..J-29).

c) Glendon traffic counts conflict: sometimes it's 3000 VPD, other times it is 7200 VPD. The City utilized 7200 in its analysis. Please address this, and factor in what the street would carry without the Farmers' Market (PV.J-31). The statement on this page that the temporary closure of Glendon for three years is considered to have no significant impacts is unsubstantiated and local businesses strenuously disagree, as evidenced in the letters already submitted.

d) Page V.J-32: CEQA requires mitigation up front, not a control plan being developed later. What if it is not developed? How will it be evaluated, and why is it not an integral part of this study? Please do not certify an EIR without full mitigation disclosed and provision of mitigation monitoring.

e) Require a traffic signal at Tiverton and Lindbrook as a condition of approval, along with making Tiverton two-way and fully improved, with provision of diagonal parking.

Response No. 11.139

a) For discussion with respect to these issues, see Response Nos. 11.123 and 11.126.

b) For discussion related to the dates and times of traffic counts, see Response Nos. 5.83 and 5.84.

c) For discussion regarding Glendon traffic, see Response Nos. 5.103 and 5.104. For discussion related to the Farmer's Market on Glendon, see Response No. 11.125.

d) The commenter is referring to the traffic control plan for the traffic impacts related to the construction phase of Proposed Project. The "operational phase" mitigation program has already been reviewed and approved by LADOT and is outlined in detail on Page V.J-32 of the Revised Draft EIR. Development of a "construction phase" traffic mitigation plan involves addressing issues beyond the level of construction details required for an EIR, depending upon detailed construction plans, specific contractor schedules, phasing timelines, identification of specific material delivery dates, etc. Construction traffic mitigation programs could change depending on modifications required of the development as part of the conditions of approval. Certification of a construction traffic mitigation plan is required prior to beginning any on-site construction. Therefore, construction of the Project may not occur until the plan is approved.

e) This comment has been noted and will be forwarded to the Decision-Makers for their consideration. A two-way Tiverton Avenue configuration is not recommended due to difficulties in operational control at the southern end of the street. Coordination of a new traffic signal at Tiverton Avenue/Lindbrook Drive with the existing signal at Glendon Avenue/Lindbrook Drive would be extremely difficult, and is among the reasons that this conversion has not taken place to date despite requests from area residents. LADOT does not recommend such a configuration. See also Response No. 11.127 for discussion of traffic on Tiverton Avenue.

Comment No. 11.140

Enforce Corner Commercial Ordinance

The project NOP stated a CUP might be required under this law, not a Plan Amendment to waive its protections for residents living across the street from a commercial project. If it were enforced, the project would be 40 feet in height and therefore very compatible with the structures along Tiverton. No justification is provided for why this law should be eliminated. This law would prevent highrises across from low-rise residences, and that's exactly what it was intended to do.

Response No. 11.140

This comment will be forwarded to the Decision-Makers for their consideration. It should be noted that the existing residential uses along Tiverton range from 35 feet (UCLA Tiverton House) to 55 feet (Tiverton Court) in height. A discussion disclosing why the Commercial Corner Ordinance is unnecessary in the WVSP area is presented on Pages V.F-33 and 39 of the Revised Draft EIR.

Comment No. 11.141**SPECIFIC PLAN ADJUSTMENTS**

The request for zero yards and substandard open space for the west side of Glendon Avenue cannot be approved. The findings cannot be made to justify these Specific Plan Adjustments because:

- There are no special circumstances which make strict application impractical.
- The project will not substantially comply with all applicable specific plan regulations.
- There will be detrimental effects of the adjustment on surrounding properties and public rights of way
- The project does not incorporate mitigation measures which would mitigate the negative environmental effects of the project to the extent physically feasible (preservation of Glendon Manor is physically and economically feasible).

The statement is made on pager 1 of Adjust Requests, Palazzo Westwood, Master Land Use Application, that “The granting of these adjustments will ensure that the proposed development is compatible and consistent with the size, massing and setbacks of the surrounding uses.”

The opposite is true: all other residential projects along Tiverton have front yards, setbacks, and are low-rise. The requests would actually do the opposite, and make the project incompatible with surrounding residential uses, in violation of the Community Plan and Specific Plan.

Further, the claim is made that by waiving the yard requirements, pedestrian activity along the building frontage. This is a joke, since the retail is actually basement retail and does not provide ground level access along the frontage.

Response No. 11.141

The yard setback requirements are discussed on page V.F-23 of the Revised Draft EIR. No front, side, or rear yard setbacks are required in the C4 Zone for commercial uses. For buildings in the C4 Zone that are partially used for residential purposes, the yard setbacks required for the R4 Zone apply only to the portion of the building used for residential. The Applicant is requesting an adjustment for those yard setback requirements that apply to the residential portions of the Project.

Adjustments to the yard size requirements are authorized by Section 12.28 of the City’s Zoning Code, and the findings necessary for approval of the adjustment are identified in Section 12.28 C 4. These required findings are different from those articulated by the commenter. The Applicant has submitted a justification for the adjustment findings along with the application that will be forwarded to the Decision-

Makers for their review and consideration. This comment also will be forwarded to the Decision-Makers for their consideration.

The Applicant's architect believes that adjustments to the Specific Plan's provisions for stepping back the building facades are needed to create continuous pedestrian scale facades consistent with the commercial uses located at the street level and surrounding properties. The adjustment will also enable balconies and patios on upper levels to extend to the building line of the commercial level in order to enhance the outdoor pedestrian experience. From an environmental impact perspective, zero front, side and rear yards at the upper levels of the Project would be consistent with the surrounding commercial uses along Glendon and Weyburn Avenues. Along Tiverton Avenue, the Applicant has requested only a temporary exemption from the 15-foot landscape buffer until the requested redesignation of Tiverton to a Collector Street is completed. Ultimately, a 15-foot landscaped setback will be maintained along the Tiverton Avenue frontage of the Project. For a more detailed discussion of the Tiverton Avenue setback, please see Topical Response 7. For a more detailed discussion of Project consistency with the WVSP, please see Topical Response 3.

Comment No. 11.142

Plan Exception

There is no basis for a Plan Exception to waive the 15 foot landscaped front yard for Tiverton Avenue because this is a self-induced hardship and an attempt to avoid the R-3 Dedication needed for Tiverton Avenue as well as Weyburn and Glendon to provide additional on-street parking through dedications for diagonal parking.

Response No. 11.142

The 15-foot landscaped setback along Tiverton Avenue is discussed on Pages V.F-46 through -48 of the Revised Draft EIR and reviewed in Topical Response 7. The Project Applicant has requested only an interim exception from the 15-foot setback along Tiverton Avenue until the General Plan amendment to redesignate Tiverton as a Collector Street is approved. Tiverton is currently designated as a Secondary Highway under the General Plan, which means that 10 feet on either side of Tiverton Avenue are now reserved for road widening. The road widening is highly unlikely. As explained in the Revised Draft EIR, on pages V.F-46 through -48, the Collector Street designation is adequate both for the current and foreseeable future traffic volume on Tiverton. The Applicant seeks an exception that would reduce the setback to 5-feet on an interim basis until the process for redesignating Tiverton to a Collector Street is complete, at which time the additional ten feet now reserved for road widening would be dedicated to complete the 15-foot landscaped setback. (Revised Draft EIR, Page V.F-48.)

Comment No. 11.143**Site Plan Review Findings Cannot be Made**

In order to approve this Application for Site Plan Review, the Director of Planning must

find that:

- That the Project complies with all applicable provisions of this Code and any application Specific Plan. For reasons discussed above, this application is in violation of the General Plan, the Community Plan and the Specific Plan and therefore cannot be approved.
- The project is not compatible with existing and future development on neighboring properties. Letters are on file from adjacent owners objecting to the impacts of this proposal. Building high-rise in a low-rise area is not compatible.
- The project does not incorporate feasible mitigation measures such as preserving Glendon Manor. It does not provide adequate parking. It violates shadow limits and imposes adverse aesthetic view impacts for neighbors.

For these reasons, the Project cannot be approved for Site Plan Review. Approval requires meeting all findings.

Response No. 11.143

As stated on Page II-9 of the Revised Draft EIR, the Project will be required to undergo a site plan review pursuant to Los Angeles Municipal Code Section 16.05. As part of that process, the Director will review the information provided pursuant to CEQA as well as other pertinent information when determining whether to approve, conditionally approve, or deny the site plan. The Director will also be required to adopt the written findings set forth in Municipal Code Section 16.05.

This comment references certain required findings set forth in Section 16.05. The issues raised by those required findings are addressed above in other responses and in the topical responses. See, in particular, Topical Response 2 for discussion of Glendon Manor and Topical Response 3 for a discussion of Project consistency with the WVSP.

Comment No. 11.144**DISCRETIONARY APPROVALS/MASTER LAND USE APPLICATION DEFECTS**

The Project Description still portrays the project as 55 feet high, not 65 (see p. 1, Tab 4, Discretionary Approvals, February 2003).

The Project Description, Master Land Use Application still claims 1550 parking spaces. Why?

The Applicant seeks trip credits for vacant/demolished structures. This is not a valid trip credit and should not be included in the traffic analysis.

Response No. 11.144

Tab 4 of the February 2003 Discretionary Approvals does not contain the Project Description. This is contained in Tab 5 of the Discretionary Approvals and clearly states: “The height of the proposed building will be 65 feet when measured from the highest point of the roof structure to the elevation of the ground surface below that point of measurement. . . .” The Project Description further states, on Page 2, that the project will provide a total of 1,452 parking spaces, not 1,550. With regard to trip credits, see Response No. 5.26, which explains that the credits are appropriate pursuant to LADOT’s Traffic Study Policies and Procedures guidelines and CEQA Guidelines Section 15125(a).

Comment No. 11.145

List of Attachments

1. Deposition of Alan Casden re. Feasible alternative, January 17, 2002.
2. Deposition of Roger Wolf, February 18, 2002
3. Deposition of Johannes Van Tilburg, February 20, 2002
4. Agreement between Casden Glendon LLC and The Arba Group (re. Movies as an alternative use), February 8, 2000.
5. Letter from Allen P. Gross, Executive Director, Neighborhood Effort, to Gregory Smith, Project Manager, “Palazzo Westwood,” April 26, 2002 (re. Refusal to sell Glendon Manor for preservation).
6. Letter from Allen P. Gross to Maya Zaitzevsky, April 4, 2003 (comments on DEIR).
7. News Release from Zev Yaroslavsky, December 14, 1988, announcing key provisions of Westwood Village Specific Plan.
8. Standard Street Dimensions, Bureau of Engineering, May 13, 1999, 2 pages.
9. Beth Shuster, “Bill Would Help Pave Way for Westwood Mall,” Los Angeles Times, June 23, 1998, p. B2.

10. Letter from Andrew Starrels, Casden Glendon, LLC to Ralphs Grocery Company, February 7, 2000 describing “new high rise apartment complex.” Note, circles on letter were made by the trial judge.
11. Conservation Element of the General Plan, Los Angeles, May 2001.
12. Demolition permit for west side of Glendon, 6/15/2002.
13. Letter from Friends of Westwood, Third Request for Stop Work Order, July 26, 2002.
14. Letter from Friends of Westwood, Second Request for Stop Work Order, July 25, 2002.
15. Letter from Friends of Westwood, Save Westwood Village, Holmby-Westwood Property Owners, First Stop Work Request, July 22, 2002.
16. Los Angeles Independent Article on Demolition, 7/24/02.
17. Letter from Steve MacDonald, Building and Safety Department, July 26, 2002 re. Demolition Permit.

Response No. 11.145

Letters noted. Please see Topical Response 1 for a discussion of responses to previously submitted comments.

COMMENT LETTER No. 12**Save Westwood Village**

Terry Tegnazian, Co-President
1093 Broxton Avenue, PMB Box 620
Los Angeles, CA 90024
February 28, 2003 (1 page w/Attachment).

Comment No. 12.1

As part of our comments on the above-referenced Draft EIR, we are once again enclosing a copy of our letter dated June 27, 2002 (with enclosures thereto) addressed to the Bureau of Engineering and the Department of Transportation concerning this project.

A copy was sent to you contemporaneously with the original going to the two addressees in connection with preparation of the above-referenced Draft EIR. This was more than seven months before issuance of the current revised Draft EIR, but these comments do not appear to be included as part of the public comments in Appendix Volume I. We believe that the revised Draft EIR is defective for that reason.

The contents of the enclosed are incorporated herein by reference, and we request that the comments therein be responded to in the Final EIR.

Response No. 12.1

See Topical Response 1 for a discussion of previously submitted comments.

COMMENT LETTER No. 13**Save Westwood Village**

Terry Tegnazian, Co-President
1093 Broxton Avenue, PMB Box 620
Los Angeles, CA 90024
March 3, 2003 (2 pages w/Attachment).

Comment No. 13.1

As part of our comments on the above-referenced revised Draft EIR, we are enclosing our letter dated July 9, 2002 (with enclosures thereto) addressed to you in connection with preparation of the above, which are incorporated herein by this reference. These were sent to you seven months before issuance of the current revised Draft EIR, but do not appear to be included as part of the public comments in Appendix Volume I. We believe that the revised Draft EIR is defective for that reason, among others.

The enclosed gave clear notice to the City of a low-impact, economically feasible alternative to the Palazzo Westwood project (i.e., a single story, 50,000 sq. ft. to 58,000 sq. ft. grocery store). This alternative should have been analyzed by the City as one of the alternatives in the revised Draft EIR, as we explicitly requested in the enclosed letter of July 9, 2002. The revised Draft EIR is fatally defective because of its failure to analyze this as one of the alternatives.

This alternative is one which was planned by the developer Alan Casden as his fallback if he never got any approvals from the City, *and its existence testified to by Mr. Casden himself under penalty of perjury in January 2002*, six weeks before the initial version of the Draft EIR was issued last year. In fact, Mr. Casden's representatives should have disclosed the existence of this alternative to the City while the initial Draft EIR was being prepared.

When I asked you in our telephone conversation last Friday afternoon why this alternative was not analyzed by the City in the revised Draft EIR, you indicated that it was because we only provided you with an excerpt from Mr. Casden's deposition transcript. *Yet, neither you nor anyone else in the City ever requested us to provide a complete deposition transcript, or even indicated that such a complete transcript would be required.*

Nor are we aware of any promulgated regulation or law that requires comments on Draft EIRs in preparation to include complete copies of documents or reports referred to in such comments. Indeed, we

are not aware of any such regulation or law that requires even relevant excerpts from the source material to be enclosed, but we did enclose such excerpts as well as indicating the source thereof. In ignoring this clearly relevant information, the City acted in an arbitrary and capricious manner.

Further, as I told you Friday, the excerpts we sent you were discovered among excerpts from Mr. Casden's deposition contained in publicly-available records in litigation filed in Los Angeles Superior Court. The complete deposition was not included in that court record, and we are not privy to it. On the other hand, Mr. Casden certainly could provide you with the complete deposition transcript.

A feasible alternative testified to by the developer himself under penalty of perjury has far more weight and credibility than any alternatives presented to you by the developer's representatives, especially as they are not given under oath.

Once the City has actual notice that the developer himself was planning this low impact project as a feasible alternative fallback to his massive and illegal project, the City must pursue whatever details it requires in order to conduct an adequate analysis of this alternative. It cannot simply ignore its existence, nor can it rely on unsworn statements by representatives of Mr. Casden as to its validity.

What are all the impacts of the feasible alternative disclosed by Mr. Casden in the enclosed material? Are there other possible alternatives with the low intensity of development (e.g., 50,000 sq. ft. to 58,000 sq. ft. single story) testified to by Mr. Casden in the enclosed material; what are such alternatives and what are their impacts? How do all these low-intensity alternatives compare with the impacts of the proposed project?

Response No. 13.1

With respect to the commenter's letter submitted to the City prior to the release of the Revised Draft EIR, see Topical Response 1.

To the extent the current comment argues that the Revised Draft EIR should have considered a single-story grocery store as an alternative, see the discussion in Topical Responses 12 and 13. With regard to the statement that the "revised Draft EIR is fatally defective because of its failure to analyze this as one of the alternatives," this comment reflects the commenter's opinion, which is not correct as a matter of law, but which will be forwarded to the Decision-Makers.