

Office: Downtown
Return to Planning Copy
 Application Invoice No: 49436

City of Los Angeles
 Department of City Planning



Scan this QR Code® with a barcode reading app on your Smartphone. Bookmark page for future reference.

City Planning Request

NOTICE: The staff of the Planning Department will analyze your request and accord the same full and impartial consideration to your application, regardless of whether or not you obtain the services of anyone to represent you.

This filing fee is required by Chapter 1, Article 9, L.A.M.C.

Applicant: MITCHELL M. TSAI, ATTORNEY AT LAW - TSAI, MITCHELL M. (B:626-3819248)
Representative:
Project Address: 5929-5945 W SUNSET BLVD/ 1512-1540 N GORDON ST, 90028

NOTES: 2nd level appeal to L.A. City Council

VTT-74172-2A			
Item	Fee	%	Charged Fee
Appeal by Aggrieved Parties Other than the Original Applicant *	\$89.00	100%	\$89.00
Case Total			\$89.00

Item	Charged Fee
*Fees Subject to Surcharges	\$89.00
Fees Not Subject to Surcharges	\$0.00
Plan & Land Use Fees Total	\$89.00
Expediting Fee	\$0.00
Development Services Center Surcharge (3%)	\$2.67
City Planning Systems Development Surcharge (6%)	\$5.34
Operating Surcharge (7%)	\$6.23
General Plan Maintenance Surcharge (7%)	\$6.23
Grand Total	\$109.47
Total Invoice	\$109.47
Total Overpayment Amount	\$0.00
Total Paid (this amount must equal the sum of all checks)	\$109.47

LA Department of Building and Safety
 LA NELL 101131215 9/7/2018 2:51:18 PM

PLAN & LAND USE \$106.00
 DEV SERV CENTER SURCH-PLANNING \$2.67

Sub Total: \$109.47

Receipt #: 0101940140

Council District: 13
 Plan Area: Hollywood
 Processed by MACEDO, EDBER on 09/07/2018

Signature: 

ORIGINAL



APPLICATIONS:

APPEAL APPLICATION

ORIGINAL

This application is to be used for any appeals authorized by the Los Angeles Municipal Code (LAMC) for discretionary actions administered by the Department of City Planning.

1. APPELLANT BODY/CASE INFORMATION

Appellant Body:

☐ Area Planning Commission ☒ City Planning Commission ☒ City Council ☐ Director of Planning

Regarding Case Number: VTT-74172-1A

Project Address: 5929-5945 W. Sunset Boulevard / 1512-1540 N. Gordon Street, Los Angeles, California 90028

Final Date to Appeal: ~~06/17/2018~~ 09/07/2018

Type of Appeal:

- ☐ Appeal by Applicant/Owner
☒ Appeal by a person, other than the Applicant/Owner, claiming to be aggrieved
☐ Appeal from a determination made by the Department of Building and Safety

2. APPELLANT INFORMATION

Appellant's name (print): Mitchell M. Tsai

Company: Mitchell M. Tsai, Attorney at Law

Mailing Address: 155 South El Molino Avenue, Suite 104

City: Pasadena State: CA Zip: 91101

Telephone: (626) 381-9243 E-mail: mitsch@mitchtsailaw.com

- Is the appeal being filed on your behalf or on behalf of another party, organization or company?

☐ Self ☒ Other: Coalition to Preserve LA

- Is the appeal being filed to support the original applicant's position? ☐ Yes ☒ No

3. REPRESENTATIVE/AGENT INFORMATION

Representative/Agent name (if applicable): _____

Company: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ E-mail: _____

4. JUSTIFICATION/REASON FOR APPEAL

Is the entire decision, or only parts of it being appealed? ☒ Entire ☐ Part

Are specific conditions of approval being appealed? ☐ Yes ☒ No

If Yes, list the condition number(s) here: _____

Attach a separate sheet providing your reasons for the appeal. Your reason must state:

- The reason for the appeal
- How you are aggrieved by the decision
- Specifically the points at issue
- Why you believe the decision-maker erred or abused their discretion

5. APPLICANT'S AFFIDAVIT

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

Appellant Signature: 

Date: 09/06/2018

6. FILING REQUIREMENTS/ADDITIONAL INFORMATION

- Eight (8) sets of the following documents are required for each appeal filed (1 original and 7 duplicates):
 - Appeal Application (form CP-7769)
 - Justification/Reason for Appeal
 - Copies of Original Determination Letter
- A Filing Fee must be paid at the time of filing the appeal per LAMC Section 19.01 B.
 - Original applicants must provide a copy of the original application receipt(s) (required to calculate their 85% appeal filing fee).
- All appeals require noticing per the applicable LAMC section(s). Original Applicants must provide noticing per the LAMC, pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of the receipt.
- Appellants filing an appeal from a determination made by the Department of Building and Safety per LAMC 12.26 K are considered Original Applicants and must provide noticing per LAMC 12.26 K.7, pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of receipt.
- A Certified Neighborhood Council (CNC) or a person identified as a member of a CNC or as representing the CNC may not file an appeal on behalf of the Neighborhood Council; persons affiliated with a CNC may only file as an individual on behalf of self.
- Appeals of Density Bonus cases can only be filed by adjacent owners or tenants (must have documentation).
- Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the Area or City Planning Commission must be filed within 10 days of the date of the written determination of said Commission.
- A CEQA document can only be appealed if a non-elected decision-making body (ZA, APC, CPC, etc.) makes a determination for a project that is not further appealable. [CA Public Resources Code ' 21151 (c)].

This Section for City Planning Staff Use Only		
Base Fee: <u>\$8900</u>	Reviewed & Accepted by (DSC Planner): <u>E. Macedo</u>	Date: <u>9-7-18</u>
Receipt No: <u>0101940140</u>	Deemed Complete by (Project Planner):	Date:
<input checked="" type="checkbox"/> Determination authority notified		<input type="checkbox"/> Original receipt and BTC receipt (if original applicant)

P: (626) 381-9248
F: (626) 389-5414
E: info@mitsailsaw.com



155 South El Molino Avenue
Suite 104
Pasadena, California 91101

VIA HAND DELIVERY & E-MAIL

September 6, 2018

Hand Delivered to: City of Los Angeles
Department of City Planning
201 N. Figueroa Street, 4th Floor
Los Angeles, CA 90012

E-mail Delivery to: cityclerk@lacity.org
mindy.nguyen@lacity.org
nuri.cho@lacity.org

RE: Appeal of Case Nos. VTT-74172-1A and CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR to the Los Angeles City Council; Related Case ENV-2015-1923-EIR

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 Council President Wesson, Honorable City Council Members, Ms. Wolcott, Ms. Nguyen and Ms. Cho,

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 (T)(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).

I. THE FINAL SEIR FAILS TO COMPLY WITH CEQA

A. The Final SEIR Fails To Adequately Analyze Or Disclose Significant Transportation Impacts

1. The Final SEIR fails to adequately disclose the Project’s impact on local neighborhood streets

In response to Coalition’s transportation expert Mr. Robert Kahn, P.E., T.E.’s¹ previous comments that the SEIR fails to adequately disclose the Project’s impacts on local neighborhood streets, the Appeal Report for the Appeal Hearing on August 9, 2018 (“**Appeal Report**”) responded that the City was not required to analyze the traffic impacts from the residential component of the Project. The August 28, 2018 NOD for CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR echoed the City’s previous findings and responses and failed to adequately disclose the Project’s impact on local neighborhood streets.

As previously commented by Mr. Kahn, the Project will have direct significant impacts on surrounding neighborhood street systems by generating 2,869 daily trips to the adjacent roadway system, which the City failed to analyze and mitigate. Exhibit C, pg. 2. Of the total 2,869 daily trips, approximately 62.4% or 1,789 trips per day would be generated by the residential component of the project. *Id.* The FSEIR underestimates the Project’s traffic impacts, excluding the traffic generated by the residential portion of the Project (totaling 1,789 trips) from its analysis of impacts on neighborhood residential streets. *Id.* Mr. Kahn’s analysis shows that after including residential traffic related to the Project, that the Project would have significant, unmitigated impacts on both Gordon Avenue as well as Carlton Way. Exhibit B, at 6 tbl. 13b.

The City’s response in the Appeal Report reiterates the City’s initial claims in the SEIR that the LADOT’s Transportation Impact Study Guidelines don’t require it to include traffic from the residential portions of the Project Site because a residential street segment traffic analysis must be completed for commercial projects but is not required for residential projects. Appeal Report, pg. A-3. The City further reasoned that the Transportation Impact Study Guidelines only require it to identify and analyze cut-through traffic that is primarily defined as traffic that uses the local neighborhood street network to bypass congested arterials. *Id.* Also, the City in the Appeal Report also relies on the LADOT’s confirmation that it was okay to disregard the traffic impacts from the

¹ Mr. Robert Kahn, P.E., T.E.’s latest C.V. is attached here in as Exhibit A.

residential component of the Project because local streets are designed to support residential traffic. *Id.* at pg. A-4. Moreover, Q Condition A.2., which was recommended by City Council, limits the Project to be used only for uses allowed within a “C2” Commercial Zone, indicating that the entire Project is for commercial use. LAMC § 12.14. The Permitted zonings in the Regional Center General Plan Land Use Designation adopted for the entirety of the Project Site allows C2, C4, P, PB, RAS3 and RAS4 zoning, which are all mixed-use commercial zonings.

However, Mr. Kahn responds that the City should not have excluded the 62.4% of the daily trips generated by the residential portion of the Project since the Project is a mixed-use project and the residential portion is a for lease apartment, which is also a commercial operation. Exhibit C, pg. 2. The Project as approved encompasses 299 apartment units which will generate 1,789 trips per day. By the City’s logic, the City has and will continue to disregard significant traffic impacts from mega-developments of either mixed use (like the Project) and purely “residential” apartment projects, in light of the recent economic and development boom in the Project vicinity. A 2017 report from the Hollywood Property Owners Alliance and Central Hollywood Coalition provides that from 2001 to 2016, residential developments increased 261 percent; the report predicts there are approximately 4,000 more units in the works. Exhibit D. Thus, tens of thousands of residential units have been and continue to be excluded in the City’s analysis of each mixed-use and residential projects’ traffic impacts to local neighborhood streets. It is hard to believe the LADOT’s statement that local streets are designed to support all of the residential traffic from numerous projects of this magnitude.

Moreover, the Transportation Impact Study Guidelines do not narrowly define cut-through traffic to exclude residential traffic. In fact, the Transportation Impact Study Guidelines 2.3 defines “cut-through” traffic as follows:

The objective of the Residential Street Impact Analysis is to determine potential increases in average daily traffic associated with cut-through traffic that can result from a Project and impact residential streets. **Cut-through trips are measured as vehicles that bypass a congested arterial street or intersection to instead travel along a residential street.** To address these potential impacts, non-restrictive traffic calming measures should be considered and, if deemed warranted, implemented to off-set any anticipated impacts.

[Emphasis added.]

Mr. Kahn also adds that the City improperly excluded the residential component of the Project traffic in assessing cut-through traffic. Exhibit C, pg. 2. Mr. Kahn states that the residential traffic from the Project “may very well cut through the neighborhood streets including Gordon Avenue and Carlton Way, because of the heavy congestion on Sunset Avenue and some of the adjacent intersections.” *Id.* Per the suggestions set forth in the Transportation Impact Study Guidelines 2.3, Mr. Kahn recommends that the City implement some form of traffic calming on Gordon Avenue and Carlton Way to reduce the impacts to these local neighborhood streets. *Id.*

Additionally, mere compliance with a regulatory standard, such as the City’s Transportation Impact Study Guidelines, cannot “be applied so as to foreclose consideration of substantial evidence

showing a significant environmental impact from a project.” *East Sacramento Partnerships for a Livable City v. City of Sacramento* (2016) 5 Cal. App. 5th 281, 301. Even if the Traffic Guidelines and the LADOT allowed for the exclusion of traffic generated by the residential portion of a mixed-use Project, the Transportation Impact Study Guidelines bear little weight on the City’s compliance with CEQA. Likewise, LADOT’s 3/21/2018 email confirmation relied on in the Appeal Report does not provide a rubber stamp that the City complied with the CEQA requirement that the City adequately disclose the Project’s impacts on local streets. Appeal Report, pg. A-4.

As already previously mentioned, the City’s Transportation Impact Study Guidelines, local CEQA significance thresholds and the CEQA Guidelines do not exclude residential traffic from analysis of residential street impacts. The City’s Transportation Impact Study Guidelines merely note that “commercial development projects may be required to conduct residential street impact analysis.” City of Los Angeles (2016) Transportation Impact Study Guidelines 8 – 9. They certainly don’t mandate the exclusion of the residential traffic attributed to mixed-use projects such as this one. Moreover, the City of Los Angeles’ guidance for CEQA significance thresholds similarly doesn’t distinguish between commercial versus residential traffic, simply noting that an EIR should evaluate the “impacts of traffic generated by the project, and/or traffic diverted or shifted due to the project, on local streets in residential neighborhoods.” City of Los Angeles (2006) L.A. CEQA Thresholds Guide at L.4-1 – 4.

Furthermore, the City in its Appeal Report relies on one of the six thresholds of significance provided in CEQA Guidelines Appendix G XVI.a to rationalize its limited interpretation of the Transportation Impact Study Guidelines in failing to analyze the impacts from the residential component of the project is warranted because State CEQA Statutes and Guidelines Appendix G focuses on the analysis of the performance of the entire circulation system based on applicable plans and policies, not whether there is an increase in vehicle trips. Appeal Report, pgs. A-4, A-5. However, the Appeal Report ignores that CEQA Guidelines Appendix G XVI.a requires the City to consider whether the Project would conflict with an applicable policy (here, the Transportation Impact Study Guidelines) by “taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system....” CEQA Guidelines Appdx. G XVI.a. As stated by Mr. Kahn, and based on the City’s Transportation Impact Study Guidelines, local CEQA significance thresholds and the CEQA Guidelines cited above, the Project’s impacts on both the residential and commercial components of the circulation system should have been considered by the City.

Finally, the City in its Appeal Report states that the Natural Resources Agency recognized a lead agency’s discretion to choose a methodology to assess traffic impacts on the circulation system and the City’s decision to focus on the commercial trips for the residential street segment analysis to evaluate the project’s impacts to the circulation system in its entirety is consistent with CEQA. Appeal Report, pgs. A4, A5. While the City may have discretion to choose its methodology to assess traffic impacts, the City abused its discretion in this case because it chose to narrowly apply the Transportation Impact Study Guidelines to exclude the residential component of the project to avoid a finding of significant traffic impact.

Based on the foregoing, the City failed to disclose, analyze and mitigate the Project's significant traffic impacts to local neighborhood streets.

2. The Final SEIR fails to mitigate significant traffic impacts at the intersection of Vine and Sunset to the extent feasible

In response to Coalition's transportation expert Mr. Kahn's previous comments that the SEIR fails to disclose a significant traffic impact at the corner of Vine (or Argyle Street) and Sunset (Kahn at 2), the City conducted the Supplemental Traffic Analysis for the FSEIR which confirmed Mr. Kahn's comments and concluded that the intersection of Vine and Sunset has the potential to be significantly impacted during the P.M. Peak Hour. According to Mr. Kahn, the City's 2% project distribution to Vine Street of the total of 15% is too low. Exhibit C, pg. 3. But despite allocating mere 2% of the project traffic to utilize the Vine Street interchange, the City identified a significant impact at the intersection of Vine Street and Sunset Blvd. If one more project trip were added to the intersection, Mr. Kahn states, then a significant impact would occur even with the proposed MM K. 1-3 (Traffic Demand Management Plan or TDM Plan). *Id.*

Notwithstanding the finding of significant impact, the City relies on the Final SEIR's wholesale conclusion that the proposed MM K. 1-3 (Traffic Demand Management Plan or TDM Plan) would reduce the project's vehicle trips by 10 percent during the P.M. Peak Hour. Mr. Kahn stressed that the addition of just one (1) more project trip making the southbound left turn at the intersection would make the project have a significant impact even with the proposed TDM plan. Exhibit B, pg. 2; Exhibit C, pg. 3. Mr. Kahn proposed that the City make some improvements to the failing intersection at Vine and Sunset to mitigate the significant project impacts since it is very likely that more than 2% of the project will utilize the intersection of Vine Street and Sunset Blvd, such as traffic operational improvements, some form of TSM (Transportation System Management) improvements, or other feasible traffic operational improvements to improve the intersection of Vine Street at Sunset Boulevard. *Id.* However, the City, Final SEIR and the Appeal Report ignored and failed to adopt the suggested mitigation measure(s). As such, the Project as approved fails to mitigate the significant impacts at the intersection of Vine and Sunset to the extent feasible.

3. The Final SEIR fails to disclose significant traffic impacts on Gordon Street from vehicles queuing to enter the Project

The Final SEIR fails to disclose a significant impact from queuing vehicles entering the Project on Gordon Street from inadequate storage for the vehicle queues for the Project. According to Mr. Kahn:

However, in reviewing the detailed site plan it appears that the queuing for the residential gates was to occur in a short left turn pocket located away from the actual residential gate. It is likely that residential vehicles will creep up towards the gate itself and block circulation leaving the project. This will also result in conflicts with the "Flex" parking spaces that will need to back into the main circulation aisle. Furthermore, there is no means for vehicles who accidentally enter the left turn pocket to make a U-turn out of the site in the event they erroneously enter the building, because there is insufficient turn around space.

Finally[,] how will guests enter the residential gated area? The queuing into the residential area would be much longer than assumed in the study and would cause additional queuing blocking the entrance to the site and back into Gordon Street. The time for non-residents to open the gate would be substantially longer. Therefore queuing of the project traffic onto Gordon will cause delays to through traffic on the street. Which will cause delays to existing traffic. How will this be addressed and what are the potential impacts to both on-site and off-site traffic?

Exhibit B, pg. 3.

The City's responses in the Appeal Report fail to adequately address the concerns raised by Mr. Kahn. The Appeal Report rebuffed Mr. Kahn's comment that a vehicle that accidentally enter the project driveway would not have sufficient space to turn around by stating that such accidental entries would not result in a potentially significant impact on vehicles traveling on Gordon Street. Appeal Report, pg. A-8. However, Mr. Kahn states that the project design fails to accommodate any accidental entries or visitors backing up from the driveway due to reduced gate capacity within the project site and would result on back up of traffic onto Gordon Street. Mr. Kahn recommends that there needs to be some means for vehicles who accidentally enter the site and need to turn around to return to Gordon Street without causing significant traffic backup on Gordon Street.

Additionally, the City assumes that the time for residents, vendors and visitors would take to enter the residential gate at approximately 13 seconds per entry. Appeal Report, pgs. A-8, A-9. However, according to Mr. Kahn, such estimates ignore the reality that guests and vendors would not have the tenant's entry card or FOB sensor in hand at the time they pull into the driveway. Exhibit C, pgs. 3-4. In reality, there would be significant delay for each visitor and vendor who would need to call-in to a resident to gain access to the gate as compared to a tenant, who would have an entry card or FOB sensor in hand. Mr. Kahn provides his study titled Residential Electronic Gates Service Rate Study, Orange County, California, RK Engineering Group, Inc., 2016, which indicates that approximately 20% of the vehicles entering a residential community were either guests and/or vendors. Exhibit C, pg. 4; *Id.*, at Appendix A. As a result, the overall gate capacity is reduced substantially, compared to gate capacity of 220 vehicle per hour for residents versus 115 vehicles per hour for guests/vendors in the Study. Based on the Study, the Project's estimate that both residents and visitors/vendors would take the same time to enter the residential gate is unrealistic and inaccurate. The City must fully analyze and mitigate the potential impacts from queuing as a result of the lower capacity for non-residents entering the residential gate.

Therefore, the City failed to adequately disclose, analyze and mitigate the impacts associated with significant traffic impacts on Gordon Street from vehicles queuing to enter the project on Gordon Street.

4. The Final SEIR Should Be Recirculated Due To Significant New Information Unveiled In the Final SEIR As Well As Changed To The Project During The Pending Ongoing Administrative Review Process

CEQA requires that an agency recirculate an environmental impact report "when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for

public review . . . but before circulation.” CEQA Guidelines § 15088.5; PRC § 21083.

Here, the Final SEIR adopted new transportation mitigation measures, including a new transportation demand management plan to mitigate previously undisclosed transportation impacts not disclosed in the Draft SEIR. The Final SEIR, as noted in the Appeal Report, relies heavily on the newly added Transportation Demand Management Plan (MM K.1-3) to mitigate the newly discovered significant traffic impacts from the Supplemental Traffic Analysis prepared for the Final SEIR. Therefore, the Final SEIR disclosed previously-undisclosed significant traffic impact information and introduced a new mitigation measure K.1-3 which is stated to mitigate the significant impacts to a less than significant level. The City is required to recirculate the Draft SEIR with the revised traffic analysis and mitigation measures and for a new round of public comment prior to certification.

B. The Final SEIR Fails To Adequately Analyze The Project’s Impacts On Housing and Population.

The Final SEIR fails to adequately analyze or mitigate its impacts on housing and population. By allocating a mere 5 percent of the units in the Project to affordable housing, which at the last minute was updated to include 15 units of workforce housing,² the Project does not adequately mitigate its impacts on gentrification and displacement of low to moderate income populations in the City of Los Angeles.

Urban revitalization, such as new housing stock as proposed by the Project, can have devastating impacts on low-income residents in a neighborhood. As the City’s Housing and Community Investment Department noted in 2015 “[t]he significant urban renewal taking place in many of the city’s traditional lower income and diverse neighborhoods is further exacerbating the high housing costs. . . . , revitalization can . . . have a devastating impact for low-income renters who are least able to withstand increasing housing costs.”³

The Final SEIR fails to account for the mismatch between the mix of housing set to be made available by the Project and the housing needs within the City of Los Angeles. As HCID notes “[a] contributing factor to the acute housing affordability problem is a mismatch between what is being built and what needs to be built.”⁴ The Final SEIR itself supports the fact that allocating a mere five percent of units towards very low income households is inadequate, citing to the City’s 2014 – 2021 Regional Housing Needs Assessment Allocation that notes that at least 12.5 percent of the City’s housing stock needs to be allocated towards very low income households and that 40.2 percent of the City’s overall housing supply needed to be allocated to low income households overall. FSEIR, pg. IV.G-5.

² August 9, 2018 Staff Report and August 28, 2018 NOD for CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR

³ Los Angeles Housing & Community Development Department (2015) REPORT BACK IDENTIFYING LOCAL, PERMANENT FUNDING SOURCE(S) FOR THE CITY’S AFFORDABLE HOUSING TRUST FUND (AHTF) AND REQUEST TO FUND A NEW AFFORDABLE HOUSING BENEFIT FEE STUDY 3.

⁴ *Id.*

The Appeal Report erroneously states that CEQA does not require an analysis of socio-economic effects of a project such as gentrification. However, it is settled that an EIR must consider the reasonably foreseeable indirect environmental consequences or physical changes resulting from a project's economic or social changes. CEQA Guidelines Sections 15064(d), (e). Moreover, CEQA also requires that a mandatory finding of significance be made where "[t]he environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly." CEQA Guidelines Section 15065(a)(4). Especially where, as here, there has been an influx of high-density real estate developments and higher income residents moving into the Project area, gentrification of a neighborhood increases with displacement of households. A report from the Hollywood Property Owners Alliance and Central Hollywood Coalition⁵ provides that from 2001 to 2016, residential developments increased 261 percent; the report predicts there are approximately 4,000 more units in the works. *See* Exhibit D. Office space in the same area is expected to increase 67 percent by 2021 along with the addition of 1,200 hotel rooms from 2001 to 2016. *Id.* All of the rapid economic growth in the Project area has resulted in increased displacement impacts especially where the demand for affordable housing for low income households within the City is calculated to be 40.2 percent by the Final SEIR's own admission. FSEIR, pg. IV.G-5. As more new, luxury housing like the Project displaces existing rent controlled housing, the Project and other similar projects in the area have and continue to catalyze an irreversible change of raising the cost of housing and living in the Project area, which result in additional displacements and homelessness.

The Appeal Report rationalizes that the Project is including "affordable housing units that were not proposed under the CRA Approved Project" to displace nine (9) dwelling units that existed on the Project site and thus, there would not be any impact to displacement of people or housing under CEQA. Appeal Report, pg. A-11. However, the Appeal Report and the Final SEIR failed to consider the additional displacements that would indirectly result from the Project, by resultant rent increases from gentrification which would further decrease the existing affordable housing stock in the Project area. And the City's last minute addition of 15 additional workforce units to the Project do not automatically resolve the City's failure to analyze the Project's significant impacts on housing and population.

In addition, the Final SEIR inaccurately tiers its analysis from the more than ten-years old 2007 Certified EIR for the Project, even though, as noted hereinabove, rapid economic growth and accompanying population boom in the City of Los Angeles and the Project vicinity has significantly exacerbated direct and indirect housing impacts to low income population.

C. The Final SEIR Does Not Adequately Describe The Project

The Final SEIR fails to provide a stable, complete and accurate Project Description. "An accurate, stable and finite project description is the sine qua non of an informative and legally adequate EIR." *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192; *Berkeley Jets, supra*, 91 Cal.App.4th at 1354; *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1023; *Stanislaus Natural*

⁵ <http://onlyinhollywood.org/wp-content/uploads/2014/03/Hollywood-Economic-Analysis-and-The-Business-Improvement-Districts.pdf>

Heritage Project v. County of Stanislaus (1996) 48 Cal.App.4th 182, 201. “[A] curtailed or distorted project description,” on the other hand, “may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal’s benefit against its environmental costs, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the “no project” alternative) and weigh other alternatives in the balance.” *Id.*; see also CEQA Guideline § 15124; *City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438. As one analyst has noted:

The adequacy of an EIR’s project description is closely linked to the adequacy of the EIR’s analysis of the project’s environmental effects. If the description is inadequate because it fails to discuss the complete project, the environmental analysis will probably reflect the same mistake.

Stephen L. Kostka, Michael H. Zischke (2013) Practice Under the California Environmental Quality Act 580. A “rigorous analysis” is required to dispose of an impact as insignificant. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692. Such a rigorous analysis is not possible if the project description is inaccurate, inconsistent, or misleading.

Here, the SEIR fails to provide an adequate project description as it provides a flexible list of entitlements which “include, but may not be limited to” a general plan amendment, vesting zone, height district change, among others. The Appeal Report responds that “[t]he inclusion of language ‘would include, but may not be limited to’ in the project description acknowledges the fact that the Final SEIR is an informational document and informs the decision makers of the potential approvals that could be required and that the ultimate approvals are subject to the discretion of the decision makers.” Appeal Report, pg. A-11. However, the inclusion of such unnecessary and broad language *can* render the project description inadequate, as it gives the appearance that some of the relevant entitlements that should have been included were not. As such, the project description as provided is vague and inadequate.

The City fails to adequately describe the number of parking spaces for the approved Project. The 8/28/2018 NOD for the CPC case provides in its second paragraph: “The Project will provide at least 353 residential parking spaces and 75 commercial parking spaces (for a **total of 428 parking spaces**).” 8/28/2018 NOD, CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR, pg. 1. The Resolution included with the 8/28/2018 states **508 parking spaces**. Resolution CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR. In addition, the NOD’s Findings also contemplate that the Modified Project will provide 353 residential parking spaces and 75 commercial parking spaces (for a **total of 428 parking spaces**) while leaving the possibility for the Applicant to build 508 parking spaces with the new automated steel parking structure. 8/28/2018 NOD, CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR, pg. F-37. The project description regarding the number of parking spaces approved by the City is confusing and misleading.

The Final SEIR also fails to adequately describe what the proposed adoption of Clear Space Ordinance would entail. The 6/28/2018 Deputy Advisory Agency’s NOD provides that the Deputy Advisory Agency selected the No Automated Steel Parking Structure Alternative as the

environmentally preferred alternative as required by CEQA. 6/28/2018 NOD, pg. 46. The No Automated Steel Parking Structure Alternative requires the adoption of an ordinance to reduce the clear space required at structural elements in the Modified Project's parking structure and to allow up to 66 percent of the Modified Project's parking stalls to be compact parking stalls. 6/28/2018 NOD, pg. 46; FSEIR at II-4. Although 8/9/2018 Staff Report for CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR provides the proposed language of the zone change ordinance, the FSEIR fails to adequately describe how the structural elements of the parking structure would have to change to make 66% of the parking spaces to be compact. As a result of the inadequate project description, the FSEIR fails to discuss the complete project and fails to analyze any potential environmental impacts associated with reducing the clear space required at structural elements in the existing parking structure.

The 8/28/2018 NOD for CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR, Final SEIR, the 6/28/2018 NOD, Appeal Report and 8/9/2018 Staff Report for CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR provide inconsistent project description regarding the supergraphic signs. The 8/28/2018 NOD for the CPC case and the 8/28/2018 NOD for the Vested Tract case provide that one supergraphic sign is included in the Project. 8/28/2018 NOD for CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR, pgs. F-34, F-37, F-92; 8/28/2018 NOD for VTT-74172, pgs. 45, 49, 114. The Appeal Report on Page A-15 provides that the Modified Project would include NO supergraphic signage, instead of one supergraphic signage as contemplated by the FSEIR and noted in the NOD. The NOD for Vesting Tentative Tract No. 74172 and the FSEIR provide that the Modified Project will have one supergraphic sign. 6/28/2018 NOD, pg. 45; FSEIR, pg. II-17. The same inconsistent project description regarding supergraphic signs appears in the staff recommendation report for CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR, where it describes the Modified Project as including one supergraphic sign in one part but proposes zero (0) supergraphic signs on a different part of the staff report. Staff Report for 8/9/2018, CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR, pgs. A-7, F-35. As a result of the multiple inconsistencies in the 8/28/2018 NODs, Final SEIR, NOD, and staff reports, the Final SEIR provides an inadequate and inaccurate description of the Project.

Finally, the Final SEIR provides an inconsistent project description with regards to the amount of affordable and workplace housing that will be set aside as part of the Project. For the very first time in a Staff Report released on 8/9/2018, the same day as the Planning Commission hearing, and the 8/28/2018 NOD for the CPC case, the City states that the project Applicant has agreed to add an additional five-percent or 15 units of workforce housing to the Project, an alternative that was not described or considered within the Final SEIR.

D. THE FINAL SEIR ADOPTS UNDULY NARROW PROJECT OBJECTIVES.

The Final SEIR unduly constrains the range of alternatives that could be considered for the Project with regards to affordable housing by strictly defining affordable housing for the Project at five percent. Project objectives should not be so narrowly defined that they preclude consideration of

reasonable alternatives for achieving the project's underlying purpose. *North Coast Rivers Alliance v Kawamura* (2015) 243 Cal. App. 4th 647, 668.

The Final SEIR defines the Project's objective as "[t]o promote affordable housing by including 5 percent affordable housing units at the "Very Low" income level." FSEIR at II-10. The 8/28/2018 NOD contains the same project objective. 8/28/2018 NOD for CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR. By defining one of the Project's objectives as the initial Project itself, which provides 5% affordable housing units at the very low income level, the Final SEIR adopts an unduly narrow set of project objectives. Regardless of whether the City added 5% or 15 workforce units to its approved Project, the City's definition of its Project's objective was still improperly narrow.

The Appeal Report does not dispute that the Final SEIR's project objective setting the affordable housing at 5% is indeed too narrow. The City appears to justify the narrow objective by explaining that it does not preclude (1) the consideration of project alternatives that achieve the project's underlying purpose and (2) the lead agency from its discretion to pursue a higher percentage of affordable housing units than 5%. Appeal Report, pgs. A-12, A-13. However, such justification does not excuse the Final SEIR's narrow objective setting the affordable housing units at 5%. Moreover, while the applicant has agreed to increase the amount of affordable housing in the project from 5 percent of the total units for Very Low Income households to 10 percent of the total units for Very Low Income households and workforce housing, the fact remains that the Final SEIR's objective regarding affordable housing is unduly narrow and precluded the City's consideration of reasonable alternatives for achieving the Project's underlying purpose.

E. THE FINAL SEIR DOES NOT ANALYZE THE ENVIRONMENTAL IMPACTS OF THE NO AUTOMATED STEEL PARKING STRUCTURE ALTERNATIVE AND ITS CLEAR SPACE REDUCTION ORDINANCE.

The No Automated Steel Parking Structure Alternative requires the adoption of an ordinance to reduce the clear space required at structural elements in the Modified Project's parking structure and to allow up to 66 percent of the Modified Project's parking stalls to be compact parking stalls. 8/28/2018 NOD for CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR, pg. F-35; 6/28/2018 NOD, pg. 46; FSEIR at II-4. Under this Alternative, there would be a total of 508 parking spaces, an increase of 80 spaces from the Modified Project's 428 parking spaces. Despite the increase of 80 parking spaces, the FSEIR does not provide a full environmental analysis of the increased impacts to transportation, induced travel, and greenhouse gas emissions from the increased number of trips to and from the Project site.

Instead, the FSEIR concludes, without any analysis, that "[t]his alternative would not encourage additional vehicle trips to the Project Site." The FSEIR's response to Coalition's comments also gloss over the potential traffic impacts of the No Automated Steel Parking Structure Alternative by rationalizing that the CRA Approved Project analyzed in the 2007 Certified EIR proposed 508 parking spaces, which is the same number of spaces as the No Automated Steel Parking Structure Alternative proposes. FSEIR, pg. B-37. However, the FSEIR ignores the increase in traffic and greenhouse gas emissions resulting from addition of 80 parking spaces on the FSEIR's analysis of

the Modified Project under *current conditions*. After all, the environmental impacts of 508 parking spaces analyzed back in 2007, over 11 years ago, were substantially different under current conditions, especially in light of cumulative traffic and greenhouse gas emission impacts from the recent flux of large-scale redevelopment projects in the Project area. The FSEIR admits that **“cumulative conditions have changed since the time of the Certified EIR”** regarding traffic impacts which necessitated the SEIR to assess traffic impacts under 2017 and 2018 conditions. FSEIR, pg. 1-15, 1-40; 6/28/2018 NOD, pg. 179. Therefore, based on the City’s own admission, it would be nonsensical to assume that the traffic impacts from 508 parking spaces from 2018’s No Automated Steel Parking Structure Alternative would be the same as those from 508 parking spaces from 2007’s CRA Project.

The Appeal Report for the 8/9/2018 hearing fails to provide any response to Coalition and Mr. Kahn’s comments on the FSEIR’s failure to analyze the environmental impacts of the Clear Space Reduction Ordinance. The additional parking spaces called for as part of the Clear Space Reduction Ordinance would significantly increase the Project’s transportation impacts. As Mr. Kahn commented on the SEIR:

The additional parking spaces could encourage additional traffic generation that would impact study area intersections and surrounding roadway conditions. Any change in the parking provisions will have to be reassessed in an additional environmental document and traffic study to assess the impact of these changes. The increase in parking beyond what is required could serve other uses either within the Site or in adjacent areas. This would generate additional traffic beyond what was assessed in the supplemental EIR. This needs to be evaluated if it is to be considered as part of the project.

(FSEIR, 10/5/2017 RK Engineering comments, pg 5). The Clean Space Ordinance would have significant environmental impacts that are not disclosed as part of the Project.

Furthermore, as a result of the FSEIR’s failure to adequately describe how the structural elements of the parking structure would have to change to make 66% of the parking spaces to be compact, the FSEIR fails analyze any potential environmental impacts associated with reducing the clear space required at structural elements in the existing parking structure.

F. The Final SEIR Is Impermissibly Vague And Defers Critical Details of Mitigation Measures

The Final SEIR improperly defers critical details of mitigation measures. Feasible mitigation measures for significant environmental effects must be set forth in an EIR for consideration by the lead agency's decision makers and the public before certification of the EIR and approval of a project. The formulation of mitigation measures generally cannot be deferred until after certification of the EIR and approval of a project. CEQA Guidelines § 15126.4(a)(1)(B) (“...[f]ormulation of mitigation measures should not be deferred until some future time.”).

Deferring critical details of mitigation measures undermines CEQA's purpose as a public information and decision-making statute. "[R]eliance on tentative plans for future mitigation after completion of the CEQA process significantly undermines CEQA's goals of full disclosure and informed decisionmaking; and[,] consequently, these mitigation plans have been overturned on judicial review as constituting improper deferral of environmental assessment." *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal. App. 4th 70, 92 ("*Communities*"). As the Court noted in *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 307, "[a] study conducted after approval of a project will inevitably have a diminished influence on decision-making. Even if the study is subject to administrative approval, it is analogous to the sort of post hoc rationalization of agency actions that has been repeatedly condemned in decisions construing CEQA."

A lead agency's adoption of an EIR's proposed mitigation measure for a significant environmental effect that merely states a "generalized goal" to mitigate a significant effect without committing to any specific criteria or standard of performance violates CEQA by improperly deferring the formulation and adoption of enforceable mitigation measures. *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 670; *Communities*, 184 Cal.App.4th at 93 ("EIR merely proposes a generalized goal of no net increase in greenhouse gas emissions and then sets out a handful of cursorily described mitigation measures for future consideration that might serve to mitigate the [project's significant environmental effects.]); cf. *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1028-1029 (upheld EIR that set forth a range of mitigation measures to offset significant traffic impacts where performance criteria would have to be met, even though further study was needed and EIR did not specify which measures had to be adopted by city).].

The Final SEIR defers critical details on a number of mitigation measures. Without critical details, it is impossible to adequately determine if a Project actually adequately mitigates its environmental impact to a less than significant or to the extent feasible. These include, but are not limited to:

Noise Mitigation Measures MM. F.-1.2 which requires that construction operations be conducted "as far as possible from the nearest noise-sensitive land uses and that barriers shall be utilized "to the maximum extent possible" is impermissibly vague and unenforceable because it does not indicate any enforceable standards to determine what "as far as possible" would entail. Under this vague standard, as far as possible could mean 10 feet away or 100 feet away. The Final SEIR responses to these comments, as cited by the Appeal Report, does not explain how such a vague standard could be enforced.

Noise Mitigation Measures MM. F.-1.3 which requires that the use of construction equipment or construction methods "with the greatest peak noise generation potential" shall be minimized "[t]o the maximum extent feasible" is also impermissibly vague and unenforceable because it does not indicate any enforceable standards to determine what construction equipment or methods do indeed have "the greatest peak noise generation potential" (e.g. does greatest mean top 10% loudest equipment? Or 20% of the loudest ones?). Also, the standard "to the maximum extent feasible" is

vague because it's unclear if the applicant can determine that the extent that the use of noise generating construction equipment could be minimized is not economically feasible even if it would only cost \$5 more than the worst noise-making equipment available. The Final SEIR responses to these comments, as cited by the Appeal Report, does not explain how such a vague standard could be enforced.

Land Use Mitigation Measure IV.H-7 which requires that the Project “procure all necessary entitlements and land use approvals from the City of Los Angeles Department of City Planning” is impermissibly vague, defers mitigation measures to a later date and unenforceable;

Public Utilities Mitigation Measure IV.H-4-1 which requires that the Project “develop a construction and demolition debris recycling program” defers mitigation measures to a later date and is unenforceable as it sets no performance standards for the recycling program;

Public Utilities Mitigation Measure IV.H-4-2 which requires that the Project “develop an operational project recycling plan” defers the development of a mitigation measure to a later date and is unenforceable as it sets no performance standards.

Public Services Mitigation Measure IV.J.1-2.1 which requires that the Project develop a Construction Traffic Control / Management Plan defers the development of a mitigation measure to a later date.

Public Services Mitigation Measure IV.J.1-3.2 which requires that the Project “develop and implement a security plan” defers the development of a mitigation measure to a later date.

Parking Mitigation Measure IV.K.2-1 which requires that the Project “develop a Construction Parking Plan” defers the development of a mitigation measure to a later date.

General Impact Categories Mitigation Measure IV.D-5 which requires that the Project “prepare and submit an emergency response plan” defers the development of a mitigation measure to a later date.

The aforementioned mitigation measures violate CEQA as they are vague and unlawfully defer the development of critical details to a later date with little to no performance standards.

The City's Final SEIR responded that the above-mentioned mitigation measures have already been adopted and are no longer subject to challenge. However, the previous approvals for the Project have been vacated by the Court as they were based upon the preservation of the Old Spaghetti Factory facade rather than the rebuilding and restoration of it. The Court in *La Mirada Neighborhood Ass'n v. City of Los Angeles* 2015 Cal. App. Unpub LEXIS 6438 *3, 25 affirmed the trial court's ruling that vacated previous approvals for the CRA Project because the City violated the conditions of approval by issuing a demolition permit for the entire OSF building. Now, Modified Project proposes to construct a replica of the OSF building façade, which is markedly different than the retaining and restoring option discussed in the Certified EIR, which entailed retaining and restoring

the original exterior façade and various interior components of the original OSF building, not building a replica as proposed in the Modified Project.

G. The Project Requires An Entirely New Environmental Impact Report Or A Subsequent Environmental Impact Report

A new environmental impact report rather than supplemental environmental review is required. By conducting supplemental environmental review, rather than an entirely new round of environmental review, the City is improperly limiting the scope of environmental analysis on this Project. A subsequent or supplement environmental impact report is required to analyze substantial changes to the project or circumstances around the project or new information that could not have been known at the time the original environmental impact report was certified. PRC § 21166.

Here, the totality of the circumstances demonstrate that the current Project is an entirely new project. *Save Our Neighborhood v. Lishman* (2006) 140 Cal. App. 4th 1288, 1301; see also *Sierra Club v. County of Sonoma* (1992) 6 Cal. App. 4th 1307, 1320 - 21. A prior court ruling invalidated the previous environmental impact report and approvals upon which this SEIR is tiered from.

Moreover, due to changes in the plans, circumstances and available information concerning the Project, the previous EIR for the Project lacks informational value, requiring an entirely new environmental impact report based upon current environmental conditions presuming the non-existence of the currently illegal structure. *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal. 5th 937, 951.

Since 2007, when the CRA Project was approved and the Certified EIR was adopted, circumstances surrounding the Project site has changed drastically. In those 11 years, the conditions in and around the Project site have changed immeasurably, especially in light of the flux of large-scale redevelopment projects in the Project area. Such surge of redevelopment in the Project vicinity have undoubtedly changed the Project site conditions such as traffic, greenhouse gas emissions, parking, housing and population, land use, and others. The Final SEIR even admits that **“cumulative conditions have changed since the time of the Certified EIR”** regarding traffic impacts which necessitated the SEIR to assess traffic impacts under 2017 and 2018 conditions. FSEIR, pg. 1-15, 1-40; NOD, pg. 179.

Moreover, the previous approvals for the Project have been vacated by the Court as they were based upon the preservation of the Old Spaghetti Factory facade rather than the rebuilding and restoration of it. The Court in *La Mirada Neighborhood Ass'n v. City of Los Angeles* 2015 Cal. App. Unpub LEXIS 6438 *3, 25 affirmed the trial court's ruling that vacated previous approvals for the CRA Project because the City violated the conditions of approval by issuing a demolition permit for the entire OSF building. Although the Certified EIR did note the option not to retain the OSF building in the alternatives analysis (as noted by Appeal Report, p. A-16), the CRA Project, as approved, required the Project to retain the OSF façade. *Id.* at 3. More importantly, circumstances have changed drastically since 2007 Certified EIR, especially with the change in cumulative conditions in and around the Project site. See FSEIR, pg. 1-15, 1-40; NOD, pg. 179.

Therefore, as a result of the drastic change in circumstances in the Project site and vicinity in the past 11 years, the Certified EIR lacks informational value and the Project requires a new EIR or a subsequent EIR.

H. The Project Will Have A Significant Impact On Land Use

By definition the Project's proposed General Plan Amendments, Vesting Zone and Height District Changes will have a significant impact on land use due to its inherent inconsistency with the City's General Plan and Hollywood Community Plan that requires the changes to the General Plan, zoning and height district.

II. **THE CITY FAILS TO COMPLY WITH THE CITY'S GENERAL PLAN, HOLLYWOOD SPECIFIC PLAN AND ITS OWN MUNICIPAL CODE**

A. The Project's Proposed General Plan Amendment, Height & Zoning Changes and Vesting Tentative Tract Map Fail To Comply With The Hollywood Community Plan

The Hollywood Community Plan bars increases in density effectuated by zone changes or subdivisions, such as the project proposes, without adequate transportation infrastructure. In particular the Hollywood Community Plan requires that "[n]o increases in density shall be effected by zone changes or subdivision unless it is determined that the local streets, boulevard and avenues, freeways and public transportation available in the area of the property involved are adequate to serve the traffic generated. Adequate street improvements shall be assured prior to the approval of zoning permitting intensification of land use in order to avoid congestion and assure proper development." City of Los Angeles (1988) Hollywood Community Plan HO-4. The Project will have significant traffic impacts which are not adequately mitigated and violates the Hollywood Community Plan, as discussed in full in Section III.A., *supra*. For example, the Final SEIR acknowledges significant impacts to the Vine and Sunset intersection yet fails to adopt street improvements as recommended by Mr. Kahn.

In addition, the Hollywood Community Plan's Circulation Policies require that the City prepare station area master plans prior to permitting higher intensity development, such as the Proposed Project, in the vicinity of Metro Rail stations. Hollywood Community Plan HO-3 – 4 ("If higher intensity development is to be encouraged in the vicinity of these Metro Rail stations, station area master plans should be prepared.") The Project Site is a mere six blocks from the Hollywood and Vine Metro Rail Station, and therefore the City is barred from approving the Project Site's land use zoning designations to allow higher density without having adopted a master plan for the area surrounding (general plan amendment, vesting zone and height district, and vesting tentative tract map). No master plan has been adopted for the area surrounding the Hollywood / Vine Metro Rail Station and as such, the Project's proposed General Plan Amendment, Height & Zoning Changes and Vesting Tentative Tract Map fail to comply with the Hollywood Community Plan.

Despite the clear command contained in the Hollywood Community Plan's requirement that a station area master plan "should be prepared," the Appeal Report, without any basis, demotes the requirement to a mere recommendation. Appeal Report, pg. A-17. Moreover, the Appeal Report misstates the purpose of such a required master plan by insinuating that such master plan is not

needed here because the proposed project is not expected to result in any long-term impacts on transit services. *Id.* However, a station area master plan contemplated by the Hollywood Community Plan would not be limited to analyzing transit service-based impacts, but it would analyze impacts on transportation as a whole near a Metro station like the Hollywood Metro Station. But the important point here is that the Hollywood Community Plan requires the preparation of a master plan prior to permitting high intensity development in the vicinity of Metro Rail stations like the Hollywood and Vine Metro Rail Station mere 6 blocks away from the Project site.

Moreover, the Appeals Report misstates the City's obligations under the Subdivision Map Act, which requires that a Vesting Tentative Tract Map be consistent with the City's General Plan. *Infra* IV.C.

B. The General Plan Amendment, Violates Section 555 of the City Charter

Section 555 of the City Charter allows amendments to the City's General Plan "by subject elements or parts of subject elements, or by geographic areas, provided that the part or area involved has significant social, economic or physical identity."

The Project's proposed general plan amendment to redesignate the portion of the Project Site located at 1528 – 1540 North Gordon Street (Lots Nos. 17, 18 and 19 of Bagnoli Tract No. 2) from High Medium Residential to Regional Center Commercial violated Section 555 of the City Charter as it is neither a geographic area of significant social, economic or physical identity.

The Final SEIR fails to provide any information which supports the finding that the portion of the Project Site that the Project proponent seeks to redesignate from High Medium Residential to Regional Center Commercial has significant social, economic or physical identity. Based on the FSEIR, the public park portion of the Project sits on the 3 parcels at 1528 – 1540 North Gordon Street (Lots Nos. 17, 18 and 19 of Bagnoli Tract No. 2), which the Project proponent seeks to redesignate. The Staff Report for the 8/9/2018 Hearing for Case No. CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR rationalizes that the proposed General Plan Amendment is warranted because the Project area has social, economic and physical identity by describing how the Project might benefit the area.⁶ However, these reasons do not specifically pertain to why the proposed redesignation from High Medium Residential to Regional Center Commercial, not the Project as a whole, would promote the significant social, economic or physical identity in the area. It appears the most pointed reason for granting the requested land use designation appears to be to grant special entitlements, by way to allow Project proponent to obtain maximum approved density and/or allow for floor area average. 8/28/2018 NOD for CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR, p. F-12. Therefore, without more information, the requested General Plan Amendment grants special entitlements.

⁶ The Appeal Report for the 8/9/2018 Hearing does not provide a response to this issue and states that "[T]his appeal point addresses an entitlement request that is within the jurisdiction of the City Planning Commission under related Case No. CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR. The Advisory Agency does not have the authority to grant or deny General Plan Amendment and Vesting Zone and Height District requests." Appeal Report, Pg. A-19.

Moreover, the relevant portion of the Project Site are currently designated d (T)(Q)R4-1VL, with height restrictions “1VL” of 3 stories and 3:1 FAR. Similarly, because these 3 parcels do not currently contain any buildings or plans to build under the FSEIR, there does not seem to be a valid reason as to why the vesting zone change is needed to allow for unlimited height and 6:1 FAR, especially when these changes were not requested or made during the 2007 CRA Project approval, which allowed the development of the building and the public park to be built with *existing zoning designations*.⁷

C. The Tentative Tract Map Fails To Comply With The State Subdivision Map Act

The Subdivision Map Act, Government Code section 66410, *et seq.*, (“Subdivision Map Act” or “Act”) requires local agencies to review and approve **all land subdivisions**. The Act regulates both the process for approving subdivisions and sets substantive requirements for approval of land subdivisions. The Act requires that a local agency deny approval of a land subdivision, referred to as a tentative map or a parcel map, if it makes a determination that “the proposed map is not consistent with applicable general and specific plans” or that “the design or improvements of the proposed subdivision is not consistent with the applicable general and specific plans.” Cal. Gov. Code, § 66474(a–b).

The Project is inconsistent with the following objectives and policies of the City of Los Angeles General Plan Housing Element:

Objective 1.1: Produce an adequate supply of rental and ownership housing in order to meet current and projected needs.

Policy 1.1.2: Expand affordable rental housing for all income groups that need assistance.

Policy 1.2.2: Encourage and incentivize the preservation of affordable housing, including non-subsidized affordable units, to ensure that demolitions and conversions do not result in the net loss of the City’s stock of decent, safe, healthy or affordable housing.

Objective 2.5: Promote a more equitable distribution of affordable housing opportunities throughout the City.

Policy 2.5.2: Foster the development of new affordable housing units citywide and within each Community Plan area.

The Final SEIR provides a perfunctory analysis of the Project’s consistency with the General Plan, especially the Housing Element, mostly by relying on the Project’s proposed dedication of 5 % affordable housing units. Objectives 1.1 and 2.5, along with Policies 1.12, 1.22 and 2.5.2 strongly promote the production of adequate supply of affordable rental housing. Although the City made a last minute modification to add 5% workforce housing units to the Project, the Project as approved does not adequately promote the production of adequate supply of affordable rental housing, especially in light of the Project’s significant direct and indirect impacts of displacement of low and

⁷ The FSEIR notes that the permitted uses in the R4 Zone include R3 uses (multiple-family dwelling units and parks and playgrounds), which means that the proposed park on the parcels on 1528 – 1540 North Gordon Street (Lots Nos. 17, 18 and 19 of Bagnoli Tract No. 2) conforms to the current zoning designation of R4.

moderate income population within the City of Los Angeles, the Project must incorporate additional affordable housing units to be consistent with the City of Los Angeles General Plan Housing Element.

As discussed in full above, the Project is inconsistent with the relevant objectives and policies of the Hollywood Community Plan. In particular, the Hollywood Community Plan requires that “[n]o increases in density shall be effected by zone changes or subdivision unless it is determined that the local streets, boulevard and avenues, freeways and public transportation available in the area of the property involved are adequate to serve the traffic generated. Adequate streets improvements shall be assured prior to the approval of zoning permitting intensification of land use in order to avoid congestion and assure proper development.” City of Los Angeles (1988) Hollywood Community Plan HO-4. The Project will have significant traffic impacts which are not adequately mitigated and violates the Hollywood Community Plan, as discussed in full in Section III.A., *supra*. For example, the Final SEIR acknowledges significant impacts to the Vine and Sunset intersection yet fails to adopt street improvements as recommended by Mr. Kahn.

In addition, the Hollywood Community Plan’s Circulation Policies require that the City prepare station area master plans prior to permitting higher intensity development, such as the Proposed Project, in the vicinity of Metro Rail stations. Hollywood Community Plan HO-3 – 4 (“If higher intensity development is to be encouraged in the vicinity of these Metro Rail stations, station area master plans should be prepared.”) The Project Site is mere six blocks from the Hollywood and Vine Metro Rail Station, and therefore the City is barred from approving the Project Site’s land use zoning designations to allow higher density without having adopted a master plan for the area surrounding (general plan amendment, vesting zone and height district, and vesting tentative tract map). No master plan has been adopted for the area surrounding the Hollywood / Vine Metro Rail Station and as such, the Project is inconsistent with the Hollywood Community Plan and thus, violates the Subdivision Map Act.

The Project will result in an increase in density as it increases both the permitted overall Floor Area Ratio, number of permitted residential units and permitted uses for the Project Site. The pre-existing residential density category for the residential portion of the Project Site is High-Med Residential, which permits 40 – 60 residential units per acre under the Hollywood Community Plan and has a Height District of 1VL, which permits only 1 dwelling unit per 600 square feet of lot. The Project will permit a total of 299 residential units on 1.66 net acres, a density of approximately 180 residential units per gross acre, well in excess of the densities permitted under the Project Site’s previous general plan designation, zoning designation and height district, which would have permitted a mere 99 units had the entire Project Site been designated medium-density residential.

The Project is inconsistent with relevant goals and objectives of the Hollywood Redevelopment Plan. Goal/objective 9 requires the Project to provide housing choices and increase the supply and improve the quality of housing for all income and age groups, especially for persons with low and moderate incomes; and to provide home ownership opportunities and other housing choices which meet the needs of the resident population. The Final SEIR concludes that the Project is consistent

with Goal/objective 9 since the Project will dedicate 5% very low affordable housing units and is providing additional housing opportunities with its market rate units. FSEIR, pg. IV.H-71. However, the Project's mere designation of 5% (and even with the last minute increase to 10% as noted in the 8/28/2018 NOD for CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR) to very low affordable housing units do not adequately increase the supply and improve the quality of housing "especially for persons with low and moderate incomes." Hollywood Redevelopment Plan, Goal/objective 9. Based on the Project's significant direct and indirect impacts of displacement of low and moderate-income population from the Hollywood Redevelopment Plan area, the Project must incorporate additional affordable housing units to be consistent with the Hollywood Redevelopment Plan.

Moreover, the Project fails to comply with the Subdivision Map Act since it is inconsistent with the City's General Plan and land use ordinances at the time of its adoption. Government Code section 66474.2 determine whether to approve or deny a proposed subdivision based upon "ordinances, policies, and standards in effect at the date the local agency has determined that the application is complete" or changes to the applicable general or specific plans or zoning or subdivision ordinances that the City has published notice of pursuant to Government Code section 65090. Here, the City has failed to publish notice of the Clear Space Ordinance. The Vesting Tract Map is therefore inconsistent with the City's General Plan and land use ordinances in effect at the time that their application was deemed complete and would still be inconsistent with the City's properly noticed changes to the City's General Plan and land use ordinances.

For aforementioned reasons, the Project is inconsistent with the City's General Plan, Hollywood Community Plan and the Hollywood Redevelopment Plan. Approving the Project would violate the Subdivision Map Act, the City's own land use ordinances and municipal code as well as CEQA.

D. Approval of a Conditional Use Permit To Allow The Sale of Alcoholic Beverages for On-Site Consumption at the Project violates LAMC 12.24.W.1

Section 12.24.W.1 of the LAMC requires that the City find:

- (1) that the proposed use will not adversely affect the welfare of the pertinent community;
- (2) that the granting of the application will not result in an undue concentration of premises for the sale or dispensing for consideration of alcoholic beverages, including beer and wine, in the area of the City involved, giving consideration to applicable State laws and to the California Department of Alcoholic Beverage Control's guidelines for undue concentration; and also giving consideration to the number and proximity of these establishments within a one thousand foot radius of the site, the crime rate in the area (especially those crimes involving public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct), and whether revocation or nuisance proceeding have been initiated for any use in the area; and
- (3) that the proposed use will not detrimentally affect nearby residentially zoned communities in the area of the City involved, after giving consideration to the distance

of the proposed use from residential buildings, churches, schools, hospitals, public playgrounds and other similar uses, and other establishments dispensing, for sale or other consideration, alcoholic beverages, including beer and wine.

The 8/28/2018 NOD for CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR makes perfunctory findings to justify the approval of the CUP. 8/28/2018 NOD for CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR, pgs. F-19 to F-25. While the City admits there are a multitude of sensitive uses including 23 single family homes, 84 multifamily and 6 condominiums, 4 schools (Citizens of the World Charter School (K-5), Le Conte Middle School, Helen Bernstein High School, Emerson College), and two parks (Carlton Way Park and park approved with the Project) in the Project's immediate vicinity, it made hollow findings to justify the issuance of the CUP. For example, the City relies on a circular reasoning by stating that the proposed use will not detrimentally affect sensitive uses because the Project area is an urban environment that already has an overconcentration of alcoholic beverage licenses (over 35 on-site and 5 off-site licenses in the Census Tract Number 1910.00 where only 3 on-site and 2 off-site licenses are authorized under the ABC licensing criteria, with 21 off-site licenses within 1,000 feet of the project site). See 8/28/2018 NOD for CPC-2015-1922-GPA-VZC-HD-CUB-DB-SPR, pgs. F-22-24.

The Appellant respectfully requests that the City Council carefully consider the multitude of sensitive uses and the overconcentration of alcoholic beverage licenses in the project area prior to signing off on the perfunctory findings made by the City under LAMC section 12.24.W.1 in approving this Project.

III. CONCLUSION

Coalition remains open to discussions concerning this Project. For the aforementioned reasons, Coalition requests that the City Council approve 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:

Traffic Expert, Robert Kahn, P.E., T.E. Curriculum Vitae (C.V.) (Exhibit A);

Letter from RK Engineering Group, Inc. to Mitchell M. Tsai, Attorney At Law (June 19, 2018) (Exhibit B);

Letter from RK Engineering Group, Inc. to Aids Healthcare Foundation (August 24, 2018) (Exhibit C);

Hollywood Property Owners Alliance and Central Hollywood Coalition (2017) Hollywood
Economic Analysis & The Business Improvement Districts (Exhibit D)