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Friday, June 15, 2012

All Councilmembers of the
Los Angeles City Council
200 North Main Street
Los Angeles, CA 90122

Via email only

Re: The Hollywood Community Plan
Council File # 12-0303
ENV-2005-2158-EIR
June 14, 2012 Update to FEIR
Council Date: Tuesday, June 19, 2012

Dear Honorable Councilmembers:

I write once again on behalf of many concerned citizens and organization concerning the Hollywood Community Plan [HCP]. It is great sadness that I behold the depths to which this great city has fallen in its disregard not only for its citizens and the law, but also for the future. At this point, I specifically refer to the June 14, 2012 Hollywood Community Plan Second Addition to Final EIR, Additional Responses to Comments, Corrections and Additions, and Revised Mitigation Monitoring Program (MMP)

The following is a partial analysis due to the lateness when this update was issued and by making this analysis, I do not waive any rights members of the public have to object to the June 14, 2012 in toto or in specific parts.

The Down Zoning Alternative:

Many citizens have been objecting to the lack of a Down Zoning Alternative in the EIR. They were ignored. The June 14, 2012 attempts to make up for the failure to consider a Down Zoning Alternative in the original EIR or to acknowledge the Down Zoning Alternative in the FEIR. In so doing, the June 14, 2012 makes several material misrepresentations.

1. No Down Zoning Alternative Has Been Legally Considered:

The June 14, 2012 Update falsely states, “This alternative was rejected.” page 3 In order to be rejected, the Alternative first must be studied by the EIR.

It is axiomatic that an Alternative must be set forth in the EIR. *CEQA Guidelines*, § 15126.6, subdiv. (a) There is no Down Zoning Alternative in the DEIR or in the FEIR. Thus, it was not rejected as that term is used by CEQA.

If an agency has considered an Alternative for inclusion in the EIR, but that Alternative is not studied, the EIR itself must state that fact and set forth the specific reasons that Alternative was not included. *CEQA Guidelines*, § 15126.6, subdiv. (c) The DEIR and FEIR have no discussion of why Down Zoning Alternative was not studied. The public, who has been involved in this process over the years, does know from first hand experience. The EIR has no discussion because The City never considered the Down Zoning Alternative.

An EIR which fails to discuss reasonable alternatives and fails to discuss why a reasonable alternative was not studied is fatally defective. Let’s be mindful that we are not speaking of a merely deficient discussion; we have a complete blackout of any discussion of the Down Zoning Alternative in both the DEIR and the FEIR. The Courts have rejected the argument that an agency may consider in-house an alternative without adding it to the EIR.

The Regents argue that alternatives had already been considered and found to be infeasible during the University's various internal planning processes and that an EIR need not discuss a clearly infeasible project alternative. The Regents apparently believe that, because they and UCSF were already fully informed as to the alleged infeasibility of alternatives, there was no need to discuss them in the EIR. Laurel Heights Improvement Association of San Francisco, Inc., v. the Regents of the University of California (1988) 47 Cal. 3d 376, 253 Cal.Rptr. 426

The Supreme Court further stated:

The Regents miss the critical point that the public must be equally informed. Without meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process. We do not impugn the integrity of the Regents, but neither can we countenance a result that would require blind trust by the public, especially in light of CEQA's fundamental goal that the public be fully informed as to the environmental consequences of action by their public officials. "To facilitate CEQA's informational role, the EIR must contain facts and analysis, not just the agency's bare conclusions or opinions." (Concerned Citizens of [47 Cal. 3d 405] Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn. (1986) 42 Cal. 3d 929, 935 [231 Cal.Rptr. 748, 727 P.2d 1029]; People v. County of Kern, supra, 39 Cal. App. 3d 830, 841-842 [conclusory statements fail to crystallize issues]; see also Citizens for Quality Growth v. City of Mount Shasta, supra, 198 Cal. App. 3d 433, 441 [agency's findings under § 21081 as to mitigation must be sufficiently detailed].) An EIR must include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project. Laurel Heights Improve-ment Association of San Francisco, Inc., v. the Regents of the University of California (1988) 47 Cal. 3d 376, 392

Thus, the DEIR and the FEIR are fatally defective for failure to discuss the reasonable alternative of Down Zoning. Additions to the FEIR can never rectify these prior omissions.

2. The June 14, 2012 FEIR Update is Legally Inadequate

Because the initial EIR must discuss all reasonable alternatives and have it circulated for public comment, no matter what was added in the June 14, 2012 Update for the June 19, 2012 hearing, it is legally unacceptable.

The agency may not ignore a reasonable alternative and then merely rely on the community to present alternatives which it then shoots down. The community has repeatedly urged the City to study the Downzoning Alternative and the first time the City acknowledges the reasonableness of Down Zoning being an Alternative is in its June 14, 2012 Second Addition to the FEIR. This failure is far more than a day late and a dollar short and is per se a violation of CQEA.

3. The June 14, 2012 Discussion of the Down Zoning Alternative Is Based on Falsehoods

The June 14, 2012 Update misleads the public by pretending that Hollywood's population is increasing, when in fact Hollywood has had a twenty (20) year decline in population. In brief, the June 14, 2012 asks that the public adopt the falsehood that "Down" means "Up."

In order to conceal its deception the City has consistently mixed forecasts with facts. The City pretends that the SCAG forecast of 224,426 ppl in 2005 may be used in 2010 when the US Census has proven that forecast to have been materially by approximately 20,000 ppl. The City was required to update SCAG

forecasts with actual data as the data became available and never did Hollywood's population come close to 224,426 ppl. Its high point was 213,883 ppl fifteen years earlier in 1990. By 2000, it had fallen to 210,794 and by 2010, it was 198,228. The actual population was in the 204,000 range in 2005.

The City has consistently and wrongfully used the SCAG projected 224,426 ppl to mislead and deceive the public and most of the councilmembers. Nonetheless, as late as June 14, 2012, just six days before this matter will be considered by Council, the same falsehood is set forth.

Thus, between 2000 and 2010, Hollywood lost 12,566 ppl. There was no way that the 2005 population was 224,426 ppl.

The City will not admit the truth because the actual facts show that the more likelihood population in Hollywood will be 190,000 or less. This projection is based on the US Census data.

4. The Deterioration of Infrastructure Shows That the 1988 Capacity Is Too High

The City complains that Down Zoning provides for less growth. The Framework requires the city to plan for a population increase and for a population decrease. The City's very argument shows that it is pushing a myopically Growth Inducing Plan (which probably would be a failure by causing more people to leave Hollywood).

The Down Zoning Alternative may not be rejected because it is not Growth Inducing. It does not matter that the projected population under the Plan will not be 235,000, not 230,000, not 220,000, not 215,000, not 210,000. All Plans which provide for more population are contrary to all facts. The Alternative should prepare for a population of 190,000 persons or less.

The deterioration of Hollywood's infrastructure has come about by a mixture of corruption, most notable through the CRA/LA, and blindness to reality. For years, people have been telling Councilmember Garcetti that his great population increase was an illusion. Rather, his projects were attracting Default Tenants, i.e. people who could not afford to live elsewhere, and it was driving out the more talented and educated from the Flats.

The US Census statistics prove that the critics were correct and the City was wrong. The SES of the 2010 population is lower than that of the 2000 population. Almost all the population loss has been in CD #13 and contingent census tracts.

CD #4 by contrast added population. The fact that CD #4 in Hollywood added population highlights that the population loss in CD#13 all the greater. All one has to do is glance at the interactive Census Tract map for Hollywood to see that the yellow areas indicating slight growth are in the Hills and the blue area denoting population lost is in CD #13. [There is some population growth in CD #13 in core Hollywood, but that is because those areas were previously commercial, but in the last decade mixed-used projects were added.]

Twenty-Six years ago, SCAG was simply wrong about the projected 235,850 pp in 2010. The following chart shows how the error occurred.

Year	Population	Increase	Decrease	Percent Change
1950	160,047			
1960	160,383	336		00.2%
1970	156,335		4,000	02.5%
1980	181,002	24,667		16%
1990	213,858	32,856		18%
2000	210,824		3,034	01.4%
2010	198,228		12,596	06%

In 1988, the Planners had seen an increase of 24,667 ppl between 1970 and 1980 and they knew that the population was still increasing. The 1990 US Census vindicated them. The city had added 32,856 person in the prior ten years. In 1988, the Hollywood was adding population at an accelerating rate.

With this history of planning for only 235,850 in 2010, The City was anticipating a maximum of another 9% persons in the next two decades. The 2000 US Census figures showed, however, that the upward trend had actually reversed itself and population increase was not merely slowing, but in fact Hollywood was losing population. The 2010 US Census data show that the loss rate had accelerated from 1.4% to 6%. In face of these undisputed facts, The City still falsely uses the SCAG 2005 forecast of 224,667 ppl. Such brazen disregard for facts will require the Courts to send the HCP back to start with a new EIR.

5. The EIR Has to Study an Alternative That Requires Changes in Codes

The City makes a curious objection to the Down Zoning Alternative, i.e.:

[T]his is an “action alternative” [Down Zoning] that would require the adoption of new policies and development regulations to limit most existing development to improvements within the envelope of existing buildings rather than permit continued land use activity under the existing Community Plan. *June 114, 2012 Update* p 3

The likelihood that the Alternative will require new policies and new regulations, even legislative actions beyond the City’s control, is no basis to omit the Alternative from the EIR. *Methow Valley Citizens Council v. Regional Forester* (9th. Cir. 1987) 833 F. 2d 810

6. Growth Cannot Be Directed into TOD'S

The analysis of Hollywood population loss shows that the loss has been most significant in the US Census tracts contiguous to the Metro Stations.

The EIR had the duty to analysis the data and to advise the public that the population growth around the Metro stations not only did not materialize, but that there has been significant loss in those areas.

Summary of Gain Loss Around Subway Stations:

<u>Metro Location</u>	<u>Gain</u>	<u>Loss</u>
Santa Monica Vermont (LACC)		- 802
Sunset Vermont (Kaiser)		- 1,678
Hollywood Western		- 1,684
Hollywood Vine	+105	
Hollywood-Highland		- 346
Net Loss		-4,405

These statistics indicate that about 35% of Hollywood's population loss was from US Census tracts contiguous to Metro Stations. In other words, trying to compel people to move into TOD's has backfired and has stimulated the exodus from Hollywood. Under CEQA, facts trump speculation.

7. The Courts Ignore Conclusions Without Facts

The portion of the June 14, 2012 Update which is not blatantly misleading and false is comprised of conclusions for which no fact is offered. "To facilitate CEQA's informational role, the EIR must contain facts and analysis, not just the agency's bare conclusions or opinions." (Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn. (1986) 42 Cal. 3d 929, 935, 231 Cal.Rptr. 748.

For example, the June 14, 2012 Update states:

This [Down Zoning] alternative would provide less employment and housing opportunities than the current Community Plan, . . . *June 14, 2012 Update* p 3

There is no fact that supports the speculation that Down Zoning would reduce employment. With an adequate infrastructure which Down Zoning would provide, Hollywood could see an increase in employment. Employers do not like to locate in high crime, gridlock areas and 25% of Hollywood's commercial space is presently vacant. Thus, Hollywood can increase employment without more mixed-used projects. A lower vacancy rate would benefit existing landowners. Building more excess capacity harms existing property owners who cannot fill the office space and it harms the City which traditionally has subsidized these improvident developers. Right now the City is turning over more than \$67 Million to a hotel in downtown Los Angeles.

8. The Faux Down Zoning Discussion in the June 14, 2012 Update

The few paragraphs in the June 14, 2012 Second Addition to the FEIR on Down Zoning are reproduced below for your convenience.

Downzoning & Lowered Capacity Alternative —This alternative would reduce the reasonable expected development of the current Hollywood Community Plan through downzoning actions and the imposition of additional development restrictions aimed at reducing the residential capacity and non-residential capacity of the plan to that below the level expected under the existing 1988 Community Plan. For example, the **1988** Community Plan has a reasonably expected development residential capacity of 235,850 persons. The 2005 estimated population

for Hollywood was 224,426 persons. The 2010 Census population of Hollywood was 198,228 persons. This alternative would reduce the residential capacity of the Proposed Plan by 5,850 persons, for example, to 230,000 persons, which is less than the existing plan capacity, but more than the population of the Hollywood community (2005 estimate or 2010 Census), and similar reductions would be made as to non-residential development.

While this alternative, for the most part, would involve carrying the existing conditions in the CPA forward into the future, unlike the No Growth/Development Alternative, this is an “action alternative” that would require the adoption of new policies and development regulations to limit most existing development to improvements within the envelope of existing buildings rather than permit continued land use activity under the existing Community Plan. General Plan Amendments and Zone Changes would be prepared to downzone and limit future development levels below that currently permitted, reducing development capacity throughout the community plan area. The General Plan Framework, the City’s long-range adopted growth management plan directing growth into Regional Centers and along mixed-use boulevards, would need to be revised and the overall strategy for accommodating anticipated growth citywide would need to be revisited.

This alternative was rejected as infeasible because it would not accommodate the future growth forecasted by SCAG and would, therefore, be inconsistent with population, housing, and employment projections. This alternative would also be inconsistent with the adopted General Plan Framework which seeks to direct additional growth, if it occurs, into Regional Centers and away from stable lower density neighborhoods. Additionally, this alternative would not prohibit nor discourage the case-by-case consideration of out of scale discretionary projects throughout the Plan area, which is addressed through the policies of the Proposed Plan. This alternative would provide less employment

and housing opportunities than the current Community Plan, and would not meet the project objectives of providing increased employment and housing opportunities, encouraging sustainable land use in proximity to transit, expanding mobility options, ensuring that buildings and neighborhoods are well designed, and promoting the vitality and expansion of Hollywood's media, entertainment, and tourism industry. In fact, this alternative would reduce employment options, reduce housing opportunities, reduce capacity for media, entertainment, and tourism land uses, and require wholesale re-visitation of the General Plan Framework, the City's adopted long-term growth strategy as compared to the existing plan. In as much as the proposed Hollywood Community Plan is an update of an existing 1988 document, reliance on the existing "no-project" plan is an adequate alternative under CEQA. Therefore, for the entirety of the reasons listed above the "Downzoning and Lowered Capacity" alternative was rejected from further consideration.

Hollywood Community Plan Second Addition to Final EIR June 14, 2012 pp3-4

9. Conclusion:

Rather than insulate the City from litigation, the June 14, 2012 Update has committed so many new, blatant CEQA violations that it has strengthened the position of the citizen groups which have already formed to file lawsuits should City adopt the Hollywood Community Plan.

Very truly yours,

Richard MacNaughton

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RMN:ra
HZC-1060
electronically signed
cc Kevin Keller