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March 24, 2014

Honorable Members of the City of Los Angeles City Council Planning and Land Use Management Committee
COUNCILMEMBER JOSE HUIZAR, CHAIR, councilmember.huizar@lacity.org
COUNCILMEMBER GILBERT A. CEDILLO councilmember.cedillo@lacity.org
COUNCILMEMBER MITCHELL ENGLANDER councilmember.englander@lacity.org

RE: March 25th HEARING on Hollywood Community Plan (Item 5; File No. 12-0303-S4.)

INTRODUCTION

I write on behalf of Ms. Lucille Saunders. I was council of record in the matter Saunders, et al., v. City of Los Angeles wherein I represented Ms. Saunders, La Mirada Avenue Neighborhood Association of Hollywood; San Pedro Peninsula Homeowners United, Incorporated; Granada Hills Alliance for Smart Growth; Hollywood Heritage, Incorporated; Old Granada Hills Residents' Group, Incorporated; San Pedro Peninsula Homeowners Coalition; R Neighborhoods Are 1; Westwood South Of Santa Monica Boulevard Homeowners Association, Incorporated; and Comite de la Esperanza, Incorporated; and Ms. Saunders.

Ms. Saunders is a resident of Los Angeles and a founding member of the La Brea-Willoughby Coalition, a neighborhood group seeking to protect the historical mixed-use community consisting of entertainment industry businesses and residential one-story bungalow homes in western Hollywood in the City of Los Angeles. Similarly, the other ten petitioners/appellants in that case are homeowner,

neighborhood, and other public interest groups seeking to protect Los Angelinos' health, safety and quality of life in their respective communities.

It appears the city is relying upon the unpublished Court of Appeal decision in the Saunders et al., as the legal justification for amending the Framework Element. Regrettably, the city staff report before you erroneously characterizes the Court of Appeal's holding in that case, to suggest that the city need not implement the Framework Element's central programs and mitigation measures contained in P42, P43 and P44. This is an incorrect interpretation of the court of appeal's decision, as explained in detail by attorney Beverly Palmer in a letter to the Planning Commission dated March 12, 2014, which is contained in the record and therefore before you today. I trust you have reviewed that letter in detail, so I will not repeat those arguments here.

The proposed motion before you today is ill-conceived and an affront to the public's health, safety and welfare. The City cannot remove the Framework Element's mandatory monitoring and reporting requirements because those requirements are the central mitigation measures, if not the very purpose and function of, the General Plan Framework Element. Further, the proposal to amend the General Plan requires the city to first prepare a subsequent Environmental Impact Report. A Notice of Exemption is clearly inappropriate and if adopted, would constitute legal error.

In addition, the City cannot remove the General Plan's monitoring and reporting requirements, which are mitigation measures, without demonstrating those mitigation measures' infeasibility. The planning department has not demonstrated that monitoring and reporting is infeasible. Indeed, according to the City's briefs and verified discovery responses in the Saunders et al., case, the planning department is perfectly capable of monitoring and reporting on growth and infrastructure.

In 1996, the City of Los Angeles formally adopted, by a vote of 15 duly elected city council members, the foundation of its General Plan, entitled the

Framework Element. The Council decision was the culmination of an extraordinary amount of resources expended and careful thought and consideration, including over 20 years of research; extensive environmental review; over 60 public workshops, participated in by over 3,000 residents, experts, local stakeholders and policymakers; and a half a dozen of public hearings.

The Framework is intended to guide city land use decisions in a way that cultivates an economically thriving, livable city. At that time, and as a central requirement of the Framework, the City Council formally agreed and commanded that the Planning Department must monitor and report to the Council and the mayor the city's changing population growth and infrastructure needs, by annually tracking and reporting on the City's ability to maintain infrastructure such as utilities, sewers, freeways, roads, and other critical facilities. As the city council then explained, these specific monitoring and reporting requirements are vital to ensure that the city keep pace of actual (as opposed to estimated) growth trends; providing the public, decision makers and planners with essential information needed to manage growth in a manner that will mitigate its impacts, minimize development costs, conserve natural resources, and enhance the quality of life in the city. Without implementation of the P 42, 43 and 44 monitoring and reporting programs, there is no assurance that infrastructure and services capacity can keep pace with real, on-the-ground population growth and development patterns.

In the process of adopting the Framework, the City prepared and certified an Environmental Impact Report ("EIR") as required by the California Environmental Quality Act ("CEQA"). The EIR addressed impacts related to the implementation of the Framework, which, under CEQA is a "project" subject to environmental review. The monitoring and reporting requirement contained in the Framework Element is a central tenet of the Framework project itself and a pivotal mitigation measure required to mitigate significant environmental impacts of other General Plan elements, such as the Land Use Element and the Housing Element.

However, despite the extraordinary amount of time and resources invested into carefully crafting the Framework Element, including the Monitoring and Annual Report requirements, you are asked now to essentially nullify the Framework Element. To do so would not only offend the public's sense of trust in their local government and demoralize the democratic process, but also jeopardize the city's ability to ensure adequate infrastructure and services for its presently existing residents and businesses.

HISTORY AND BACKGROUND OF THE FRAMEWORK ELEMENT

California's Planning and Zoning Law (Gov. Code, §§ 65000 et seq.) requires every city and county to adopt "a comprehensive, long-term general plan for [its] physical development..." (Gov. Code, § 65300.) The California Supreme Court has described the general plan as the "constitution for future developments" within the city or county. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 570.)

On December 11, 1996, the city amended its General Plan by adopting the "Framework Element", which directs the city's growth policies. The Framework was meant to replace the then-existing city "Centers Concept" because the Centers Concept had demonstrably failed to manage the city's growth and land use patterns; the Framework was intended to solve its defects. As stated in the Framework EIR:

The development of the Citywide General Plan Framework Element was initiated in June of 1992 for the purpose of comprehensively updating the City's General Plan. The Citywide General Plan Framework will be adopted as a new element of the City's General Plan and as such will provide a framework for managing Los Angeles' continued growth and will provide strategies to promote a more livable and economically strong city. The last comprehensive consideration of the future of the City of Los Angeles in the context of a Citywide General Plan culminated in 1974 with the adoption of Concept L.A., also known as the Centers Concept. During the 1970's and the 1980's, the Centers Concept guided the Planning Department's preparation of the current General Plan which consists of 35 Community Plans and the Port of Los Angeles Plan which collectively comprise the current Land Use Element and a variety of citywide elements. The Community Plans collectively comprise the land use element.

The current General Plan in many cases is based on changed circumstances and obsolete assumptions about how the City will grow and develop. The transit system assumed in the Centers Concept was not implemented. Only in recent years has route and facility funding been committed, allowing the identification of patterns of use and development that can capitalize on location of routes. *More critically, the goals and policies of the Centers Concept were not linked to programs for their implementation. Thus real growth did not necessarily occur in the patterns envisioned in the Centers Concept, but rather continued to be dispersed, contributing to congestion and encroachment into residential neighborhoods.* Rapid population growth both in the City and in the region, particularly during the 1980's, placed strains on the City's ability to maintain infrastructure such as utilities, sewers, freeways, roads, and other critical facilities. In addition, growth experienced in the 1980's had significant environmental impacts. In response to air quality impacts, the Environmental Protection Agency required the City to update its General Plan to be consistent with the Regional Air Quality Management Plan. More recently, the stagnant economy and loss of jobs has diminished the City's fiscal strength and contributed to further strains on the City's ability to provide services and "community livability", reinforcing the need for comprehensive planning.

The General Plan Framework provides the policy basis for managing the City's mid-term growth to the year 2010 and its long-term growth beyond 2010 and *includes provisions for monitoring development patterns and their impacts...*

Notably, because the Centers Concept failed to link adopted policies with *implementation requirements*, growth did not occur as expected and was dispersed in patterns that caused increased traffic congestion, pollution, and strains on, and failures of, public infrastructure and services. The Framework intended to remedy that problem and "ensure that the City's planning for capital expenditures is coordinated with its planning for land use, ... [providing] the link between private development and such public services as roads, sewers, and transit to ensure that the City's infrastructure systems are adequate to accommodate growth and densification." The Framework also "responds to State and Federal mandates to plan for the City of Los Angeles' future."

Designing of the Framework involved extensive study and public participation:

Community involvement in the preparation of the Framework Element consisted of 60 neighborhood and two citywide public workshops. Over 3,000 persons participated in these events.

These workshops were advertised via special mailings, public service announcements, videos, and press releases to general and special interest newspapers, including publications oriented towards particular ethnic communities. In addition, a dedicated toll-free telephone line enabled the general public to call for "more information" about the project as publications became available or workshop dates were announced.

The community participation effort also included interviews and "focus group" discussions with community leaders, homeowners, property owners, and others.

A Steering Committee consisting of representatives from the Planning, Transportation, and Public Works Departments provided management direction to the project.

A Technical Advisory Committee (TAC) provided review, technical assistance, and input on policy development. Membership on the TAC included representatives from [multiple] City departments and outside agencies.

The architects of the Framework stressed the importance of monitoring and reporting on actual growth and infrastructure availability. Los Angeles City Councilmembers described the Annual Report as "critical" to the city's ability to address growth, "so that if need be, we can begin to make adjustments and changes to make this a livable city." The monitoring and reporting duties function as alarms or "warning systems" alerting the City of infrastructure deficiencies as population grows and shifts into different areas within the city. As another City Councilmember observed:

"How do we manage growth and make sure that we try to limit and contain the growth and make sure that we have an adequate infrastructure of sewage capacity and water and everything else to deal with?"

At the time it adopted the Framework, the City Council understood that the Annual Reporting requirement would ensure the Council and the public that the Monitoring Program was in fact being implemented by the Planning Department, as evidenced by these comments by then city councilmembers: "What [the

Framework's monitoring and reporting] was intended for was for people to look at and say "Wait a minute. We need to look at infrastructure. We need to see if we have capacity." "[Y]ou need to look at your Framework and look at your availability of resources when you give approvals in accordance with your community and specific plans. And it's okay to say 'no' to a project when it comes in."

DISCUSSION

The Framework mandates implementation of: "A program to monitor the status of development activity, capabilities of infrastructure and public services to provide adequate levels of service, and environmental impacts...identifying critical constraints, deficiencies and planned improvements." The Framework also requires collection of data from the Monitoring Program, analysis of the relationship between growth trends and infrastructure needs based on that data, and presentation of this information annually to the City Council and Mayor in the form of Reports on Growth and Infrastructure.

The Framework Element identifies the monitoring requirement as program "P42," and requires:

P42

Establish a Monitoring Program to accomplish the following

- a. Assess the status of development activity and supporting infrastructure and public services within the City of Los Angeles. The data that are compiled can function as indicators of (a) the rate of population growth, development activity, and other factors that result in demands for transportation, infrastructure, and services; (b) location and type of infrastructure investments and improvements; and (c) changes to the citywide environmental conditions and impacts documented in the Framework Element environmental database and the Environmental Impact Report.
- b. Assess transportation conditions and determine the City's progress toward attainment of citywide transportation objectives.
- c. Determine the progress of the Los Angeles County Sanitation District 2010 Master Facilities Program and any other capital

improvement projects which could affect their ability to collect City wastewater and provide full secondary treatment for that wastewater.

d. Identify existing or potential constraints or deficiencies of other infrastructure in meeting existing and projected demand.

e. Identify, based on consultation with the LAUSD, the surplus and/or deficit of classroom seats.

The Framework Element identifies the Reporting requirement as program "P43," which is to include the information gathered under P42:

P43

Prepare an Annual Report on Growth and Infrastructure based on the results of the Monitoring Program, which will be published at the end of each fiscal year and shall include information such as population estimates and an inventory of new development. This report is intended to provide City staff, the City Council, and service providers with information that can facilitate the programming and funding of capital improvements and services. Additionally, this report will inform the general plan amendment process. Information shall be documented by relevant geographic boundaries, such as service areas, Community Plan Areas, or City Council Districts.

In order for the City to determine whether infrastructure and public services can and will meet the needs of a the City's growing population, the Planning Department must consistently monitor growth and infrastructure. Because population growth may not always be "directly proportional" to the demand on infrastructure, "[T]he linkage between future growth and services will occur through the implementation of a monitoring program that provides information regarding 'real' demands and service levels in order to guide public decisions regarding infrastructure and service investments. Successful application of this system would mitigate the need to restrict development to ensure adequate level of service."

The Framework mandates that P42 and P43 guide land use and development decisions within the city:

After the Framework Element is adopted, the City will establish a growth monitoring program that will provide important information regarding the accuracy of future growth estimates and the distribution of that new development by community plan area. This monitoring program will annually document what has actually happened to the City's population levels, housing construction, employment levels, and the availability of public infrastructure and public services.... The information from such a monitoring system will be presented to the City Council in the form of an Annual Report on Growth and Infrastructure.

The Framework drafters were especially concerned with the location of development across the city and its impact on services and infrastructure. Thus, the Annual Report was intended to provide a feedback loop about the effectiveness of the Framework's policies.

The Framework Element's main purpose is to track patterns of growth and infrastructure development and demand, as well as assess whether the Framework's policies are fulfilling their purpose. To that end, of the over 60 implementation programs listed in the Framework, the Monitoring and Reporting requirements in P42 and P43 are singled out as "key" and "essential." The requirement appears throughout the Framework Element. The Framework's Land Use section incorporates the monitoring and reporting requirement into its top three priorities, along with infrastructure investment strategy. The city has described the Monitoring and Reporting mandates as "a crucial part" of the Framework.

Further evidencing the significance of the Annual Report requirement, *at least 22* of the city's Community Plans rely on the Annual Reports to alert decision makers when there is insufficient infrastructure to support new development, and when development moratoria is needed. These Community Plans state:

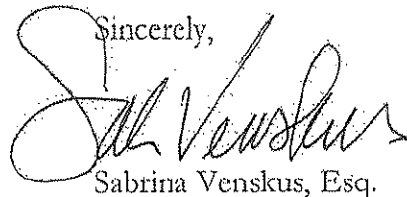
During the life of the [Community] Plan, growth will be monitored and reported in the City's Annual Report on Growth and Infrastructure, which will be submitted to the City Planning Commission, Mayor, and City Council. In the fifth year following [Community] Plan adoption (and every five years thereafter), the Director shall report to the Commission on the relationship between population, employment, and housing growth and plan capacities. If

growth has occurred faster than projected, a revised environmental analysis will be prepared and appropriate changes recommended to the Community Plan and zoning. These Plan and zoning changes, and any related moratoria or interim control ordinances, shall be submitted to the Planning Commission, Mayor, and City Council as specified in the LAMC.

The proposal to remove these mandatory mitigation measures underscore the importance of requiring environmental review of the consequences of changing a central element of a general plan. The city must give the same due consideration and enable the type of public scrutiny that its adoption was given. Further, by amending the Framework Element in this way, the city would render other required elements of the City's General Plan inconsistent, such as the Land Use element, 22 community plans and the Housing Element, among others. This is not the way to resolve the Hollywood Community Plan update litigation debacle.

CONCLUSION

Given that the monitoring and reporting requirement is a central feature of the Framework Element and its EIR Mitigation Monitoring Plan, thorough vetting by the public and decisions, by way of a subsequent EIR is warranted, necessary, and required by law.

Sincerely,

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