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VIA HAND DELIVERY & E-MAIL

December 11, 2018, 2018

Hand Delivered to the December 11, 2018 Meeting

Planning and Land Use Management Committee, City of Los Angeles
John Ferraro Council Chamber, Room 340, City Hall
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Submitted in PLUM Committee

Council File No: 08-1509-S3; S2

Item No. 4 & 5

Deputy: Communication from Appellant Representative

RE: Agenda Items Nos. 4 & 5, Council Files Nos. 08-1509-S3, 08-1509-S2.

5929-5945 W. Sunset Boulevard / 1512-1540 N. Gordon Street, Los Angeles,
California 90028/Sunset and Gordon Mixed Use Project (Case No. ENV-2015-
1923-EIR, VTT-74172, CPC-2015-1922-GPA-VZC-HD CUB DB-SPR).

Dear Councilmembers Harris-Dawson, Englander, Price, Jr., Blumenfield and Cedillo, as well as Ms. Holly Wolcott, Ms. Mindy Nguyen, Ms. Nuri Cho and Ms. Sharon Dickinson

On behalf of the Coalition to Preserve LA ("**Appellant**" or "**Coalition**"), my Office is submitting comments in support of its appeal of Los Angeles City Planning Commission's August 9, 2018 approval of CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR, Vesting Tentative Tract No. 74172, its related CEQA findings (ENV-2015-1923-EIR, as well as all related approvals included CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR, which includes a General Plan Amendment to amend the 1988 Hollywood Community Plan to redesignate the portion of the Project Site located at 1528 – 1540 N. Gordon Street (Lots 17,18 and 19 of Bagnoli Tract No. 2) from High Medium Residential to Regional Center Commercial, a Vesting Zone and Height District Change from (I)(Q)C2-2D and (T)(Q)R4-1VL to C2-2D to permit a maximum allowable Floor Area Ratio (FAR) not to exceed 4.5:1, a Conditional Use Permit to allow the sale and dispensing of a full-line of alcoholic beverages for on-site consumption within the proposed ground floor restaurant, a density bonus to set aside 15 units for Very Low Income households, and a Site Plan Review for a project which creates or results in an increase of 50 or more dwelling units.

Coalition is a nonprofit organization in Los Angeles that advocates for smart land use planning, government transparency, open space, affordable housing, support for the City's homeless population, and against gentrification. Coalition, its employees, customers, and the many persons

whom Coalition serves are beneficially interested in and will be impacted by the outcome of this Project.

Appellant expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

Appellant incorporates by reference all comments raising issues regarding the SEIR submitted prior to certification of the SEIR for the Project. *Citizens for Clean Energy v. City of Woodland* (2014) 225 CA4th 173, 191 (finding that any party who has objected to the Project's environmental documentation may assert any issue timely raised by other parties).

This letter is intended to only supplement points already raised in Appellant's previous comments to the City concerning this Project.

I. THE COUNCIL FILE HAS NO STAFF REPORT RESPONDING TO THE APPEAL

As of noon today, City Planning Staff has not issued a staff analysis / report of the pending appeals. Coalition has not been given an opportunity to review and respond to the City's response to its appeal as well as to the supplemental traffic assessments submitted in support of the Project's environmental impact report in violation of due process and fair hearing rights. The City could continue this hearing until City Planning has had a chance to provide its position with regards to this

II. THE NOVEMBER 5, 2018 SUPPLEMENTAL TRAFFIC ASSESSMENT FOR THE PROJECT REQUIRES REVISION AND RECIRCULATION OF THE PROJECT'S SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT

CEQA requires that a Project's environmental documents be revised and recirculated to the public when significant new information is added to an environmental impact report prior to certification. Section 21092.1 of the California Public Resources Code provides that:

When significant new information is added to an environmental impact report after notice has been given pursuant to Section 21092 and consultation has occurred pursuant to Sections 21104 and 21153, but prior to certification, the public agency shall give notice again pursuant to Section 21092, and consult again pursuant to Sections 21104 and 21153 before certifying the environmental impact report.

(See also 14 Cal. Code of Regulations § 15088.5.) Revisions to environmental analysis in an environmental impact report requires recirculation of the environmental impact report to give the public a meaningful opportunity to comment. (*Gray v. Cty. of Madera* (2008) 167 Cal. App. 4th 1099, 1121 – 22.)

Here, The City's November 5, 2018 Supplemental Traffic Assessment significantly revises the Project's environmental impact report by concluding that "[t]he intersections with previously identified mitigation would no longer be significantly impacted by the project to the point where mitigation would no longer be required." (Nov. 5, 2018 Supplemental Traffic Assessment at 1.) Since the traffic mitigation measures include costly, significant modifications to the intersections that are likely to have their own traffic inducing impacts, the public should be given the right to

comment upon the necessity or lack of necessity for these traffic mitigation measures. (*See* MM K.1-1 – 1-3.)

III. THE NOVEMBER 5, 2018 SUPPLEMENTAL TRAFFIC ASSESSMENT UNDERESTIMATES TRIPS

According to transportation expert Robert Kahn:

The ITE 10th Edition Trip Generation Manual is the most current documentation on trip generation and is used both throughout California and the nation. The primary change in trip generation in the updated analysis had to do with the apartment component of the project. It is RK's understanding that the project would include 299 high rise apartment dwelling units as part of the mixed use project. . . . The daily trip generation was reduced from 6.65 trips per day per unit to 2.07 trips per day per unit for the residential part of the project. . . .

Documentation from various sources indicates that the trip rates for home base trips are directly impacted by the household income of the residents. The higher the income the more trips per dwelling unit are generated. These findings are demonstrated in several documents from SCAG (Southern California Association of Governments), the JTLU (Journal of Transportation and Land Use), Transform, the California Housing Partnership and most regional transportation models in California. As a result of the higher income levels for most of the residential units, more trips would be expected than what is now assumed in the revised trip generation analysis. This information is included in Appendix B.

The use of ITE's trip code 222 for high rise in a dense multi-use urban environment may not be appropriate given the economic characteristics of tenants that would be occupying these units. The ITE trip generation rate for trip code 222 (dense multi-use urban) was based upon a sample size of eleven (11) projects in Los Angeles, New York, San Francisco, District of Columbia, Maryland, New Jersey, Ontario (Canada), Pennsylvania Virginia and Washington. Assuming only two (2) trips per day (one in and one out) generated by apartment units in Los Angeles, California is questionable. **The overall driving habits of residents in the Los Angeles area is much different than those in these other cities.** It is likely that each unit would accommodate more than one occupant with a vehicle resulting in a minimum of one outbound and one inbound vehicle trip per day each. . . .

(Kahn at 3 – 4 [emphasis added].)

IV. THE PROJECT EIR CONTINUES TO UNDERSTATE NEIGHBORHOOD TRAFFIC IMPACTS

According to transportation expert Robert Kahn:

The August 17, 2018 Memorandum discusses the City policy and procedures with respect to the residential adequacy of the project residential impact analysis. RK

previously raised the concern that the project would have potential residential impacts when both the commercial and residential components are considered. The L.A. Transportation Department staff indicated the local street impacts of a development are only related to the commercial component of the project. They indicate that the “cut-through” traffic from the commercial uses are the main concern with the rest to local street impacts. According to the latest documentation, this has been the policy the City has used in the past in their analysis of “cut through” traffic. In reality, both the commercial and residential components of the project will “cut through” the adjacent residential streets, including Gordon Avenue and Carlton Way. Whether or not transportation staff has used the policy that “cut through” traffic is only related to the commercial component, the total project traffic will actually impact these residential streets, and therefore, should be analyzed.

While the City and LADOT claim that the City’s transportation policies only require a residential street segment analysis for Project’s commercial traffic, the City’s written policies and practices in the past indicate that this interpretation is taken as a matter of convenience for the purposes of this Project, rather than as a long-standing interpretation. In the absence of a consistent and long-standing interpretation, a City’s “undisclosed unilateral interpretation is not entitled to deference.” *Tower Lane Properties v. City of Los Angeles* (2014) 224 Cal. App. 4th 262, 278.

In prior EIRs where the City has required a residential street segment analysis, LADOT has required that both commercial and residential traffic for mixed-use projects be included as part of the Project. For example, commercial as well as residential traffic has been included for the 6200 West Sunset Boulevard Project (ENV-2015-3604-EIR, SCH No. 2016011040) as well as for the Paseo Plaza Hollywood project (ENV-2005-7720-EIR, SCH No. 2005111018).

V. CONCLUSION

Coalition remains open to discussions concerning this Project. For the reasons, Coalition requests that the City Council grant Coalition’s appeal of the City Planning Commission’s approval of CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR, Vesting Tentative Tract Map No. 74172 and certification of the Final SEIR.

Sincerely,



Mitchell M. Tsai

Attorneys for Coalition to Preserve LA

Attached:

Letter from Robert Kahn to Jill Stewart, Coalition to Preserve LA (Dec. 4, 2018);

6200 West Sunset Boulevard Project (ENV-2015-3604-EIR, SCH No. 2016011040) Environmental Impact Analysis: J. Traffic, Access and Parking;

6200 West Sunset Boulevard Project (ENV-2015-3604-EIR, SCH No. 2016011040) Appendix L
Traffic;

Paseo Plaza Hollywood project (ENV-2005-7720-EIR, SCH No. 2005111018) l. Transportation /
Traffic; and

Paseo Plaza Hollywood project (ENV-2005-7720-EIR, SCH No. 2005111018) Appendix Traffic
Study