



Los Angeles City Planning Commission

200 North Spring Street, Room 532, City Hall, Los Angeles, CA 90012 (213) 978-1300

APPEAL TRANSMITTAL

Date: July 17, 2007

City Council
Room 395, City Hall

APPEAL REQUEST: An appeal on part of the City Planning Commission determination for:

CASE NO: CPC-2006-9702-ZC-CU-CUB-CUX-ZV-DA

LOCATION: 100, 221, 225, and 237 S. Grand Avenue; 121, 129, and 135 S. Hill Street; 220 and 236 S. Hope Street; 111, 121, 130, 134, 138, 141, 145, 151, and 161 S. Olive Street; 400 and 440 W. 1st Street; 411, 417, 419, 419, 421, 425, 427, 429, and 431 W. 2nd Street; and 630 and 635 W. General Thaddeus Kosciuszko Way

COUNCIL DISTRICT: 9

APPELLANT(S): Christopher Sutton on behalf of Today's IV Inc., dba Westin Bonaventure Hotel (Attn.: Peter Zen, Suite 516, 404 S. Figueroa Street, LA, 90071-1710)

APPLICANT: The Related Companies, LLC

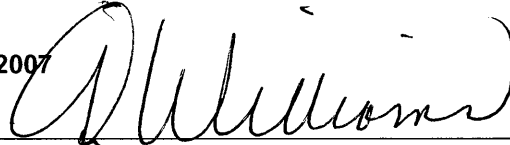
At its meeting on June 14, 2007 the following action was taken by the City Planning Commission:

1. **Approved and Recommended** that the City Council adopt a Zone Change from R5-4D to [T] [Q] C2-4D; subject to Conditions of Approval.
2. **Approved** a Conditional Use to permit a mixed-use development with a floor area ratio of 9.9:1 throughout the entire site in lieu of the maximum allowed ratio of 6:1 under the existing "D" limitation of Ordinance No. 164,307, subject to Conditions of Approval.
3. **Approved** a Conditional Use to permit a residential density of one unit per 136 square feet of net lot area throughout the entire site in lieu of the minimum allowed one unit per 200 square feet of net lot area, subject to Conditions of Approval.
4. **Approved** a Conditional Use to permit the sale and dispensing of alcoholic beverages for 35 establishments that will offer on-site sale and consumption, or off-site sales, including 28 establishments that will offer on-site alcoholic beverage service, five establishments that will sell alcoholic beverages for off-site consumption, and two establishments with a combination of on- and off-site consumption in the C2 zone incident to the zone change on Parcels Q, L/M-2, and W-1/W-2, subject to Conditions of Approval.
5. **Approved** a Conditional Use to permit live entertainment with incidental public dancing at up to eight establishments in the C2 zone incident to the zone change on Parcels Q, L/M-2, and W-1/W-2, subject to Conditions of Approval.
6. **Approved** a zone variance from Section 12.21-G to permit 1) 47,758 square feet of open space for 500 dwelling units on Parcel Q in lieu of the required 73,000 square feet of open space; 2) 33,000 square feet of open space for 850 dwelling units on Parcels L/M-2 in lieu of the required 123,650 square feet of open space; and 3) 62,100 square feet of open space for 1,310 dwelling units on Parcels W-1/W-2 in lieu of the required 190,650 square feet of open space for the Additional Residential Development Option, or to permit 41,000 square feet of open space for 710 dwelling units on Parcels W-1/W-2 in lieu of the required 103,300 square feet of open space for the County Office Building Option; where the common residential open space for all five parcels will include the square footage of adjacent public plazas, and that the landscaped portion of that common open space be less than the 25 percent minimum that is required, subject to Conditions of Approval.
7. **Approved** a zone variance from Section 12.21-A,5(h)(2) to permit tandem parking spaces with a valet in lieu of providing a minimum of one individually and easily accessible parking space at all times for each dwelling

unit or guest room for residents and hotel guests, subject to Conditions of Approval.

8. **Recommended** that the City Council approve a Development Agreement pursuant to Section 65864 of the State Government Code and the City Implementing procedures with a term of 20 years for Parcels Q, L/M-2, and W-1/W-2.;
9. **Recommended** that the City Council adopt the Findings of the Grand Avenue Project Final Environmental Impact Report (State Clearinghouse No. 2005091041) as certified by the Grand Avenue Authority, and adopt the subsequent CEQA Findings. This recommendation reflects the independent judgment and analysis of the Responsible and Lead Agencies that the project's environmental effects have been adequately addressed.

Final date to Appeal: July 16, 2007



Gabrielle Williams, Commission Executive Assistant II
City Planning Commission

Planning Staff: Henry Chu

Attachments: Appeal(s), Determination letter, File

ORIGINAL

CITY OF LOS ANGELES
PLANNING DEPARTMENT

MASTER APPEAL FORM

APPEAL TO THE: CITY COUNCIL
REGARDING CASE NO.: CPC-2006-9702-2C-CU-CUB-CUX-ZV-DA

This application is to be used for any authorized appeals of discretionary actions administered by the Planning Department. Appeals must be delivered in person with the following information filled out and be in accordance with the Municipal Code. **A copy of the action being appealed must be included. If the appellant is the original applicant, a copy of the receipt must also be included.**

APPELLANT INFORMATION: PLEASE PRINT CLEARLY

Name CHRISTOPHER SUTTON
Mailing Address 35 E. UNION ST. #C
PASADENA, CALIFORNIA Zip: 91103-3945
Work Phone: (626) 683-2500 Home Phone: () _____

- a) Are you or do you represent the original applicant?
(Circle One) YES NO
- b) Are you filing to support the original applicant's position?
(Circle One) YES NO
- c) Are you filing for yourself or on behalf of other parties, an organization or company?
(Circle One) SELF OTHER
- d) If "other" please state the name of the person(s), organization or company (print clearly or type)
TODAY'S IV, INC., doing business as WESTIN BONAVENTURE HOTEL
Attn: PETER ZEN, SUITE 516, 404 S. FIGUEROA STREET
LOS ANGELES, CALIFORNIA 90071-1710

REPRESENTATIVE

Name CHRISTOPHER SUTTON
Mailing Address 35 E. UNION STREET, SUITE C
PASADENA, CALIFORNIA Zip 91103-3945
Work Phone: (626) 683-2500 Home Phone : () _____

APPEAL INFORMATION

A complete copy of the decision letter is necessary to determine the final date to appeal, under what authorizing legislation, and what, if any, additional materials are needed to file the appeal.

Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the City (Area) Planning Commission must be filed within 10 days of the written determination of the Commission.

Final Date to Appeal: JULY 16, 2007

REASONS FOR APPEALING

Are you appealing the entire decision or parts of it?

~~Entire~~ Part **CAS - All Conditional Uses and All Zoning Variance CS (ZU) (CU - CUB - CUX)**

Indicate: 1) How you are aggrieved by the decision; and 2) Why do you believe the decision-maker erred or abused their discretion? If you are not appealing the whole determination, please explain and specifically identify which part of the determination you are appealing.

In 2006, Today's IV, Inc. (Westin Bonaventure Hotel) received City approval to convert some of its hotel rooms into residential and commercial condominium units (TT No. 65986). This was a settlement of prior litigation. Both the Bonaventure Hotel and the site of case no. CPC-2006-9702 are located within the Bunker Hill Redevelopment Project Area. The Bunker Hill Redevelopment Plan governs all development and land use approvals therein. The City is required to follow and enforce the Redevelopment Plan and its limit on allowed residential units within the Project Area to 3900 — Of these, 3000 units may be in residential areas shown in the Plan, and 900 units may be in other areas. Case No. CPC-2006-9702 contemplates 2660 dwelling units. These would cause the Redevelopment Project Area to exceed the maximums allowed by the Redevelopment Plan. It also allows for commercial and residential uses at locations violating the Redevelopment Plan. This harms the Bonaventure by potentially preventing it from obtaining Redevelopment Agency approval of buildings permits, constructing, and obtaining occupancy permits for its 219 new residential condo units. See the attached letter filed with the Planning Commission dated June 12, 2007, regarding this case. The United States and California Constitutions ban government actions which impair their contracts. These constitutional provisions prevent the City of L.A. from approving CPC-2006-9702 because to do so violates its prior settlement contract with the Bonaventure. It also now appears that Council member Jan Perry has at least one property interest in the area. The City is prohibited by California conflict of interest laws from taking any action on Case No. CPC-2006-9702 until at least one year after Council member Jan Perry discloses and eliminates any and all of her conflicts of interest.

ADDITIONAL INFORMATION

- Original receipt required to calculate 85% filing fee from original applicants.
- Original applicants must pay mailing fees to BTC and submit copy of receipt.
- Any additional information or materials required for filing an appeal must be provided in accordance with the LAMC regulations as specified in the original determination letter. **A copy of the determination/decision letter is required.**
- Acceptance of a complete and timely appeal is based upon successful completion and examination of all the required information.
- **Seven copies and the original appeal are required.**

I certify that the statements contained in this application are complete and true:

Appellant *Christy Sutton* 7-13-2007

OFFICIAL USE ONLY

Receipt No. 266928 Amount \$73.00 Date 7/13/07

Application Received *Daisy Ma*

Application Deemed Complete *R. Hold* 7/13/07

Copies provided: 7 Determination Receipt (original applicant only)

Determination Authority Notified (if necessary)

June 10, 1996

TO: Public Counters
Zoning Administrators

FROM: Robert Janovici

SUBJECT: **REJECTION OF IMPROPER APPEALS**

The Municipal Code provides that an appeal from a Zoning Administrator's action must ".set" forth specifically the points at issue, the reasons for the appeal, and wherein the appellant believes there was an error or abuse of discretion by the Zoning Administrator".

It has historically been the City's policy to be liberal when viewing appeals and determining whether they met the requisite minimum threshold. However, a review of the requirements seems appropriate at this time. Recently, I dismissed an appeal which by its terms clearly was based upon a personal dispute between two adjoining property owners and having nothing to do with the historic, current or prospective use of the property which was the subject of the original application.

I am requesting that all appeals be reviewed upon submittal in detail to ensure that the prospective appellants indicate clearly how they are personally aggrieved (impacted) by the underlying action and wherein the Zoning Administrator erred or abused discretion. Staff should never write out language for an individual nor give advice as to the possible outcome of an appeal or underlying action. If there is an issue in a particular case as to whether an appeal is properly filled out, contact me directly. If I am unavailable, contact the Administrator who is liaison to the counter.

Persons asking questions about appeals should be advised not to wait until the last minute to do so - in the event they are unexpectedly late due to traffic or other reasons, no exceptions will be made. Likewise, no leeway will be given due to the mail, private delivery service or other source not delivering the appeal on time. As such, prospective appellants should be strongly urged to file the appeals personally.

RJ:lmc

LAW OFFICE OF
CHRISTOPHER SUTTON
35 EAST UNION STREET, SUITE C
PASADENA, CALIFORNIA 91103-3945
TELEPHONE (626) 683-2500 ... FACSIMILE (626) 405-9843

June 12, 2007
HAND DELIVERED

Los Angeles Planning Commission
Los Angeles City Hall, Room 532
100 North Spring Street
Los Angeles, California 90012

**Re: Opposition and Objections to 6-14-2007 Planning Commission Agenda Item 8,
Planning Commission File No. CPC-2006-9702-ZC-CU-CUB-CUX-ZV-DA;
Violations of Redevelopment Law, H&S Code §§ 33121.5, 33204, 33205, 33336, etc.
Violations of Redevelopment Oversight Ordinance, LAAC § 8.99 to § 8.99.14;
Failure to Give Any Pre-Hearing Notice to a Property Owner Directly Impacted.**

Dear Members of the Planning Commission:

This office represents Today's IV, Inc., doing business as Westin Bonaventure Hotel, a property and business owner within the Bunker Hill Redevelopment Project Area on Block G. The Bonaventure Hotel is located about 1,200 feet southwest from the site subject of the hearing.

The various proposed actions related to the Grand Avenue Project are improper for the reasons set forth below. The proposed actions would violate provisions of local and state law. The proposed actions violate the Bunker Hill Redevelopment Plan's limits on land uses on Blocks K, L, M, Q and W, violate the Redevelopment Plan's maximum 6 to 1 floor-area-ratio, violate the Redevelopment Plan's total limit on residential units, violate the Redevelopment Plan's total limit developed floor areas, and violate the Redevelopment Plan's minimum requirements for off-street parking.

The proposed Planning Commission actions are a *de facto* attempt to amend the Bunker Hill Redevelopment Plan without following the amendment procedures mandated by state redevelopment law at Health & Safety Code sections 33450 to 33458.

The procedures being utilized violate both California Redevelopment Law and the City-CRA "oversight ordinance" adopted pursuant to Health & Safety Code sections 33204, 33205 and 33121.5, which take precedence over any other purely local land use procedures.

**1. VIOLATION OF REDEVELOPMENT OVERSIGHT ORDINANCES,
L.A. ADMINISTRATIVE CODE SECTIONS 8.99 THROUGH 8.99.14**

Pursuant Health & Safety Code sections 33204 and 33205 the City has adopted and amended a "Redevelopment Oversight Ordinance" found at Los Angeles Administrative Code ("LAAC") sections 8.90 to 8.99.14. This ordinance was enacted as a state law function, and not as a local function. As such, the provisions of the Redevelopment Oversight Ordinance pre-vail over and pre-empt contrary local laws and procedures related to territory within Redevelopment Project Areas.

In addition, Health & Safety Code section 33121.5 limits the degree to which redevelopment powers may be delegated to another entity. That section reads as follows:

When a decision, determination, or other action by the agency or legislative body is required by this part, neither the agency nor the legislative body shall delegate the obligation to decide, determine, or act to another entity unless a provision of this part specifically provides for that delegation.

Nothing in the Redevelopment Oversight Ordinance delegated powers to the Planning Commission, and nothing in the redevelopment law allows any such delegation. The zoning proposals contained in CPC-2006-9702 must comply with the Bunker Hill Redevelopment Plan, as adopted by Los Angeles City Council Ordinance No. 140662 on June 25, 1970. The operative provisions of the Redevelopment Plan and Ordinance No. 140662 remain in place today and apply to the approvals sought in CPC-2006-9702. The Planning Commission lacks authority to approve any land use proposals that conflict with the Bunker Hill Redevelopment Plan.

LAAC Sections 8.94.04 (n), (o) and (o) require City Council approval of all land use approvals within all redevelopment project areas. The Planning Commission does not exercise this power and has never been delegated this power. LAAC 8.94.14 provides for a detail "Cooperation Agreement: that all City departments must follow regarding decisions within redevelopment project areas. The Planning Commission has failed to review the Redevelopment Oversight Ordinance or the Cooperation Agreement to understand the process and the restrictions on its jurisdiction.

2. VIOLATION OF BUNKER HILL REDEVELOPMENT PLAN'S MANDATORY LAND USE AND MAXIMUM DEVELOPMENT STANDARDS

As a matter of California law, the terms of a redevelopment plan prevail over later enacted zoning code and general plan provisions governing the same territory. See, Housing Authority v. City of Los Angeles (1952) 38 Cal.2d 853, 862 [243 P.2d 515] [cert. den., 344 U.S. 836 (97 L.Ed. 651, 73 S.Ct. 46)]; Housing Authority v. Superior Court (1950) 35 Cal.2d 550, 557 [219 P.2d 457]; Gibbs v. City of Napa (1976) 59 Cal.App.3d 148, Kehoe v. City of Berkeley (1977) 67 Cal.App.3d 666, Redevelopment Agency v. City of Berkeley (1978) 80 Cal.App.3d 158, and Walker v. City of Salinas (1976) 56 Cal.App.3d 711.

The proposed Grand Avenue Project violates the Bunker Hill Redevelopment Plan as the governing land use document. The Bunker Hill Redevelopment Plan was last substantively amended in 1970. There have been no later amendments regarding maximum development limits in the Bunker Hill Redevelopment Project Area.

Sections 409 to 417 of the Redevelopment Plan mandates the City and Planning Commission to take zoning actions in a manner **consistent with** the Redevelopment Plan. Section 418 and 419 mandate all developers to comply with the land use standards and development limits in the Plan.

Within Section H, at section 801, the Bunker Hill Redevelopment Plan reads as follows:

All of the land lying within and constituting the Project Area, including any land therein not acquired by the Agency, shall be subject to the requirements and restrictions specified in this Section H.

Within Section H, at section 811, the Bunker Hill Redevelopment Plan reads as follows:

The maximum density of population in residential areas shall not exceed 250 persons per acre. The number of dwelling units in residential areas is tentatively 3,100 with an additional 800 dwelling units if areas designated for multiple housing under alternate uses are developed for residential purposes.

The Redevelopment Plan at Section 814 limits all develop to a 5-to-1 floor-area ration ("FAR"), or a 6 to 1 ratio if a special approval procedure is followed. See, Redevelopment Plan sections 800 to 816. Yet, the proposed approvals in CPC-2006-9702 provide for a much higher **9.9 to 1 FAR throughout the development site!** This is an illegal attempt to evade or undermine the maximum limits in the Bunker Hill Redevelopment Plan without processing a plan amendment.

Sections 812 to 814 of the Bunker Hill Redevelopment Plan also limits total development in the Project Area in a number of ways. First, a project-wide FAR applies. The total square footage of development in CPC-2006-9702 is 3,600,000 square feet. This will cause the Project Area to exceed the Project Area maximum FAR limits. An FAR calculation cannot include non-developed land within public rights-of-way. The Grand Avenue Project improperly seeks to use public streets and other public spaces as part of its FAR calculation. Without this improper use of non-developed areas the FAR cap in the Bunker Hill Redevelopment Plan will be violated.

The Central Dirstrict Community Plan and the Redevelopment Implementation Plan both note several years ago that the maximum limits established in Bunker Hill Redevelopmet Plan were already being approached. The Planning Commission has failed to consider these limits!

Second, the lot coverage at each development site is limited by the Bunker Hill Redevelopment Plan to a maximum of 40% for residential uses and 50% for non-residential and commercial uses. The proposed Grand Avenue Project described in CPC-2006-9702 exceeds the Redevelopment Plan's maximum lot coverage requirements. In addition, there is a Project Area overall lot coverage limit, and the Grand Avenue Project will cause the Project Area to exceed those limits as well.

Section 816 of the Redevelopment Plan sets a minum number of off-street parking spaces for residential and non-residential developments. At each development site, there must be not less than one off-street parking space per dwelling unit, and not less than one off-street parking space for every 800 square feet of commercial and office space development. The Grand Avenue Project as described in CPC-2006-9702 violates these minimum parking requirements set forth in the Bunker Hill Redevelopment Plan at Section 816.

Section 811 of the the Bunker Hill Redevelopment Plan established a maximum of 3100 dwelling units, with some adjustment in special circumstances. The residential units in areas designated as "commercial" by the Redevelopment Plan may not exceed 900 dwelling units. There are already around 3,000 dwelling units in the Redevelopment Area.

Parcels Q and W-1 and W-2 are designated for commercial uses in the Redevelopment Plan. The residential units on these parcels proposed in the Grand Avenue Project by CPC-2006-9702 will

cause the Redevelopment Area to exceed the 900 unit maximum specified in Redevelopment Plan section 811 for non-residential areas. This will directly harm the Bonaventure. In 2006, the Bonaventure received City approval for 219 new residential condominiums, but will need CRA final approval for the needed building permits. By adding new residential units above the maximum allowed in the Redevelopment Plan the City is threatening the future CRA approval of Bonaventure's new units.

Parcels L and M are designated for residential uses in the Redevelopment Plan. The residential units on these parcels proposed in the Grand Avenue Project by CPC-2006-9702 will cause the Redevelopment Area to exceed the 3100 unit maximum specified in Redevelopment Plan section 811 for residential areas.

Overall, the dwelling units allowed in the Grand Avenue Project as proposed by CPC-2006-9702 will cause the Redevelopment Area to have over 5,660 dwelling units. There already exists about 3,000 dwelling units and the Grand Avenue Project under CPC-2006-9702 would add an additional 2660 new dwelling units. Thus, the Grand Avenue Project proposes to build over the maximum number of dwelling units, violating the 1970 Bunker Hill Redevelopment Plan land use standards. The City is failing to follow the mandatory amendment procedures in redevelopment law for exceeding these limits. See Health & Safety Code sections 33450 to 33458.

Parcels W-1 and W-2 are limited to office buildings and parking facilities by the Redevelopment Plan. The Grand Avenue Project fails to construct offices on parcels W-1 and W-2. Residential uses are not allowed in Block W to the extent planned in the Grand Avenue Project and proposed in CPC-2006-9702. The failure to comply with the Block W mandate for office uses in the Plan and the limits on residential uses there also violate the Bunker Hill Redevelopment Plan.

Block Q is primarily designated for office uses with only other incidental commercial uses in the Redevelopment Plan. The Grand Avenue Project violates this restriction by having primarily residential and hotel uses. The failure to comply with the Block Q mandate for office uses in the Plan also violates the Bunker Hill Redevelopment Plan.

The Bunker Hill Redevelopment Plan as approved in 1970 by the City Council **acting as a state agency under a specific state law** wholly pre-empts and overrules any contrary merely local land use standards of the City. The City has no **purely local** authority to approve any plan or agreement violating the Bunker Hill Redevelopment Plan. Section 409 of the Redevelopment Plan renders the City's policies merely advisory to the binding land use policies in the Redevelopment Plan which pre-empt all other local policies. CPC-2006-9702 violates the Redevelopment Plan.

California Health & Safety Code section 33336 in the Redevelopment Law reads as follows:

Every redevelopment plan shall:

- (a) Contain adequate safeguards that the work of redevelopment will be carried out pursuant to the plan.
- (b) Provide for the retention of controls and the establishment of any restrictions or covenants running with land sold or leased for private use for such periods of time and under such conditions as the legislative body deems necessary to effectuate the purposes of this part. The establishment of such controls is a public purpose under

the provisions of this part.

California Health & Safety Code section 33339 in the Redevelopment law reads as follows:
Every redevelopment plan shall provide for participation in the redevelopment of property in the project area by the owners of all or part of such property if the owners agree to participate in the redevelopment in conformity with the redevelopment plan adopted by the legislative body for the area.

Thus, CPC-2006-9702 violates state law by allowing the developer to take actions which violate the land use standards and limits on development contained in the Bunker Hill Redevelopment Plan.

3. IMPROPER ATTEMPT TO AMEND BUNKER HILL REDEVELOPMENT PLAN

The Grand Avenue Project and CPC-2006-9702 contemplates a number of zone changes, municipal code text changes, zoning variances, and a "statutory development agreement." Taken together, these are an improper and illegal attempt to amend the Bunker Hill Redevelopment Plan by a means other than the exclusive method set forth in the California Community Redevelopment Law at Health & Safety Code sections 33450 to 33458. This includes a right of referendum at sections 33378 and 33450. By using improper variances the City is attempting to circumvent the referendum rights of the Westin Bonaventure Hotel and all residents of Los Angeles as guaranteed by state law.

The proposed zone changes, variances, use permits, development agreement rights seek large deviations from the mandatory provisions of the Bunker Hill Redevelopment Plan. Such actions are void and pre-empted by the supremacy of all redevelopment plans and the Community Redevelopment Law over all merely local enactments such as zoning. See, Gibbs v. City of Napa (1976) 59 Cal.App.3d 148, Kehoe v. City of Berkeley (1977) 67 Cal.App.3d 666, Redevelopment Agency v. City of Berkeley (1978) 80 Cal.App.3d 158, and Walker v. City of Salinas (1976) 56 Cal.App.3d 711. CPC-2006-9702 is an invalid attempt to amend the Redevelopment Plan.

4. FAILURE TO GIVE NOTICES OUTSIDE THE 500 FOOT RADIUS WHEN A PROPERTY OWNER IS DIRECTLY HARMED BY A PROPOSED ACTION

When there is a public hearing on land use decisions the City of Los Angeles' Municipal Code only provides for written notices of the hearing to property owners within 500 feet of the site to be developed. There is no local provision in the LAMC for additional notice when the magnitude of a project is very large or when the particular project directly harms the interests of a specific property owner outside the 500 foot radius.

The Bonaventure is directly harmed by the proposals in CPC-2006-9702. As stated above, its new 219 residential units are put at risk. The 1974-1975 development agreements ban further hotels in the Bunker Hill Project Area. The proposed hotel in the Grand Avenue Project will be given millions of dollars in City public subsidies to undermine the business income of the Bonaventure Hotel. When the City and Bonaventure settled their 2005 lawsuit over the subsidies to the Convention Center Hotel, the Mayor and City promised no further subsidized hotels would be allowed in or near downtown Los Angeles. CPC-2006-9702 is a breach of that 2005 agreement.

Grand Avenue Project

When the City and the Mayor settled the 2005 lawsuit, it agreed to allow Bonaventure to convert one third of its 1354 guest rooms into commercial and residential condominiums. The tentative tract map for these conversions was approved by the City in 2006. See, Tentative Tract No. 65986 and Staff Report by Daryll Mackey dated July 12, 2006. The 2005 settlement and the 2006 tract map were an admission by the City that there existed and would continue to exist **a surplus of hotel rooms in and near downtown Los Angeles.** Yet CPC-2006-9702 proposes more subsidized hotel rooms. It was patently obvious -- given the 2005 settlement and 2006 tract map approval -- that the Bonaventure would be directly and permanently harmed by the development proposals in CPC-2006-9702.

In 2007, the City failed to inform the Bonaventure of any of the Planning Department hearings regarding CPC-2006-9702. This was a clear and prejudicial violation of Bonaventure's due process right to be notified of a governmental hearing where its interests were at stake.

The City failed to provide adequate or minimum notice to all adversely affected property owners and businesses located outside the 500 foot radius regarding Planning Commission case CPC-2006-9702. No notices were sent to the land owners or business operators of the Bonaventure Hotel. The proposed actions would violate the terms of the Bunker Hill Redevelopment Plan, the 1974 and 1975 development agreements for the Bonaventure Hotel, and the 2005 settlement in a manner harmful to the business and property rights of the Bonaventure Hotel. In obtaining approval of Tract Map 65986 Bonaventure detrimentally relied on the Mayor's and the City's prior promises.

The City and the Developer were aware of the Bonaventure's address and aware of the Bonaventure's interest in the outcome of CPC-2006-9792. A lawsuit regarding the City Council's February 13, 2007, actions was filed and served on the City on March 2, 2007. The City and the Planning Department staff had more than adequate time to notify the Bonaventure prior to the Planning Commission public hearing in April 25, 2007. It failed to do so.

The City chose not to send the Bonaventure any notice. To cure this defect, a new public hearing before the Planning Commission should be set in June or July 2007. New notices mailed to all affected persons and property owners, including the Bonaventure Hotel, and all other property owners and businesses within the Bunker Hill Project Area need to be sent at once.

The failure to provide the constitutionally required notices renders the decisions of the Planning Commission void. See, **Horn v. County of Ventura (1979) 24 Cal.3d 605, at 612; Scott v. City of Indian Wells (1972) 6 Cal.3d 541; Barenfeld v. City of Los Angeles (1984) 162 Cal.App.3d 1035, and Mathews v. Eldridge (1976) 424 U.S. 319, 332.** When a city has the inexpensive means of giving advance notice of hearings to affected persons it must do so. The City did not.

5. VIOLATION OF 1974-75 BONAVENTURE HOTEL DEVELOPMENT AGREEMENTS BARRING FURTHER HOTEL DEVELOPMENT IN BUNKER HILL PROJECT AREA

In 1974 and 1975 the City and Redevelopment Agency entered into a development agreement for the hotel that later became the Westin Bonaventure Hotel. Those agreements continue today to bind the City and the Agency. That hotel was to be the **ONLY** hotel within the Bunker Hill Redevelopment Project Area, unless formal written agreement and waivers were granted by the

owners of the Bonaventure. It appears that the approval and waiver process has not been followed regarding the hotel to be developed with City and Agency subsidies at 2nd and Grand. This failure to follow the process appears to be a breach of the development agreements for what is now the Westin Bonaventure Hotel.

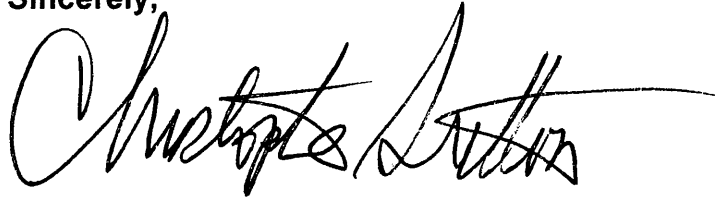
The Bonaventure demands that the City and Agency cease any and all actions or proposed actions which violate its rights under the original development agreements covering Block G of the Bunker Hill Redevelopment Project Area where the Bonaventure still operates. Planning Commission case number CPC-2006-9702 cannot be approved because it violates the prior agreements.

6. CONCLUSION:

Please set a new public hearing before the Planning Commission and give minimum and adequate notice to directly affected property owners and businesses outside the 500 foot radius.

Unless and until there is a new noticed public hearing, vote **NO** on the Grand Avenue Project, Planning Commission file number CPC-2006-9702-ZC-CU-CUB-CUX-ZV-DA.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher Sutton", written in a cursive style.

Christopher Sutton
Attorney for Westin Bonaventure Hotel

cc: client
20 additional copies provided with original.

object ltr3