

March 18, 2013

Doug Haines, La Mirada Avenue Neighborhood Association  
P.O. Box 93596  
Los Angeles, CA 90093-0596

Planning and Land Use Management Committee,  
Los Angeles City Council  
c/o Office of the City Clerk  
City of Los Angeles, City Hall  
200 N. Spring Street, Rm. 395  
Los Angeles, CA 90012

**RE: Council File 12-1604**

**Case No.:** APCC-2008-2703-SPE-CUB-SPP-SPR

**CEQA No.:** ENV-2008-1421-EIR

**Project Location:** 5500 – 5544 Sunset Blvd., 1417 – 1441 N. Western Ave., 1414 St. Andrews Pl.,  
and 5505 – 5545 De Longpre Ave.

Dear Chair Reyes, and Honorable Council members:

Please note the following comments and exhibits supporting our neighborhood association's appeal of the Central Area Planning Commission's August 14, 2012 approval of a proposed Target retail development at 5520 Sunset Boulevard, at the intersection of Western Avenue in Hollywood. The Planning and Land Use Management Committee is tentatively scheduled to hear our appeal at its March 19, 2013 meeting.

If constructed as described on page I-3 of the Draft *Environmental Impact Report* ("DEIR"), "Proposed Project," and slightly modified by the Commission's action, the Target development would consist of a structure 74 feet, 4 inches in height, with 194,749 sq. ft. of retail development and 225,286 sq. ft. of above-grade parking spaces in two levels totaling 458 stalls. Total site development is 420,035 sq. ft. The net lot area is 160,678 sq. ft. The primary component of the project would be a 163,862 sq. ft. Super Target retail store on the third level, with 30,887 sq. ft. of unidentified retail at ground level (hereinafter the "Project"). The applicant is Target Corporation ("Applicant").

**1. The City has refused to Cure and Correct its violation of the Brown Act.**

The Planning and Land Use Management ("PLUM") Committee is scheduled on Tuesday to rehear our appeal of the Central Area Planning Commission's August 14, 2013 approval of the Project. The PLUM Committee originally heard the matter on November 13, 2012, during which it recommended denial of our appeal and approval of the Target development. On November 20, 2012, the full City Council approved the Project without comment as a consent item. Both hearings, however, were conducted in violation of the Ralph M. Brown Act.

On December 12, 2012, La Mirada representative Robert Silverstein of the Silverstein Law Firm sent the City Attorney a Cure and Correct letter outlining the City's violation of the Brown Act at both the November 13, 2012, and November 20, 2012, Project hearings. On December 31, 2012, in accordance with the requirements of Section 54960.1(c)(2) of the California Government Code, the City Attorney responded that the City would rehear the Project at both PLUM and City Council (see **Exhibit 1**).

Despite nullification of Target's approvals, however, the City's various departments have refused to rescind or suspend prior clearances and have instead continued to illegally issue construction and demolition permits for development of the Project. Target has proceeded with demolition and construction work at the site. On January 31, 2013, Target removed all City street trees surrounding the Project site, including the historic 100-year-old Canary Island Date Palm trees lining Sunset Blvd. (See photos at **Exhibit 2**).

Target's removal of the historic Canary Island Date Palm trees, absent proper notification and analysis, violated the California Environmental Quality Act ("CEQA") (see Hollywood Heritage letter at **Exhibit 3**: "*Hollywood Heritage was denied review of the (trees') removal and therefore we believe CEQA was violated*"). Target's rush to remove the historic Palm trees (located in the public right of way), is particularly unwarranted since Target left in place all palm trees and pine trees growing within the Project site. Those trees were instead merely trimmed.



**February 12, 2013 photo showing pine trees remaining on the Project subject lot. In contrast, Target removed all City street trees on January 31, including the historic Canary Island Date Palms that for over 100 years had lined Sunset Blvd.**

On February 6, after noticing on the LADBS Property Activity Report website that additional permits had been issued to Target (See LADBS Property Activity Reports at **Exhibit 4**), I left phone messages for the Building and Safety inspectors assigned to the Project. In my phone messages, I pointed out that the Project's approvals were invalid and the City had rescheduled hearings for later that month. I received a return message only from an electrical inspector, who referred my inquiry to the Chief Electrical Inspector, Mr. Patrick Gilbert. Mr. Gilbert left me the following message that same day (2/6/13):

"Hi Doug, this is Chief Electrical Inspector Patrick Gilbert with LA City Dept. of Building and Safety. I've kinda looked into all the clearances and conditions and right now it does not appear that we are aware of any issue that would hold us back from issuing permits or making inspections at any construction at 5500 West Sunset. I'd love to discuss it with you if in fact you have some documents that we should be aware of. Please contact me and let us know. I'm involved in the electrical inspection aspects of it; I'm not involved in the issuing of permits, and our engineering bureau would be. However, if in fact there's, you know, accurate documents that should be preventing us from doing so, please let us know."

On February 7, I faxed to Mr. Gilbert both the City Attorney's December 31, 2012 letter invalidating the Project approvals, and the City Clerk's February 1, 2012 "Notice To Property Owners/Occupants Within a 500-Foot Radius" of the scheduled February 26, 2013 Target PLUM Committee re-hearing.

On the morning of February 8, Mr. Gilbert left me the following message:

"Good morning Doug Haines, Pat Gilbert calling from LA City Dept. of Building and Safety. I've checked with out supervision here and reviewed the documents that you did fax to me, thank you for sending them. It does indicate that they are going to rehear them on those dates of February 26 and later on in council. But these documents do not constitute any reason for us to withhold issuing permits or withhold issuing any inspections. If there were any promises from the City Attorney's office to issue us any legitimate documents to prevent that we don't have them. And at this point the City Attorney's office or City Planning offered, you know, their clearance for those permits to be issued. So at this point we don't have any legitimate reason to withhold issuing permits or to withhold issuing inspections and granting approvals. So if there's something that we're missing let me know, and if I can be of any further assistance my office number is 213 482-0341. Thank you very much."

On February 5, 2013, Hollywood resident Ed Hunt emailed Jane Usher, special assistant to Los Angeles City Attorney Carmen Trutanich, inquiring as to the removal of City trees at the Target site despite invalidation of Target's approvals. Mr. Hunt is the President of the Melrose Hill Neighborhood Association and also the former Chair of the Hollywood Studio District Neighborhood Council's Planning Committee. Mr. Hunt wrote: "I heard their permits were invalidated because of a brown act violation. Would this not include the street tree removal?" (See **Exhibit 5**). Mr. Hunt further emailed Ms. Usher on February 9, stating: "I checked the target store Property Activity Report. It shows 3 additional permits issued and several others in process." Ms. Usher sent the following reply: "We will look into the issuance of these DBS permits early next week. Thank for bringing this to our attention."

Yet on February 7, 2013, co-appellant Citizens Coalition Los Angeles (“CCLA”) had already sent the City Attorney a Cease and Desist letter outlining the City’s continued violation of the Brown Act (see **Exhibit 6**). Despite this, the City Planning Department has never revoked Project clearances and the City Department of Building and Safety (“LADBS”) continues to issue permits for the Project.

On February 11, Ms. Usher of the City Attorney’s office further replied to Ed Hunt’s February 9<sup>th</sup> question regarding the invalidation of Target’s approvals: “Your question does not lend itself to answer at this time because there is threatened litigation involving private litigants, real parties in interest, and the City. I will need to let the lawyers handling those matters come to resolution before I can answer you.” Mr. Hunt then responded on February 11: “I had heard that the Target permits had been invalidated and that there was at least threatened litigation involved. That why (sic) I was surprised that Building and Safety was going ahead and issuing permits. I thought they just did not get the word that the permits had been evalidated (sic).” Therefore, at the highest levels, the City Attorney has been fully aware that permits continue to be illegally issued for the Project.

In a February 19, 2013 correspondence sent to CCLA and copied to the City Attorney, Mr. Richard Schulman of the firm Hecht Solberg Robinson Goldberg & Bagley, LLP argued that Target “may rely on approved entitlements unless the City formally revokes them or a court formally invalidates them,” and that “neither of these events has occurred.” (See **Exhibit 7**). Mr. Schulman’s position on behalf of his client, however, conflicts with the clear wording of the Brown Act, which states at Section 54960.1:

(a) The district attorney or any interested person may commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that **an action** taken by legislative body of a local agency in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, 54956.5 is **null and void** under this section. Nothing in this chapter shall be construed to prevent legislative body from **curing or correcting an action challenged** pursuant to this section. (Emphasis added).

(c) (2) **Within 30 days of receipt of the demand**, the legislative body **shall cure or correct the challenged action** and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged actions. (Emphasis added).

Despite the clear and unambiguous language of the Brown Act holding that an action taken by the legislative body (in this case approvals by the City Council) is null and void once the City agrees to cure and correct that action within 30 days of receipt of the demand (in this case, on December 31, 2012), the City has refused to revoke all Project clearances and permits.

When the statutory language is unambiguous, the plain meaning of the language controls. California State Parks Foundation v. Superior Court (2007) 150 Cal.App.4th 826, 834-835. Here, the plain language demonstrates that the Legislature determined that a City’s decision to cure and correct would immediately nullify the action challenged. “We may not, under the guise of construction, rewrite the law or give the words an effect different from the plain and direct import of the terms used.” California Fed. Savings and Loan Assn. v. City of Los Angeles (1995) 11 Cal.4th 342, 349.



As in the case of any statutory construction, when the language is unambiguous, administrative decision makers and reviewing courts must “presume the Legislature meant what it said, and the plain meaning of the statute controls.” Committee for Green Foothills v. Santa Clara county Bd. of Supervisors (2010) 48 Cal.4th 32, 45. See Conde v. City of San Diego (2005) 134 Cal.App.4th 346, 352 (citing San Francisco Unified School Dist. V. San Francisco Classroom Teachers Assn. (1990) 222 Cal.App.3d 146, 149 [in construing a statute, the Court “cannot create exceptions, contravene plain meaning, insert what is omitted, omit what is inserted, or rewrite the statute”]).

The City’s agreement to cure and correct its Brown Act violations means that all approved permits “shall be void.” Los Angeles Municipal Code (“LAMC”) Section 11.02. “[I]f any permit or license is issued in violation of any provision of this Code or any other ordinance of the City of Los Angeles the same shall be void.” Thus, neither the Planning Department nor LADBS have any discretion to ignore the plain language of both the LAMC and Brown Act and continue to issue permits.

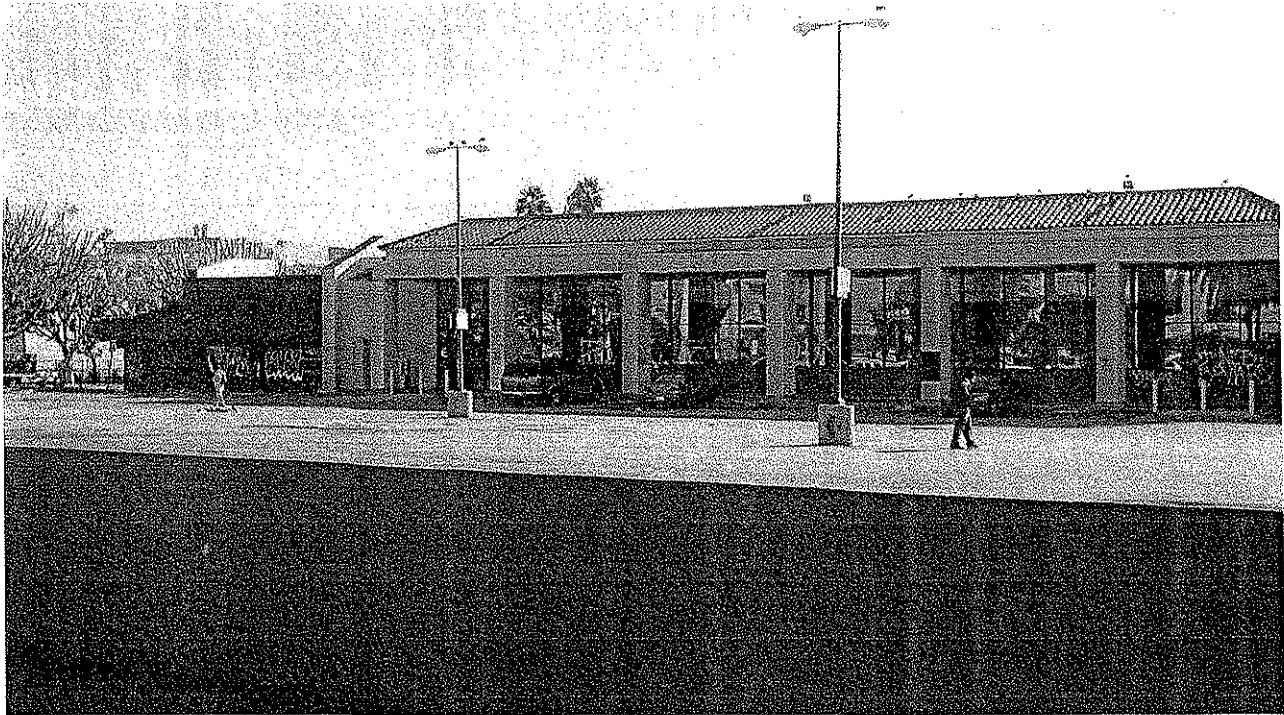
Having agreed to re-set the hearings on the matter in response to La Mirada’s challenge, the Planning Committee is estopped from proceeding with the Project. There is no point in a rehearing if the original approval were not defective for want of compliance with the Brown Act. **Re-hearing must mean substantive reconsideration**, not a pro-forma ritual that cannot possibly cure or correct anything by giving the public an adequate chance to react to – and conceivably influence – the decision of which they were never given adequate notice.

The City has refused to abide by its obligation to revoke Project approvals and has permitted demolition and construction activity to continue despite demands that it cease. The Project has therefore attained irreversible momentum, and the City has irrevocably committed itself to a predetermined result. This is confirmed by a March 8, 2013 letter from the City Attorney’s office, which prematurely outlines their parameters for preparation of the Administrative Record (see **Exhibit 8**). Project approvals at the scheduled PLUM Committee and City Council hearings will therefore likely be little more than a rubberstamp by the decision-makers, regardless of any evidence presented at those hearings.

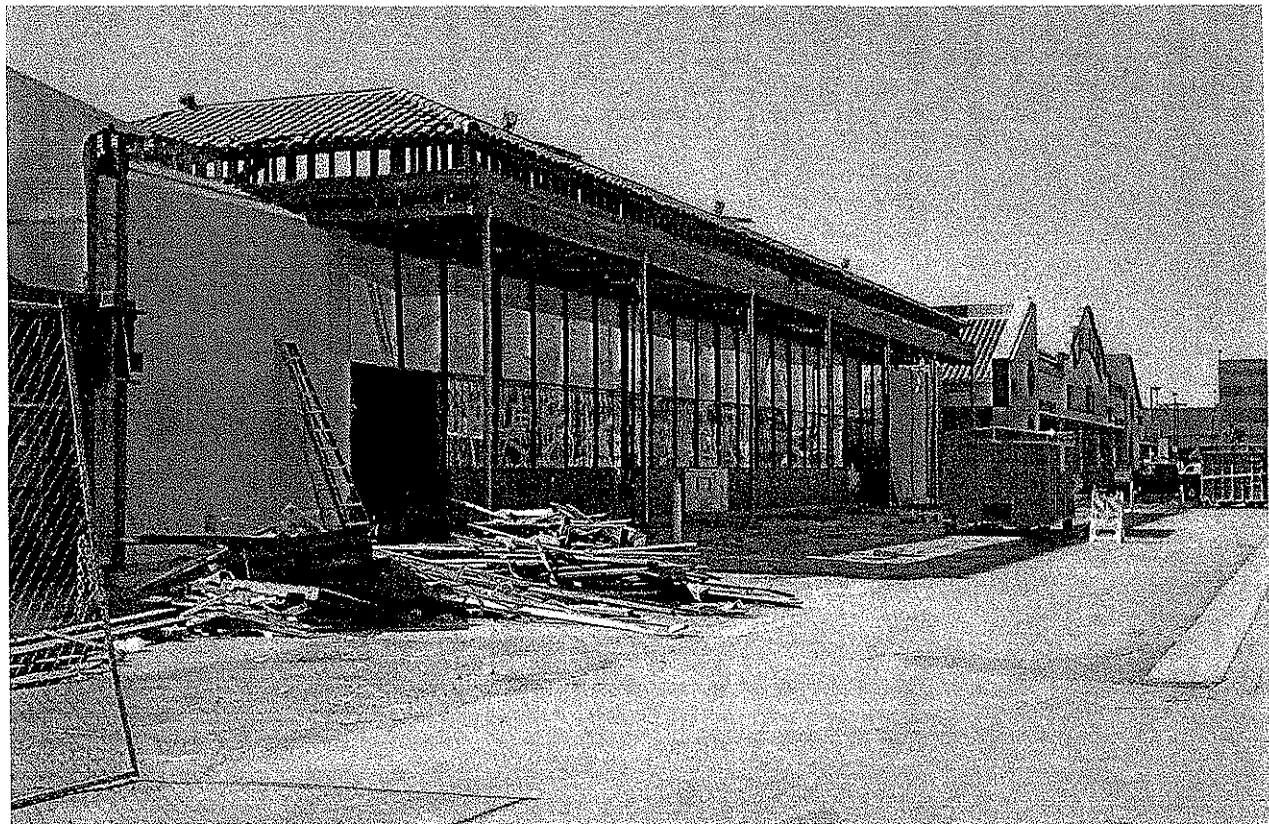
“City’s willingness to begin that process...before certifying an EIR and finally approving the project, tends strongly to show that City’s commitment to the 1343 Laurel project was not contingent on review of an EIR.” Save Tara v. City of West Hollywood (2008) 45 Cal.45th 116

“In the instant case, it seems clear that the hearing which led to the adoption of the resolution of necessity was a sham and the Agency’s policy making board simply ‘rubber stamped’ a predetermined result. [¶] By the time the Agency actually conducted a hearing to determine the ‘necessity’ for taking the property in question, it had, by virtue of its contract with the developer...irrevocably committed itself to take the property in question **regardless of any evidence that might be presented at that hearing.**” Redevelopment Agency v. Norm’s Slauson (1985) 173 Cal.App.3d 1121. (Emphasis added).

“A fundamental purpose of an EIR is to provide decision makers with information they can use in deciding *whether* to approve a proposed project, not to inform them of the environmental effects of projects that they have already approved.” Laurel Heights Improvement Association v. UC Regents (Laurel Heights I) (1988) 47 Cal.3d 376, 394. (Italics in original).



December 28, 2012 photo of Target site.



February 12, 2013 photo of Target site.



**Construction fence surrounding the Target site (photo taken 1/22/13; fence fronting Sunset Blvd).**





The City has refused to revoke Project approvals and has permitted demolition and construction activity to continue, including permits partially cleared March 12, 2013 by the Department of Building and Safety for grading of the site. The City has therefore displayed utter contempt for the legal requirements of both the Brown Act and CEQA, and has scheduled a sham re-hearing.

**2. The Environmental Impact Report must be re-circulated to include review of the impacts to a K-8 Charter School and Day Care facility of 390 students to be located at 5616 - 5620 De Longpre Ave., adjacent to the Project site.**

On August 7, 2012, the Assistance League of Southern California signed an agreement with the organization Citizens of the World to lease its facilities at 5616 - 5620 De Longpre Avenue for use as a 390-student Charter Elementary School. Operating hours will be from 7:30 AM to 3:00 PM, Monday through Friday, with an after school childcare program for up to approximately 50% of the student body between the hours of 3:00 PM to 6:00 PM. Special events and parent-student conferences will operate until 9:00 PM. Vehicle loading and unloading of students and parents will take place at the curb along De Longpre Avenue and St. Andrews Place, although some students of the existing campus at Grant Elementary School live in the neighborhood and may walk to the site (see application at **Exhibit 9**).

The Citizens of the World Charter School was not analyzed in the EIR and was not included in the list of Related Projects. The EIR also did not acknowledge that the Los Angeles Unified School District requires a lower threshold for assessing significant noise impacts than does the City of Los Angeles.

Potential significant construction and operational impacts of the Project upon a sensitive receptor of 390 school children ages 4 to 14, located immediately adjacent to the Project site, include noise, air quality, traffic, and other hazards. This is of particular concern since Target seeks an exception to allow store deliveries between the hours of 5AM to Midnight, and Target's loading docks would be located across the street from the Assistance League's Children's Learning Center and Theatre for Children, and directly across from the Assistance League's parking facilities. This configuration will require large container delivery trucks to use the public street to maneuver and back into the parking structure, creating the highest opportunity for a collision involving a pedestrian or passenger vehicle. The same potential for accidental impacts applies to off-hours trash collection.

The deleterious health effects to children and adults of diesel exhaust and road dust particulate exposure are clear and well established by the scientific community, identifying decreased lung capacity (see **Exhibit 10**), increased risk of autism (see **Exhibit 11**), higher death rates, higher rates of asthma (see **Exhibit 12**), and increased risk of cardiovascular disease (see **Exhibit 13**). Many of these studies detail the relationship between proximity to diesel particulates and permanent physical and mental disabilities. Mortality studies suggest that the exposure-response relationships for particulate-matter pollution in the case of both short-term and long-term exposures are nearly linear, with no discernible safe thresholds within relevant ranges of exposure. Since the Project site is located one block east of the 101 Freeway, and is adjacent to the playfield of the future Charter Elementary School, cumulative and site specific air quality impacts associated with construction and operation of the project within 500 feet of the Freeway are significant and without mitigation. The EIR failed to properly identify the baseline of the existing conditions at the site against which the significance of the environmental impacts could be properly measured.

Likewise, chronic noise exposure of both young children and adults has a particularly detrimental effect upon cognitive abilities (see **Exhibit 14**). As acknowledged in the EIR, Project construction impacts cannot be mitigated to adequately reduce impacts to sensitive receptors immediately adjacent to the site. Haul/delivery vehicles would also dramatically increase roadway noise levels during construction activity. No haul route has been identified for the project, and no analysis has been conducted in the EIR to assess such impacts. Such questions also need to be addressed in a re-circulated Environmental Impact Report.

Supplemental EIR review is necessary when substantial changes to a project's circumstances require major revisions to a project EIR due to new significant unstudied environmental impacts. § 21166(a); Guideline § 15162(a)(1); Concerned Citizens of Costa Mesa v. 32<sup>nd</sup> Dist. Agricultural Assn. (1986) 42 Cal.3d 929; Fund for Environmental Defense v. County of Orange (1988) 204 Cal.App3d 1538; Cf., Benton v. Board of Supervisors (1991) 226 Cal.App.3d 1467, Eller Media Company v. Community Redevelopment Agency (2003) 108 Cal.App.4th 25. When major new mitigation is required, a Supplemental EIR must be prepared. Mira Monte Homeowners' Association v. County of Ventura (1985) 165 Cal.App.3d 357.

New information triggers a Supplemental EIR to inform an agency's new discretionary project approval if it (1) was not known and could not have been known at the time the initial EIR was certified as complete, (2) the information shows new or substantially more severe significant impacts, and (3) the new information is of substantial importance to the project. Public Resources Code § 21166(c); Guideline § 15162(a)(3).

Here, the addition of a public elementary school less than 100 feet from the Project site constitutes new information that requires supplemental review in a re-circulated EIR.

Target previously claimed that the U.S Post Office at 1385 N. Western Ave. commences its operations at an early hour, and that granting an exception from the SNAP's permitted delivery hours would therefore be proper in relation to this adjacent use. As noted in our November 12, 2012 letter, however, due to nationwide cutbacks by the U.S. Postal Service, the Post Office at 1385 N. Western Ave. had since December 1, 2011 operated with reduced hours of 10AM to 5PM, Monday to Friday. Since then, the Post Office closed permanently on February 15, 2013. The adjacent King Buffet restaurant, which doesn't open until 11AM, is taking over the space (see **Exhibit 16**).

**3. The Applicant and the City still have not produced the required individual findings for Target's requested exceptions from the Development Standards .**

The City has not provided the individual findings required for four of the five exceptions requested by Target from the Development Standards. As noted on page 38 of our appeal, Target has requested approval of five exceptions from the Specific Plan Development Standards, requiring 25 separate findings. Yet four of the five exceptions are grouped under the common heading "Building Design." The Applicant incorrectly claims that because SNAP's Development Standards and Design Guidelines list the standards under the heading "Building Design," it provides relief from the requirement of LAMC Section 11.5.7.F.2. to individually provide the 5 required findings for each requested exception. Nowhere in the LAMC, the Specific Plan or State law is there supporting evidence for this conclusion.

The City instead has the burden of showing that it has satisfied all of the elements required for the approval of an exception to the Specific Plan. Tustin Heights Assoc. v. Orange County (1959) 170 Cal.App.2d 619. Failure to prove any of the matters required by the zoning ordinance must result in a denial of the exception applications. Minney v Azusa (1958) 164 Cal.App.2d 12.

Here, neither the Applicant nor the City even remotely approached the required showings. Therefore, on this foundational question the application must be denied. See, e.g., Moss v Board of Zoning Adjustment (1968) 262 Cal.App.2d 1, 3, holding that a determination of the existence of all of the facts essential to making the necessary findings must precede any grant of a variance. Case law and the Los Angeles Municipal Code act as a limitation upon the power to grant exceptions absent proper findings. Accordingly, each of the numerous requests must be denied on this ground.

There are five findings for an exception, and in order to grant the exception all five findings must be made. If even a single finding cannot be made, the exception must be denied. The Municipal Code provisions under LAMC § 11.5.7.F.2 are strictly construed and require that an exception approval be supported in writing for each of the five findings.

An exception is a safety valve preventing a property from becoming unusable if the zoning code were strictly applied. Its approval is not allowed to be “perfunctory or mechanically superficial.” Orinda Association v. Board of Supervisors (1986) 182 Cal.App. 3d 1145, 1161. Merely stating that denial of an exception would be “contrary” to another provision of the Code for which a project “materially conforms” does not rise to the standard of substantial evidence required under State law.

The Planning Dept. is required under the LAMC and City Charter §§ 552 & 562 to “bridge the analytic gap between the raw evidence and its ultimate decision or order,” with the intended effect of facilitating orderly analysis and legally relevant sub-conclusions supportive of its ultimate decision. Topanga Assn. for a Scenic Community v. County of Los Angeles (1974) 11 Cal. 515. Here, there is no indication of the analytic route between the raw evidence and the ultimate decision.

The City has had an additional four months to properly delineate the findings for Target’s requested exceptions from the Development Standards. Attached at **Exhibit 15** is a Feb. 20, 2013 letter by retired Zoning Administrator Jon Perica detailing why the City has no basis for not completing the findings.

**4. The General Manager of the Los Angeles Department of Recreation and Parks has recommended that Target’s request to make a cash payment in lieu of providing childcare be denied, and therefore the PLUM Committee and City Council cannot act until after the Commission has decided the matter.**

Target has requested that it be permitted to make a one-time cash payment in lieu of providing 3,895 sq. ft. of childcare space in the Project as required under Section 6.G of the Specific Plan. The Department of Recreation and Parks retains jurisdiction on the matter, and its General Manager has recommended in Report 12-307 (attached to my November 9, 2012 letter at Exhibit 24) that the request be denied. At its Special Meeting of November 7, 2012 and in all subsequent meetings, the Board of Recreation and Park Commissioners has agreed to the Applicant’s request for a continuance of the matter. The City Council, however, should decide the issue by requiring Target to abide by the childcare requirement.



If the Department of Recreation and Parks denies Target's request for a one-time cash payment, Target will need to redesign its Project to accommodate the childcare facility for its 250 employees, or locate a suitable site within 5,280 feet of the subject lot.

Purpose T of SNAP is to: *Support, in anticipation of the full implementation of the Welfare to Work Reform Program, the provision of childcare facilities within the neighborhoods, at transit stops and at large employment sites such that all working parents and their children are accommodated.*

The Project consists of a 420,035 sq. ft. structure with 194,749 sq. ft. of retail. Under SNAP, Target is required to provide less than 1% of that space as a childcare facility for its 250 employees. Target can also work with the Assistance League of Southern California to provide the facility. Target can also request an exception to the requirement. However, the City Council cannot act on the Project until the matter is settled.

**4. Target enjoys significant financial advantages for a reduced Project development cost that includes lower costs for subterranean parking.**

Target's former representative, Mr. Dale Goldsmith of Armbruster Goldsmith & Delvac LLP, argued in a November 1, 2012 letter that project development costs are significantly higher today than five or more years ago. Mr. Goldsmith also attached an October 31, 2012 letter from Walker Parking Consultants of Minneapolis, Minnesota, which claimed that subterranean parking structures "generally cost...between \$20,000 and up to \$50,000 per space or more."

As noted in our November 12, 2012 response, development costs today are in fact significantly lower than they were during the 1990s and early to mid 2000s. As an example, the Sunset/Gordon project at 5929-5945 Sunset Blvd., four blocks west of the Target site, was approved in 2008 as a 260-foot high, 23-story, 305-unit, 324,432 square foot residential/retail/office development with 518 parking spaces in a subterranean garage. The project was originally approved for construction in 2008 at a total cost of \$199,705,000. The developer defaulted on the loan in 2010. In 2011, the project was purchased by the CIM Group, which has stated that its cost to now develop the project is \$101,919,346, or a difference of almost \$98 million less than was estimated in 2007 at the height of the construction boon (see Exhibit 17). CIM was forced to reveal its financing in order to have its Arts fee assessed by the former Community Redevelopment Agency and the Los Angeles City Planning Department.

As shown in Exhibit 17, the Sunset/Gordon project has four levels of subterranean parking. In 2007, the developer's estimated parking garage cost was \$23,630,000 for 518 spaces, or \$45,617.76 per space. In 2012, CIM estimated the cost to build 515 subterranean spaces as \$6,800,000, or only \$13,203.88 per space. In contrast, in its October 31, 2012 letter to Mr. Goldsmith, Walker Parking Consultants estimated Target's cost for 458 parking stalls in a subterranean garage at \$13.2 million, or \$29,000 per space. Walker estimated an above-grade parking garage at \$5.6 million, or \$12,500 per space. As noted previously, Walker is a company located in Minnesota, where construction costs for parking garages are significantly higher due to seasonal weather conditions of heavy rainfall and freezing temperatures, and accelerated infrastructure fatigue due to heavy roadway salting during winter snowfall. The Walker cost estimate is therefore grossly excessive when compared to an actual cost figure as shown by the CIM analysis.

**5. There is not a six-story development at 346 S. Vermont Ave.**

As previously noted in our November 12, 2012 letter, the Applicant's claim of a 6-story, mixed-use project at 346 S. Vermont Avenue is incorrect. Mr. Goldsmith stated in his November 1, 2012 letter that a development at this site has a Floor Area Ratio "of approximately 6:1." Note below a Google Earth photo of this address, showing a one-story Rite Aid Pharmacy and surface parking lot:



**6. The Target Project is strongly opposed by the Hollywood Community.**

Target's design for its Hollywood store is strongly opposed by the Hollywood Studio District Neighborhood Council, the architects who comprise the Hollywood Design Review Committee, the Melrose Hill Neighborhood Association, and our community (see opposition letters at **Exhibit 18**). Community support for the project has been limited to qualified support for a Target store at the subject lot, not a massive development that will overwhelm the surrounding area and set major zoning precedents.

As a low-level community in historic Hollywood, we ask that the City Council recognize the negative impacts associated with this and similar developments inconsistent with our community's land use and planning, and support our appeal. We further ask that the City Council show some long overdue respect for both the Brown Act and the Rule of Law.

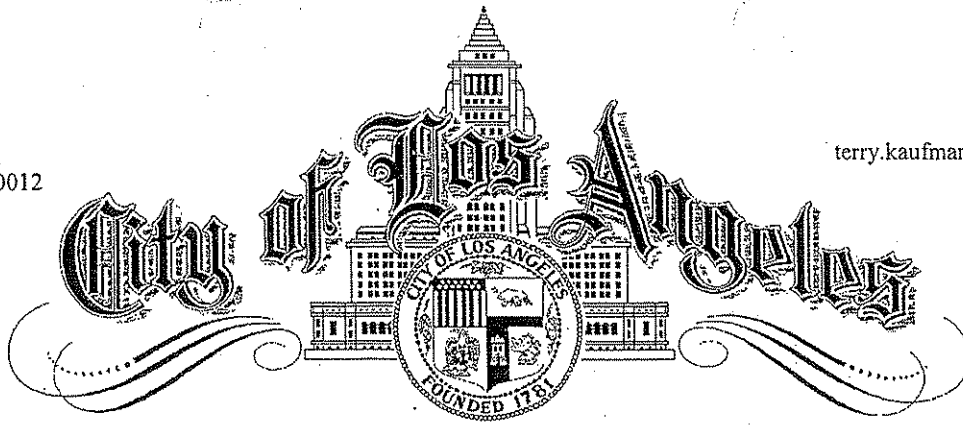
Doug Haines, for the  
La Mirada Avenue Neighborhood Association

A handwritten signature in black ink, appearing to read 'Doug Haines', written over a horizontal line.

# **Exhibit 1**

City Hall East  
200 N. Main Street  
Room 701  
Los Angeles, CA 90012

(213) 978-8233 Tel  
(213) 978-8214 Fax  
terry.kaufmann-macias@lacity.org  
www.lacity.org/atty



CARMEN A. TRUTANICH  
City Attorney

December 31, 2012

VIA FACSIMILE (626) 449-4205  
AND FIRST CLASS U.S. MAIL

Robert P. Silverstein, Esq.  
The Silverstein Law Firm, APC  
215 North Marengo Avenue, 3<sup>rd</sup> Floor  
Pasadena, California 91101-1504

Re: Target Hollywood Project

Dear Mr. Silverstein:

We are in receipt of your December 12, 2012 Demand to Cure and Correct letter, alleging a Brown Act violation in connection with the November 13, 2012 and November 20, 2012 PLUM and Council agendas for the Target Hollywood project (the Project).

The City does not concede that the referenced agendas constitute a violation of the Brown Act. Nevertheless, out of an abundance of caution, the City will rehear the Project at both PLUM and City Council. Given the date of your Demand, the holidays and the City Council recess, the City will take these actions as soon as practicable and inform you of the new dates.

Please do not hesitate to contact me if you have further questions regarding this matter.

Very truly yours,

A handwritten signature in cursive script that reads 'Terry P. Kaufmann Macias'.

TERRY P. KAUFMANN MACIAS  
Supervising Attorney  
Land Use Division

TPKM:gl

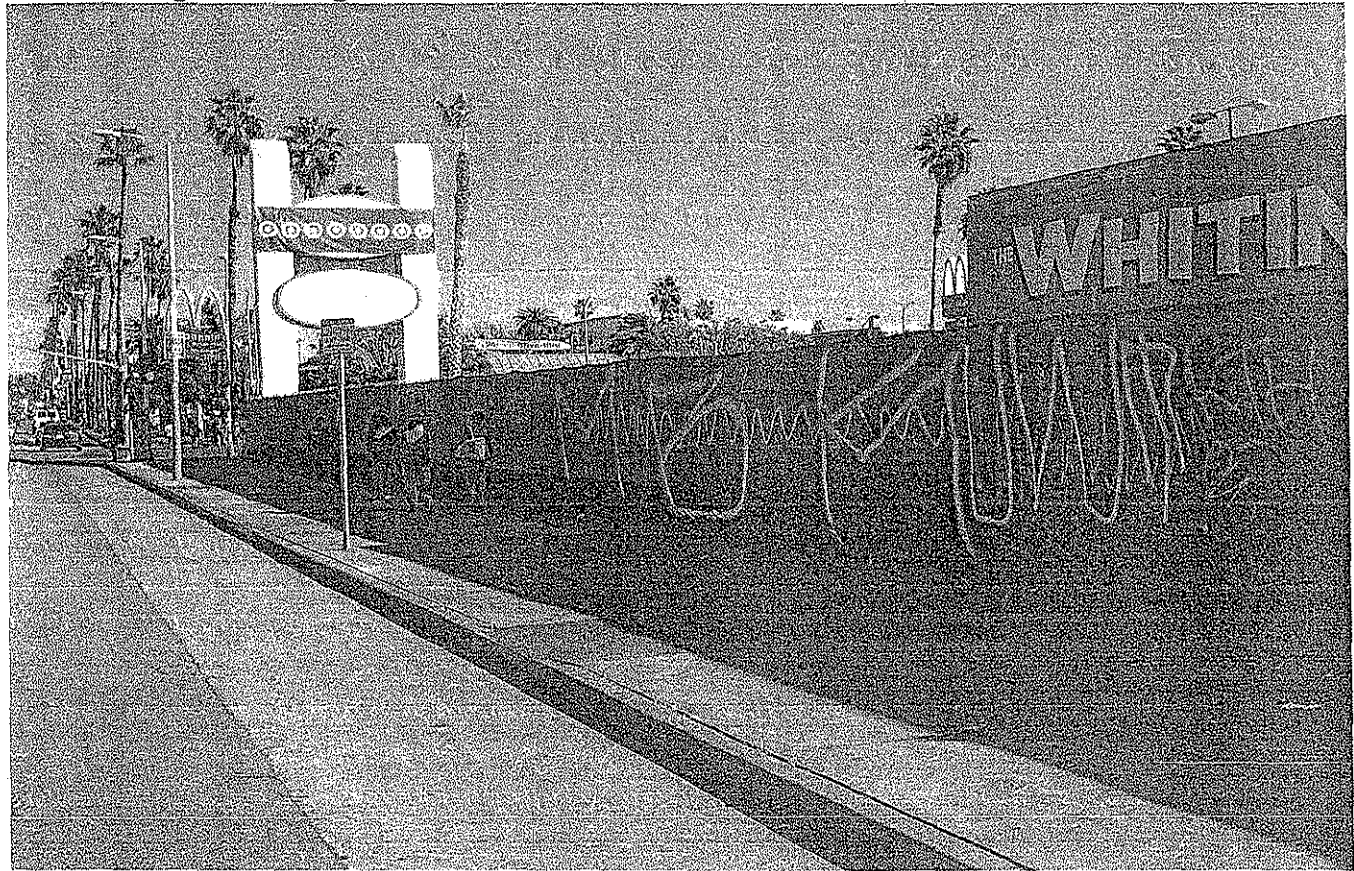
cc: June Lagmay, City Clerk  
Marcel Porras, Council District 13  
William F. Delvac, Esq. (via email)  
R.J. Comer, Esq. (via email)

# **Exhibit 2**

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**Before: Target site at right.**

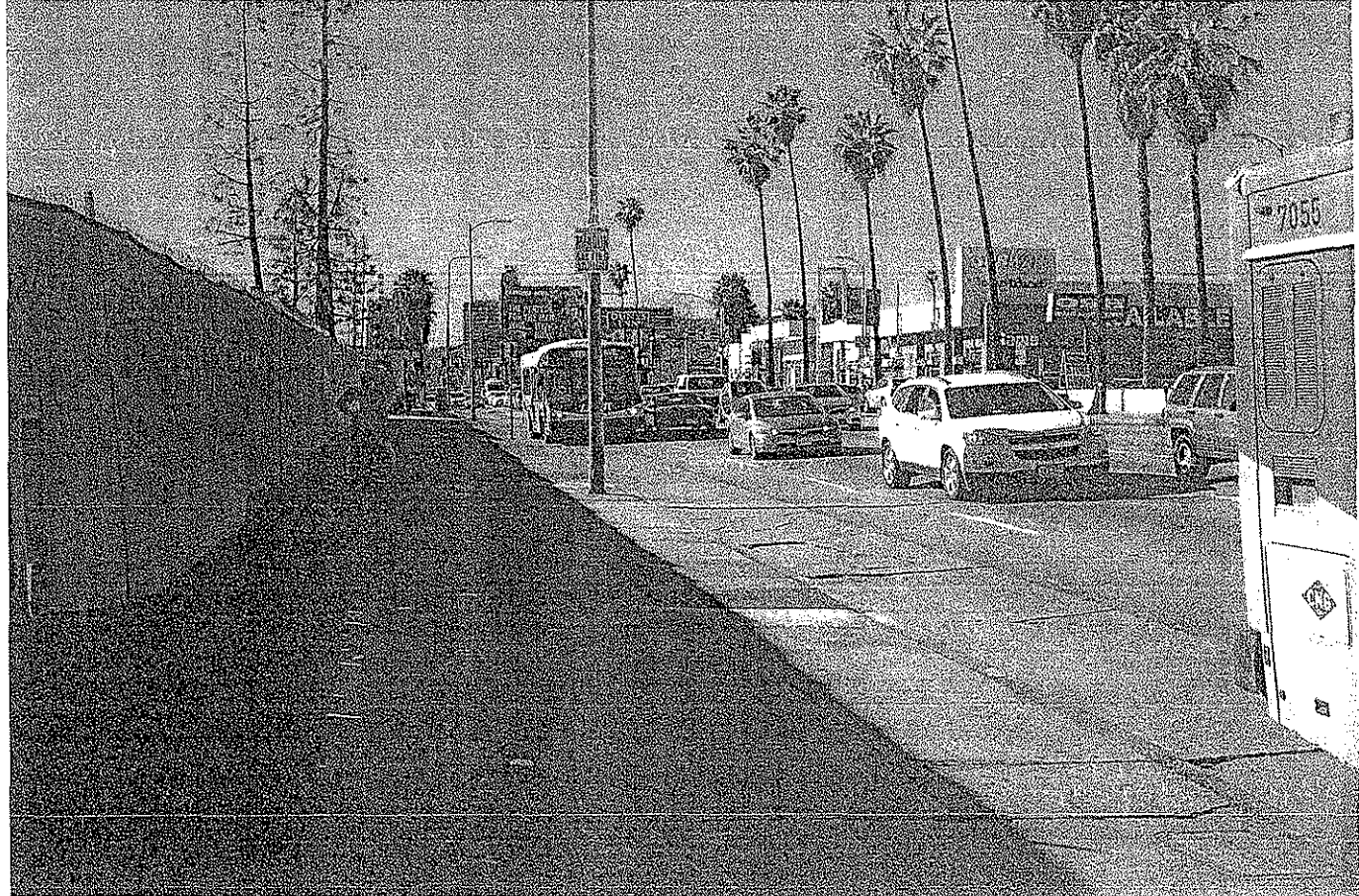


**After: Target site at right. (Photo taken 1/31/13).**





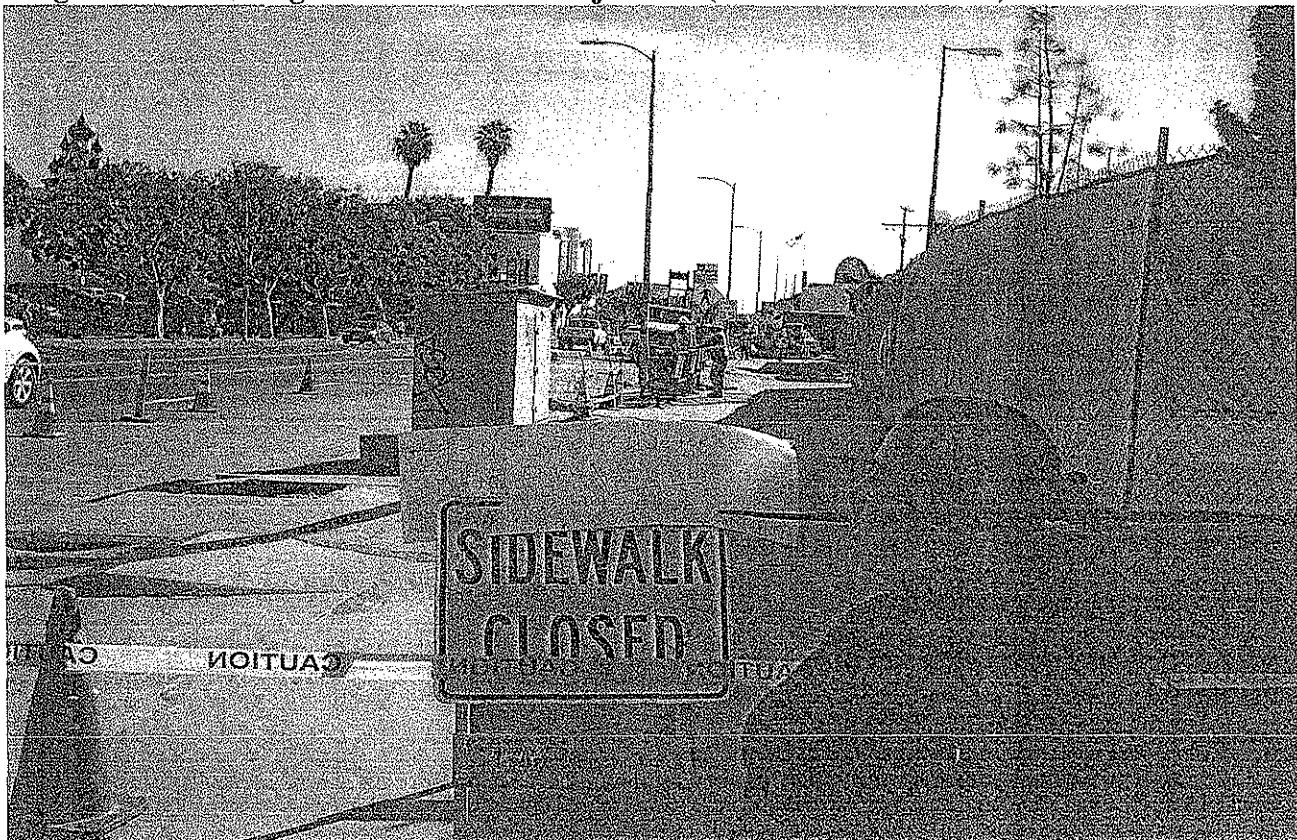
Before removal of historic Canary Island Date Palm trees (*Phoenix Canariensis*): Sunset Blvd. at Western Ave., looking west. Target site at left.



After all trees removed: Sunset Blvd. at Western Ave., Target site at left. (Photo taken 1/31/13)



Target crew removing all street trees at subject site (Photos taken 1/31/13).



# **Exhibit 3**





**HOLLYWOOD HERITAGE, INC.**  
**P.O. Box 2586**  
**Hollywood, CA 90078**  
**(323) 874-4005 • FAX (323) 465-5993**

RECEIVED  
CITY CLERKS OFFICE  
2013 MAR 12 PM 4:15  
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BY \_\_\_\_\_  
DEPUTY

March 11, 2013

Councilman Ed Reyes, 1<sup>st</sup> District  
Los Angeles City Hall  
200 N. Spring St.,  
Los Angeles, CA 90012

Re: Target Hollywood, 5500 Sunset Blvd. Council file 12-1604.

Honorable Councilman and Chair Reyes, and members of the Planning and Land Use Management Committee,

On behalf of the Board of Directors of Hollywood Heritage Inc., I am writing to you regarding an issue of removal of a number of Date Palm trees which once bordered the William Fox Studio on Sunset and Western Boulevards in Hollywood.

We believe the Palm trees, which were nearly a hundred years old, were removed without the proper process befitting their age and significance.

These trees are within the former Community Redevelopment District. In contradiction to an agreement with the CRA which would require that Hollywood Heritage be notified when historic assets are involved, we were not informed of the planned removal of these trees. Neighbors in the area have also informed us that there was no notice to them regarding this removal as well. A 30-day notice is standard, but was not provided to the community.

Although Palm trees are not regarded the same protection as certain types of native oaks, because of their association with the film studio, they nonetheless have significance. It appears that the builders of the new Target which occupies the former Fox property, were not aware of their significance, nor were they aware that even if they were not considered historic, possibly on outside advice of a consultant. However, CEQA requires that review is required when qualified parties do not agree on the value of a potentially historic resource. Since no notification was

made, Hollywood Heritage was denied review of the removal and therefore we believe CEQA was violated.

Since these trees were not in an area planned to our knowledge, for any additional construction, bus lanes, or other sidewalk change, but were in an easement area, appearing to provide no reason for their removal.

We would like to request that the date palms be replaced in an appropriate height, to replace the historic resources which we believe were illegally and unreasonably removed.

Respectfully,

Richard Adkins,  
Vice President,  
Hollywood Heritage, Inc.

# **Exhibit 4**

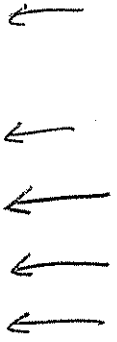


**5500 W SUNSET BLVD 90028**

- [Home](#)
- [Help](#)
- [Parcel Profile Report](#)
- [LADBS Home](#)
- [LAD Property Activity Report](#)
- [Disclaimer](#)

PLEASE CLICK ON AN APPLICATION/PERMIT NUMBER TO GET MORE DETAILS:

APPLICATION/ PERMIT NUMBER	PC / JOB NUMBER	TYPE	STATUS	STATUS DATE	EXCERPT OF WORK DESCRIPTION
09010 10001 02348	B10LA03994	Bldg-Alter/Repair	Verifications in Progress	06/02/2010	SUPPLEMENTAL PERMIT FOR PRE-CAST CONCRETE UNDER PERMIT No.: 09010-10000-02348.
09010 10004 02348	B12LA12291	Bldg-Alter/Repair	Issued	12/10/2012	EARLY START FOR FOUNDATION PERMIT ONLY. [NOTE: CONSTRUCTION WILL NOT COMMENCE UN
10016 10000 10891	B10LA06334	Bldg-Alter/Repair	Reviewed by Supervisor	07/08/2010	STEEL STORAGE RACKS AT EACH LEVEL OF A NEW 3-STORY RETAIL BUILDING (TARGET STOR
09010 10000 02348	B09LA12192	Bldg-New	Verifications in Progress	08/02/2010	CONSTRUCTION OF NEW 3 STORY RETAIL BUILDING AND PARKING AREAS.
09041 10000 24398	E09LA02268	Electrical	Issued	01/31/2013	CONSTRUCTION OF NEW 3 STORY RETAIL BUILDING AND PARKING AREAS ( TARGET STORE ) V
10030 10000 01931	B10LA03837	Grading	Verifications in Progress	03/12/2013	NON-HILLSIDE CIVIL PRECISE GRADING OF CUT 7,200 CY AND FILL 400 CY FOR CONSTRUCT
09044 10000 11752	M09LA03872	HVAC	Issued	01/31/2013	HVAC for a 3 story retail and parking building. DEPARTMENT ORDER effective date
09042 10000 22896	M09LA03870	Plumbing	Verifications in Progress	02/16/2011	Plumbing plan check for a 3 story retail and parking building. COMPLY WITH DEPAR



BACK NEW SEARCH

5500 W SUNSET BLVD 90028

APPLICATION / PERMIT NUMBER: 09010-10000-02348

PLAN CHECK / JOB NUMBER: B09LA12192

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- Disclaimer

Permit Application or Issued Permit Information

GROUP: Building  
 TYPE: Bldg-New  
 SUB-TYPE: Commercial  
 PRIMARY USE: (16) Retail  
 WORK DESCRIPTION: CONSTRUCTION OF NEW 3 STORY RETAIL BUILDING AND PARKING AREAS.  
 PERMIT ISSUED: No PERMIT ISSUE DATE: N/A ISSUING OFFICE: N/A  
 CURRENT STATUS: Verifications in Progress CURRENT STATUS DATE: 08/02/2010

Permit Application Status History

Submitted	12/17/2009	PCIS IMPORT
PC Assigned	01/14/2010	JOHN FRANCIA
Reviewed by Supervisor	02/18/2010	CATHERINE NUEZCA GABA
Verifications in Progress	03/25/2010	JOHN FRANCIA

Permit Application Clearance Information

Green Building	Not Cleared	01/21/2010	JOHN FRANCIA
Miscellaneous	Not Cleared	01/21/2010	JOHN FRANCIA
Site Plan review	Not Cleared	01/21/2010	JOHN FRANCIA
Building over 3-story or 36-ft	Not Cleared	02/02/2010	JOHN FRANCIA
Comm Cor/Mini-Mall	Not Cleared	02/02/2010	JOHN FRANCIA
Excavation more than 5-ft deep	Not Cleared	02/02/2010	JOHN FRANCIA
Hold	Not Cleared	02/02/2010	JOHN FRANCIA
Permit	Not Cleared	02/02/2010	JOHN FRANCIA
Sewer availability	Not Cleared	02/02/2010	JOHN FRANCIA
Driveway location	Not Cleared	02/03/2010	JOHN FRANCIA
Internal circulation	Not Cleared	02/03/2010	JOHN FRANCIA
Miscellaneous	Not Cleared	02/03/2010	JOHN FRANCIA
Prkng lot landscape/Water mgmt	Not Cleared	02/03/2010	JOHN FRANCIA
Project Permit	Not Cleared	02/03/2010	JOHN FRANCIA
Specific Plan	Not Cleared	02/03/2010	JOHN FRANCIA
Title 19 building approval	Cleared	05/04/2010	GHASSEM NIKHOO
Address approval	Cleared	07/09/2010	ANGENEE REYGADAS
Encroachment in public way	Cleared	07/09/2010	HUEY CHU
Eng Process Fee Ord 176,300	Cleared	07/09/2010	AVALYN KAMACHI
Title 19 building approval	Cleared	07/09/2010	DAVE MYERS
Work Adjacent to Public Way	Cleared	07/09/2010	HUEY CHU
Hydrant and Access approval	Cleared	07/20/2010	TERRENCE O'CONNELL
Food Service Establishment	Cleared	07/23/2010	KENNETH BROWNE
Food establishment approval	Cleared	08/02/2010	LACDHS APPROVED
Project located in CRA area	Cleared	08/25/2010	JIM URQUHART
DAS Clearance	Cleared	09/23/2010	EDDIE GARIN
Green Code	Not Cleared	05/19/2011	ALDO UBAU
APC	Not Cleared	05/23/2011	JOHN FRANCIA
DAS Clearance	Not Cleared	05/23/2011	JOHN FRANCIA
Hydrant and Access approval	Not Cleared	05/23/2011	JOHN FRANCIA
Project located in CRA area	Not Cleared	05/23/2011	JOHN FRANCIA
Highway dedication	Not Cleared	01/30/2013	VALENTINO PUEBLOS
Roof/Waste drainage to street	Cleared	03/05/2013	ARMENIA HERNANDEZ
Stormwater Pollution Mitigatn	Cleared	03/05/2013	AYMAN JABBOURI

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Contractor Information

Whiting-Turner Contracting Company The; Lic. No.: 311107-B  
 3 CORPORATE PARK #100  
 IRVINE, CA 92606

Licensed Professional/Contractor Information

**5500 W SUNSET BLVD 90028**  
**APPLICATION / PERMIT NUMBER: 10030-10000-01931**  
**PLAN CHECK / JOB NUMBER: B10LA03837**

**Permit Application or Issued Permit Information**

**LHD Property Activity Report**

**GROUP:** Building  
**TYPE:** Grading  
**SUB-TYPE:** Commercial  
**PRIMARY USE:** (60) Grading - Non-Hillside  
**WORK DESCRIPTION:** NON-HILLSIDE CIVIL PRECISE GRADING OF CUT 7,200 CY AND FILL 400 CY FOR CONSTRUCTION OF NEW 3-STORY RETAIL BUILDING & PARKING AREA UNDER PERMIT No.: 10030-10000-01931.  
**PERMIT ISSUED:** No      **PERMIT ISSUE DATE:** N/A      **ISSUING OFFICE:** N/A  
**CURRENT STATUS:** Verifications in Progress      **CURRENT STATUS DATE:** 03/12/2013

**Permit Application Status History**

Submitted	04/15/2010	PCIS IMPORT
PC Assigned	04/22/2010	JOHN FRANCIA
Reviewed by Supervisor	04/28/2010	ARA SARGSYAN
Verifications in Progress	06/24/2010	JOHN FRANCIA

**Permit Application Clearance Information**

Miscellaneous	Not Cleared	04/27/2010	JOHN FRANCIA
Project Permit	Not Cleared	04/27/2010	JOHN FRANCIA
Specific Plan	Not Cleared	04/27/2010	JOHN FRANCIA
Address approval	Cleared	06/29/2010	DAVID CHIN
Encroachment in public way	Cleared	06/29/2010	RAMZY SAWAYA
Eng Process Fee Ord 176.300 Permit	Cleared	06/29/2010	RAMZY SAWAYA
Roof/Waste drainage to street	Cleared	06/29/2010	AVALYN KAMACHI
Work Adjacent to Public Way	Cleared	06/29/2010	RAMZY SAWAYA
Project located in CRA area	Cleared	08/25/2010	JIM URQUHART
Stormwater Pollution Mitigatn	Cleared	03/05/2013	AYMAN JABBOURI
"D" conditions	Not Cleared	03/12/2013	JOHN FRANCIA
"Q" conditions	Not Cleared	03/12/2013	JOHN FRANCIA
ABC	Not Cleared	03/12/2013	JOHN FRANCIA
Excavation more than 5-ft deep	Cleared	03/12/2013	CALOSHA APPROVED
Low Impact Development	Cleared	03/12/2013	AYMAN JABBOURI

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**Licensed Professional/Contractor Information**

No data available

**Inspection Activity Information**

**Inspector Information**

No data available

**Pending Inspection Request(s)**

No data available

**Inspection Request History**

No data available

BACK    NEWSEARCH

# Exhibit 5

## Edward Hunt

---

**From:** Edward Hunt <edvhunt@earthlink.net>  
**Sent:** Monday, February 11, 2013 5:04 PM  
**To:** 'Jane Usher'  
**Subject:** RE: I was very disappointed that the Times endorsed Carmen's opponent.

Dear Jane,

I had heard that the Target permits had been invalidated and that there was at least threatened litigation involved. That why I was surprised that Building & Safety was going ahead and issuing permits. I thought they just did not get the word that the permits had been evaluated.

In any case, yes, please do let us know what is going on when you are able to do so.

Best wishes,

Edward, 323-646-6287

**From:** Jane Usher [<mailto:jane.usher@lacity.org>]  
**Sent:** Monday, February 11, 2013 11:44 AM  
**To:** Edward Hunt  
**Subject:** Re: I was very disappointed that the Times endorsed Carmen's opponent.

Dear Ed --

Your question does not lend itself to answer at this time because there is threatened litigation involving private litigants, real parties in interest, and the City. I will need to let the lawyers handling those matters come to resolution before I can answer you.

Jane

On Sat, Feb 9, 2013 at 7:58 AM, Jane Usher <[jane.usher@lacity.org](mailto:jane.usher@lacity.org)> wrote:  
Dear Ed --

We will look into the issuance of these DBS permits early next week. Thanks for bringing this to our attention.

Jane

On Sat, Feb 9, 2013 at 6:57 AM, Edward Hunt <[edvhunt@earthlink.net](mailto:edvhunt@earthlink.net)> wrote:  
Dear Jane,

I checked the target store Property Activity Report. It shows 3 additional permits issued and several others in process:

Foundation: 12/10/12  
Electrical for the new building: 1/31/13  
HVAC for the new building: 1/31/13

The impression one gets is that LADBS is ignoring the invalidation and

issuing all the permits anyway as fast as they can check the plans. Were these permit processes also independent of the process that was the subject of the brown act issue?

Just curious.

I was very disappointed that the Times endorsed Carmen's opponent.

Ed Hunt, [323-646-6287](tel:323-646-6287)

-----Original Message-----

From: Edward Hunt [mailto:[edvhunt@earthlink.net](mailto:edvhunt@earthlink.net)]

Sent: Tuesday, February 05, 2013 8:13 PM

To: 'Jane Usher'

Subject: Best wishes for success for your team in the coming elections.

Dear Jane,

Thank you for this clarification.

Best wishes for success for your team in the coming elections.

Ed Hunt

From: Jane Usher [mailto:[jane.usher@lacity.org](mailto:jane.usher@lacity.org)]

Sent: Tuesday, February 05, 2013 8:08 AM

To: Edward Hunt

Subject: Re: Would this not include the street tree removal?

Dear Ed --

I have now heard back from the Public Works Department. Their board issued a permit for the removal of the street trees in December 2012. That permit process was independent of the process that was the subject of the Brown Act issue.

Jane

On Thu, Jan 31, 2013 at 2:56 PM, Edward Hunt <[edvhunt@earthlink.net](mailto:edvhunt@earthlink.net)> wrote:

Dear Jane,

I noticed there is a crew cutting down all the street trees on the target site (about 24 trees at 5500 Sunset).

I heard their permits were invalidated because of a brown act violation. Would this not include the street tree removal?

Just curious.

Ed Hunt

[323-646-6287](tel:323-646-6287)



# **Exhibit 6**

**THE LAW OFFICES OF**  
**DAVID LAWRENCE BELL**

1158 ½ NORTH WESTMORELAND AVENUE  
LOS ANGELES, CALIFORNIA, 90029  
PHONE: (213) 814-9127 FAX: (213) 897-2877  
DLAWRENCEBELL@GMAIL.COM

February 7, 2013

**VIA FACSIMILE (213) 978-8090**  
**AND U.S. MAIL**

Mr. Carmen A. Trutanich  
Mr. Timothy McWilliams  
Mr. Ken Fong  
Ms. Mary J. Decker  
Ms. Terri Kaufmann-Macias  
Los Angeles City Attorney's Office  
200 N. Main Street, City Hall East, Rm. 701  
Los Angeles CA 90012

**VIA FACSIMILE (619) 232-6828**  
**AND U.S. MAIL**

Mr. Richard A. Schulman  
HECHT SOLBERG ROBINSON  
GOLDBERG & BAGLEY LLP  
One American Plaza  
600 West Broadway, Eighth Floor  
San Diego CA 92101

**Re: Notice to City of illegal issuance of permits; Demand to Cease and Desist Target  
Hollywood Project, 5500 Sunset Blvd., Case Numbers: APCC-2008-2703-SPE-CUB-SPP-  
SPR; ENV-2008-1421-EIR**

***Citizens Coalition Los Angeles v. City of Los Angeles, Case No. BS 140930 (Rel. to La  
Mirada Ave., etc. v. City of Los Angeles, Case No. BS 140889)***

Dear Mr. Trutanich, Mr. McWilliams, Mr. Fong, Ms. Decker, Ms. Kaufmann-Macias, and Mr. Schulman:

I represent Citizen's Coalition Los Angeles ("CCLA") in the above-referenced matter. I have also discussed this issue with representatives of the La Mirada Avenue Neighborhood Association of Hollywood. By this letter we protest the City's illegal grant of demolition and construction permits for the Target Hollywood Project at Sunset Blvd. and Western Ave. in East Hollywood, and demand that the City cease all issuance of such permits and rescind any permits that have been granted. The proposed project is an approximately 75-foot tall, 420,035 square foot development with 458 parking stalls on an approximately 160,678 sq. ft lot. The primary occupant would be an approximately 164,000 sq. ft. Target Super Store (the "Project").

At its regular meeting of August 14, 2012, the Central Area Planning Commission approved the Target Hollywood Project. CCLA and La Mirada jointly appealed all approvals to the City Council. On November 13, 2012, the City's Planning and Land Use Management Committee ("PLUM") recommended denial of the appeals and approval of the Project. On November 20,

2012, the full City Council approved the Project without comment as a consent item.

On December 12, 2012, La Mirada sent the City Attorney a Cure and Correct Demand letter alleging Brown Act Violations at both the PLUM and City Council hearings approving the Project. On December 20, 2012, CCLA filed a petition for Writ of Mandamus against the Project, alleging, among other things, that the City's approval violated the California Environmental Quality Act ("CEQA"). La Mirada filed a similar petition on December 18, 2012. On December 31, 2012, in response to La Mirada's complaint of the City's violation of the Brown Act, the City Attorney issued a letter rescinding all approvals for the Project. (See Exhibit 1.) A rehearing on the proposed Project is tentatively scheduled before the PLUM Committee on February 26, 2013; the full City Council is scheduled to consider the matter on March 19, 2013. (See Exhibit 2.) Until and if the City rehears and acts on the Project, all of Target's prior approvals are null and void.

Despite nullification of all of Target's approvals, the City's various departments have continued to issue construction and demolition permits for development of the Project, and Target has continued work at the site. On January 31, 2013, Target removed all City street trees surrounding the Project site, including the historic 100-year-old Canary Island Date Palm trees (*Phoenix Canariensis*) lining Sunset Blvd., in violation of CEQA. (See Exhibit 3, including a photo from 1917 showing the trees already part of the streetscape at that time.)

La Mirada's comment letter on DEIR stated objections to removal of trees on page 4:

Page II-11, under the heading "Open Space and Landscaping," states that the Ficus trees on Western Ave. would be removed with implementation of the Project. However, no mention is made of the historic Canary Island Date Palm trees (*Phoenix Canariensis*) lining the site's frontage on Sunset Blvd. These trees, which date from approximately 1915, were previously slated for removal when the Project initially received City approval in 2010. Since these mature Palm trees are an important contributor to historic Sunset Blvd., their possible removal needs to be addressed in the EIR. (This matter is also listed on page II-14 under "Discretionary Actions and Approvals").

On January 31, 2013, the Department of Building and Safety issued permits for electrical work and HVAC work on the Project site, described in the permit as a "new 3-story retail building." (See Exhibit 4.)

On December 10, 2012, the Department of Building and Safety issued a permit for early foundation work on the project. (See Exhibit 5.) Although this permit was issued prior to the rescission of the project approvals, it is now invalid and must be revoked.

Representatives of La Mirada have informed me that Department of Street Services, Department of Urban Forestry, says the palm trees were posted in September, 2012, for 30 days. But, despite monitoring the site closely during this period, no such posting was seen by the La Mirada

CCLA v. City of Los Angeles

February 7, 2013

Page 3

representative, or by other community members. In addition, although a hearing was held before the Board of Public Works on December 14, 2012, regarding the removal of the historic palm trees, no notice was sent to La Mirada, CCLA, or the Neighborhood Council with jurisdiction over the project. La Mirada and CCLA put in requests for notification in 2010.

The purpose of CEQA is to inform the public and public officials of the environmental consequences of decisions before they are made. *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564. Public agencies must comply with CEQA before carrying out or approving a project. CEQA Guidelines §15004(a); *Laurel Heights Improvement Association v. UC Regents* (1988) 47 Cal.3d 376, 394.

Here, the City has approved the removal of the historic trees on Sunset Boulevard – despite the issue being explicitly raised in the objections to the DEIR. The trees cannot be replaced. The issue of their historic value is now moot. Such extrajudicial action demonstrates a blatant disregard for the environmental review process and is in clear violation of CEQA.

Similarly, the issuance of permits for the project, as well as the continued work on the project in accordance with such permits, despite the rescission of all project approvals, and despite the ongoing litigation, shows utter contempt for the legal requirements of CEQA. Accordingly – before any more irreparable harm can be done regarding this project, we hereby demand that all project permits be rescinded and all further work on the project cease.

Yours truly,



David Bell  
Attorney for CCLA

# **Exhibit 7**



Richard A. Schulman  
E-MAIL: RSCHULMAN@HECHTSOLBERG.COM

February 19, 2013

**BY FACSIMILE (213-897-2877)**

David Lawrence Bell  
The Law Offices of David Lawrence Bell  
1158-1/2 North Westmoreland Avenue  
Los Angeles, California 90029

Re: **Citizens Coalition, etc. v. City of Los Angeles (Target Corporation)**  
**Superior Court Of California, County Of Los Angeles**  
**SE District - Norwalk Superior Court Case BS140930**

Dear Mr. Bell:

As you know, this firm represents Target Corporation in the litigation you filed. I am responding to your letter dated February 7, 2013, which I first received from Kenneth Fong at the City and then by mail from you.

Target respectfully disagrees with your position. As you know, Target and the City may rely on approved entitlements unless the City formally revokes them or a court formally invalidates them. Neither of those events has occurred. Thus, the City was authorized to issue permits to perform the work complained of in your letter, and Target may rely on those permits.

Thank you for your courtesy on this matter.

Very truly yours,

Richard A. Schulman  
HECHT SOLBERG ROBINSON GOLDBERG & BAGLEY LLP

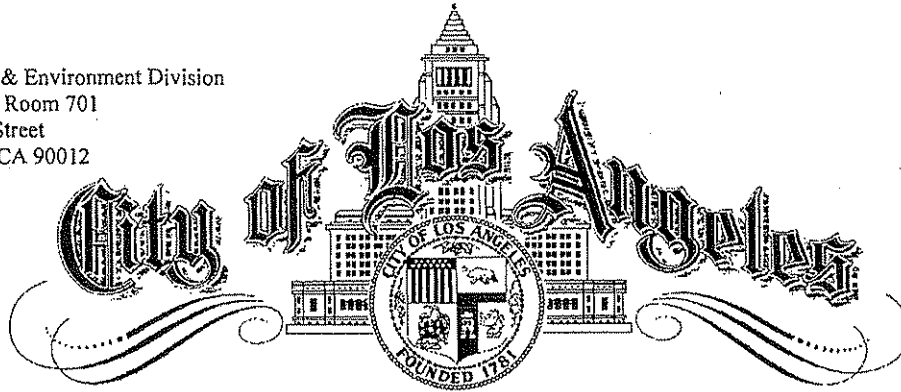
RAS:cas  
080034-0016 4850-8881-2050\_2

cc: Client  
Kenneth Fong  
Mary Decker

# Exhibit 8

Real Property & Environment Division  
City Hall East Room 701  
200 N. Main Street  
Los Angeles, CA 90012

(213) 978-8182 Tel  
(213) 978-8090 Fax  
mary.decker@lacity.org  
www.lacity.org/atty



**CARMEN A. TRUTANICH**  
City Attorney

March 8, 2013

Robert P. Silverstein, Esq.  
The Silverstein Law Firm, APC  
215 North Marengo Ave., 3<sup>rd</sup> Floor  
Pasadena, CA 91101-1504

David Lawrence Bell, Esq.  
1158 ½ North Westmoreland Ave.  
Los Angeles, CA 90029

Richard A. Schulman, Esq.  
Hecht Solberg Robinson Goldberg & Bagley LLP  
One America Plaza  
600 West Broadway, 8th Floor  
San Diego, CA 92101

**Re: *La Mirada Ave. Neighborhood Ass'n v. City of Los Angeles, et al.*, BS140889  
*Citizens Coalition Los Angeles v. City of Los Angeles, et al.*, BS140930**

Dear Counsel:

I write regarding the following issues related to the above-referenced lawsuits challenging the City's approval of the Hollywood Target project.

**Status of the Cases**

**1. Rehearing by the City**

Petitioner La Mirada Avenue Neighborhood Association ("La Mirada") submitted a Brown Act protest to the City Clerk and to our office. While not conceding any violation, out of an abundance of caution the City agreed to rehear the Project at both PLUM and City Council, which is currently anticipated to be completed on or about April 2, 2013.



## 2. Pending Relation of the Cases

On January 9, 2013, the City filed notices of related cases in both actions. On January 11, 2013, Department One assigned both cases to Judge Torribio in Department G. The La Mirada Petitioner filed a C.C.P. Sec. 170.6 challenge for prejudice to Judge Torribio and Department One reassigned La Mirada to Judge McKnew in Department H. The Citizens Coalition Petitioner case remains in front of Judge Torribio, who set a status conference for April 11, 2013. Judge McKnew set a case management conference in La Mirada for May 15, 2013. The court has not yet ruled on the relation of the cases.

### Administrative Record

Petitioner La Mirada elected to prepare the administrative record in case number BS140889. Petitioner Citizens Coalition made no election or request regarding the record in case number BS 140930. We assume that one record will be prepared for use in the cases and provide this preliminary notification under the Local Rules for both cases.

#### 1. City Files and Transcripts

To date, the City has identified the following files as containing documents anticipated to constitute the record in these actions: City Planning Department files: APC 2008-2703-SPE-CUB-SPP-SPR-1A; ENV 2008-1421-MND; ENV 2008-1421-EIR; and other non-privileged Planning Department documents, and City Council files: CF 09-2092 and CF 12-1604.

To date, the City has identified the following public meetings/hearings for which meeting agendas, applicable journals and minutes, and transcripts are required:

- June 23, 2009 Central Area Planning Commission
- September 29, 2009 Planning and Land Use Management Committee
- October 6, 2009 Planning and Land Use Management Committee
- October 13, 2009 Planning and Land Use Management Committee
- October 27, 2009 Planning and Land Use Management Committee
- December 1, 2009 Planning and Land Use Management Committee
- June 15, 2010 Planning and Land Use Management Committee
- June 29, 2010 Planning and Land Use Management Committee
- June 30, 2010 City Council
- August 18, 2010 City Council
- August 14, 2012 Central Area Planning Commission
- November 6, 2012 Planning and Land Use Management Committee
- November 13, 2012 Planning and Land Use Management Committee
- November 20, 2012 City Council
- March 2013 Planning and Land Use Management (planned)
- April 2013 City Council (planned)

These files contain a number of oversized and/or colored documents. At this time, we estimate that there are at least 14,000 pages of documents to be included in the record, not

including public meetings transcripts and documents. We will update this estimate as needed in the future.

## 2. Required Procedures to Ensure an Accurate and Efficient Record Certification

The La Mirada Petitioner elected to prepare the record. To ensure the integrity of the original files and control certification costs in accord with L.R. 3.232, all documents referenced above will be scanned. In the process of scanning, a small control number will be placed in either the lower left corner or the middle top of each page. As set forth below, in order to ensure efficient and timely certification of the administrative record, you are required to utilize documents bearing such control numbers in your preparation of the record. The numbered set of City files is known as the Control Set.

The City will generally only certify an administrative record prepared with documents from the Control Set, which the City will provide at cost. The Control Set is a direct copy, and it is of no lesser quality than any copy obtained by third parties, such as by any petitioner. The numbered Control Set is an exact duplicate of all City files, and is used as a means of ensuring that the documents in the proposed record did in fact originate from City files, and thus protects the integrity of the record. See *Protect our Water v. County of Merced* (2003) 110 Cal.App.4th 362, 372-373 (public agency responsible for ensuring the accuracy of the record, notwithstanding fact that petitioner elected to prepare record).

The cost ("Initial Control Set Cost") will be provided as soon as possible after rehearing is completed, and is expected to be over \$3,300 due to the estimated volume of the record. Subsequent copies of the CD/DVD will be \$6.00 ("Subsequent Control Set Cost"). Please note that the first party who desires to obtain the Control Set first will have to pay the Initial Control Set Cost; subsequent parties will pay the Subsequent Control Set Cost. For this reason, it would make the most sense to wait until the cases are related to explore whether the Petitioners in the two cases can cost share.

In any event, the Control Set can be obtained by sending, to my attention, a check for the amount payable to the "City of Los Angeles." After payment is received, we will mail the CD/DVD to you, or alternatively you may arrange for pickup in our offices.

All meetings that are part of the record must be transcribed by a certified court reporting service, with no exceptions. A certified court reporting service is not a party or related to a party in the litigation and is: (a) a court reporter certified as a Certified Shorthand Reporter as licensed by the Court Reporters Board of California; (b) an organization or person belonging to an association recognized by the Court Reporters Board of California; (c) an organization or person belonging to the American Association of Electronic Reporters and Transcribers; or (d) a transcriber that is deemed by the City as otherwise acceptable for purposes of transcribing City hearings and meetings. A cost sharing arrangement amongst the Petitioners in the two cases would make sense for this as well, rather than duplicating transcriptions.

Meeting tapes (audio and/or video) for the City Council, PLUM Committee, and Central Area Planning Commission meetings above, from which transcriptions can be made, are available on-line at no charge at: [www.lacity.org](http://www.lacity.org), City Government Tab, Select "Council, Committee, and Board Meetings."

There may be other actual costs to the City, such as paralegal and staff time, associated with ensuring certification of the administrative record, for which the City is entitled to seek recovery. See *St. Vincent's School for Boys v. City of San Rafael* (2008) 160 Cal.App.4th 1426. For instance, Paralegal time is currently \$63.99-\$79.83 per hour and Legal Secretary time is currently up to \$63.29 per hour. These recoverable costs will be greatly increased if you ignore the City's customary procedures by not utilizing the Control Set.

### 3. Preparing the Index and Administrative Record

When preparing the record, please use the enclosed sample index format for your preparation of the detailed index. Special care should be given to documents with attachments. Entries for this type of document should be kept together, with the primary document listed, including date of that document if applicable; then list the attachments including the date of that document, if any, as part of the descriptive text.

Example:

Date	Document
05/10/2005	Letter: XYZ Coalition to Council with attachments: Letter dated 04/11/2003 from XYZ Coalition to Council; and Letter dated 02/15/2003 from XYZ Coalition to Council.

Please follow these additional procedures when preparing the record:

- Do not delete or add documents to City files.
- Please be aware that documents that appear to be duplicates are often in actuality not, because for instance the alleged duplicates do not contain certain attachments or may have certain notes or marginalia. In the Control Set, the City has eliminated the obvious duplicates. If you feel there are other obvious duplicates that would create unnecessary costs for the parties, please note their control numbers for our review.
- If Bates numbers are added in addition to the numbered master copy, this should not be added to the documents or the proposed index prior to the parties' review period under Local Rule 3.232.
- The La Mirada Petitioner is responsible for lodging the complete certified record with the Court in accordance with Local Rule 3.232 or the assigned Department's procedures, and must also serve the parties with the complete certified record. Service copies of the records must be exactly the same as the copy of the record lodged with the Court, unless previously agreed otherwise with individual counsel.
- Please be aware that Rules of Court, rules 3.1365 through 3.168, govern the format of administrative records in CEQA cases.

### 4. Availability of Documents for Review


The original Department of City Planning files can be inspected at the Los Angeles Department of City Planning Automated Records in Room 575 of City Hall, 200 North Spring

Street, Los Angeles CA 90012, during normal business hours (phone (213) 978-1259). Please call ahead to ensure the documents are available. The original Los Angeles City Council files can be inspected at the Los Angeles City Clerk's Office on the third floor of City Hall, 200 North Spring Street, Los Angeles, CA 90012, during normal business hours (phone (213) 978-1046). Tapes of transcripts can be downloaded from the City's website at [www.lacity.org](http://www.lacity.org) as noted above.

**Conclusion**

Given the status of the cases it makes sense for the parties to reach a stipulation regarding the record preparation deadlines. I suggest that Petitioners' counsel or the Real Party's counsel set up a conference call for counsel to discuss these matters. You can reach me and Ken Fong my email or phone to arrange a call with us. Thank you in advance for your cooperation in this matter.

Sincerely,



MARY J. DECKER  
Deputy City Attorney

cc: Ken Fong, Deputy City Attorney  
Alice Fong, Paralegal, City of Los Angeles

Enclosure

# **Exhibit 9**

**MASTER LAND USE PERMIT APPLICATION**  
**LOS ANGELES CITY PLANNING DEPARTMENT**

*Planning Staff Use Only*

ENV. No. <u>2012-3202-CE</u>	Existing Zone <u>R4-2</u>	District Map <u>147A193</u>	
APC Central	Community Plan <u>Hollywood</u>	Council District <u>13</u>	
Census Tract <u>1909.01</u>	APN <u>5544030059</u>	Case Filed With [DSC Staff] <u>R. Avila</u>	Date <u>11-19-2012</u>

**ZA 2012-3201-ZV-ZAA**

Case No. \_\_\_\_\_

Application Type Variance for off-site parking and Zoning Administrator Adjustment for building setbacks  
*(zone change, variance, conditional use, tract/parcel map, specific plan exception, etc.)*

**1. PROJECT LOCATION AND SIZE**

Street Address of Project 5616, 5618, 5620 De Longpre Ave., LA Zip Code 90028

Legal Description: Lot Nos. 4 through 7, Block 3, Lemona Tract

Lot Dimensions 200' x 165' Lot Area (sq. ft) approx. 33,000 Total Project Size (sq. ft.) 20,546

**2. PROJECT DESCRIPTION**

Describe what is to be done: Interior tenant improvements and change of use of a two 2-story children's club and day care building with a maximum occupancy of 974 persons in order to relocate a public charter school (maximum 390-students Grades K-8, with approx. 20-25 faculty/administration, up to 13 classrooms) on a site in the R4-2 zone with 19 off-site parking spaces

Present Use: Children's Club facility and Day Care Building Proposed Use: Public Charter School

Plan Check No. (if available) \_\_\_\_\_ Date Filed: \_\_\_\_\_

- Check all that apply:
- |   |   |   |                                      |
|---|---|---|--------------------------------------|
| <input type="checkbox"/> New Construction | <input checked="" type="checkbox"/> Change of Use | <input checked="" type="checkbox"/> Alterations | <input type="checkbox"/> Demolition  |
| <input type="checkbox"/> Commercial       | <input type="checkbox"/> Industrial               | <input type="checkbox"/> Residential            | <input type="checkbox"/> LEED Silver |
- Additions to the building:
- |                               |                                |                                 |                                    |
|-------------------------------|--------------------------------|---------------------------------|------------------------------------|
| <input type="checkbox"/> Rear | <input type="checkbox"/> Front | <input type="checkbox"/> Height | <input type="checkbox"/> Side Yard |
|-------------------------------|--------------------------------|---------------------------------|------------------------------------|
- No. of residential units: Existing 0 To be demolished 0 Adding \_\_\_\_\_ Total \_\_\_\_\_

**3. ACTION(S) REQUESTED**

Describe the requested entitlement which either authorizes actions OR grants a variance:

Code Section from which relief is requested: 12.21.A.4(f) Code Section which authorizes relief: 12.27 Parking variance to allow the existing 19 off-site parking spaces that serve an existing Children's Club to serve a proposed public charter school Grades K-8 on the site in lieu of providing on-site parking that is required for elementary schools

Code Section from which relief is requested: 12.21.C.3 (b) Code Section which authorizes relief: 12.28 ZA adjustment to allow the existing western 5' side yard in lieu of the 10' side yard required, and the existing 41' width of the combined side yards in lieu of the 50' width of the combined side yards required for a school on the site.

Code Section from which relief is requested: \_\_\_\_\_ Code Section which authorizes relief: \_\_\_\_\_

List related or pending case numbers relating to this site:

Case No. ZA 94-0886(ZV)(YV) - Zone and Area Variances granted for a Children's Club/Day Care Center



**4. OWNER/APPLICANT INFORMATION**

Applicant's Name Amy Dresser Held Company Citizens of the World Charter Schools-Los Angeles  
 Address: 1316 N. Bronson Ave. Telephone: (310)482-8470 Fax: (213)542-4701  
Hollywood, CA Zip: 90028 Email: aheld@citizensoftheworld.org

Property Owner's Name: Assistance League of Southern California  
 Address: 1370 N. St. Andrews Place Telephone: (323) 469-1973 Fax: (323) 469-3533  
Los Angeles, CA Zip: 90028 Email: jsleisner@mac.com

Contact Person for project information Michael S. Woodward Company \_\_\_\_\_  
 Address: 4600 Mirador Place Telephone: (818)516-8599 Fax: (818)343-8459  
Tarzana, CA Zip: 91356 Email: mswoodward3@gmail.com

**5. APPLICANT'S AFFIDAVIT**

Under penalty of perjury the following declarations are made:

- a. The undersigned is the owner or lessee if entire site is leased, or authorized agent of the owner with power of attorney or officers of a corporation (submit proof). (NOTE: for zone changes lessee may not sign).
- b. The information presented is true and correct to the best of my knowledge.
- c. In exchange for the City's processing of this Application, the undersigned Applicant agrees to defend, indemnify and hold harmless the City, its agents, officers or employees, against any legal claim, action, or proceeding against the City or its agents, officers, or employees, to attack, set aside, void or annul any approval given as a result of this Application.

Citizens of the World Charter Schools-Los Angeles

Assistance League of Southern California

By [Signature]  
 Amy Dresser Held, Executive Director

By [Signature]  
 Susan Leisner, President

**ALL-PURPOSE ACKNOWLEDGMENT**

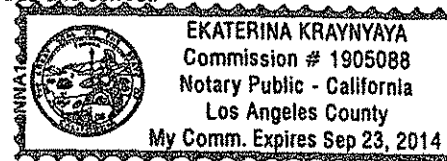
State of California  
 County of Los Angeles

On 16 November 2012 before me, EKATERINA KRAYNYAYA, Notary Public  
 (Date) (Inset Name of Notary Public and Title)  
 personally appeared Susan Leisner who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Signature] (SEAL)  
 Signature



**6. ADDITIONAL INFORMATION/FINDINGS**

In order for the City to render a determination on your application, additional information may be required. Consult the appropriate "Special Instructions" handout. Provide on an attached sheet(s), this additional information using the hand-out as a guide.  
 NOTE: All applicants are eligible to request a one time, one-year only freeze on fees charged by various City departments in connection with your project. It is advisable only when this application is deemed complete or upon payment of Building and Safety plan check fees. Please ask staff for details or an application.

*Planning Staff Use Only*

Base Fee <u>\$448</u>	Reviewed and Accepted by [Project Planner]	Date
Receipt No. <u>9400</u>	Deemed Complete by [Project Planner]	Date

October 30, 2012  
VIA HAND DELIVERY

Department of City Planning  
City of Los Angeles  
Room 525, City Hall  
200 N. Spring Street  
Los Angeles, CA 90012

Re: **5620 De Longpre Avenue (Proposed Re-use of Children's Club for a Charter Elementary School)**

To Whom It May Concern:

The Assistance League of Southern California ("Owner"), is the owner of the property located at 5620 De Longpre Avenue (APN 5544-030-059). Owner has entered into an agreement with Citizens of the World Silver Lake ("Citizens") to lease the subject property for use and interior renovation as a public charter elementary school. Owner hereby gives its consent to Citizens to file with the City of Los Angeles and any related departments (including the Department of City Planning, Department of Building and Safety, Public Works, and City Council) and process any required adjustment, variance, building permit, or other planning, zoning, and development applications, permits or approvals relating to the use of the property for the proposed charter elementary school.

Please contact the undersigned if you have any questions or need any additional information regarding this matter.

Very truly yours,

Assistance League of Southern California

By *Susan Leisner, President*  
Susan Leisner, President

State of California  
County of Los Angeles

On \_\_\_\_\_ before me, \_\_\_\_\_, personally

appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

**ZA 2012-3201**



AIR COMMERCIAL REAL ESTATE ASSOCIATION
STANDARD INDUSTRIAL/COMMERCIAL SINGLE-TENANT LEASE -- NET

(DO NOT USE THIS FORM FOR MULTI-TENANT BUILDINGS)

1. Basic Provisions ("Basic Provisions").

1.1 Parties: This Lease ("Lease"), dated for reference purposes only August 7, 2012
is made by and between Assistance League of Southern California
and Citizens of the World Silver Lake

1.2 Premises: That certain real property, including all improvements therein or to be provided by Lessor under the terms of this Lease,
and commonly known as 5620 De Longpre Avenue
located in the County of Los Angeles, State of California
and generally described as (describe briefly the nature of the property and, if applicable, the "Project", if the property is located within a Project)
an approximate 22,000 square foot facility

1.3 Term: Five (5) years and Zero (0) months ("Original Term") commencing August 20, 2012
("Commencement Date") and ending August 19, 2017 ("Expiration Date").

1.4 Early Possession: If the Premises are available Lessee may have non-exclusive possession of the Premises commencing
("Early Possession Date").

1.5 Base Rent: [redacted] per month ("Base Rent"), payable on the Twentieth (20th) day of
each month commencing August 20, 2012.

[X] If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph 51

1.6 Base Rent and Other Monies Paid Upon Execution:

- (a) Base Rent [redacted] for the period August 20, 2012 - September 19, 2012
(b) Security Deposit [redacted] ("Security Deposit").
(c) Association Fees: \$N/A for the period
(d) Other: \$N/A for

(e) Total Due Upon Execution of this Lease: [redacted]

1.7 Agreed Use: Charter school

1.8 Insuring Party: Lessor is the "insuring party" unless otherwise stated herein.

1.9 Real Estate Brokers:

(a) Representations: The following real estate brokers (the "Brokers") and brokerage relationships exist in this transaction (check applicable boxes):

- [ ] represents Lessor exclusively ("Lessor's Broker");
[ ] represents Lessee exclusively ("Lessee's Broker"); or
[ ] represents both Lessor and Lessee ("Dual Agency").

(b) Payment to Brokers: Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers for the brokerage
services rendered by the Brokers the fee agreed to in the attached separate written agreement or if no such agreement is attached, the sum of
% of the total Base Rent payable for the Original Term, the sum of
of the total Base
Rent payable during any period of time that the Lessee occupies the Premises subsequent to the Original Term, and/or the sum of
% of the purchase price in the event that the Lessee or anyone affiliated with Lessee acquires from Lessor any rights to the Premises.

1.10 Guarantor: The obligations of the Lessee under this Lease are to be guaranteed by
("Guarantor").

1.11 Attachments: Attached hereto are the following, all of which constitute a part of this Lease:

- [X] an Addendum consisting of Paragraphs 51 through 55;
[ ] a plot plan depicting the Premises;
[ ] a current set of the Rules and Regulations;
[ ] a Work Letter;
[ ] other (specify):

2. Premises.

2.1 Letting. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and

Handwritten initials: SL

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Handwritten initials: ADH

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ZA 2012-3201

upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be different. Note: Lessee is advised to verify the actual size prior to executing this Lease.

2.2 Condition. Lessor shall deliver the Premises to Lessee broom clean and free of debris on the Commencement Date or the Early Possession Date, whichever first occurs ("Start Date"), and, so long as the required service contracts described in Paragraph 7.1(b) below are obtained by Lessee and in effect within thirty days following the Start Date, warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("HVAC"), loading doors, sump pumps, if any, and all other such elements in the Premises, other than those constructed by Lessee, shall be in good operating condition on said date, that the structural elements of the roof, bearing walls and foundation of any buildings on the Premises (the "Building") shall be free of material defects, and that the Premises do not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law. If a non-compliance with said warranty exists as of the Start Date, or if one of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as Lessor's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, malfunction or failure, rectify same at Lessor's expense. The warranty periods shall be as follows: (i) 6 months as to the HVAC systems, and (ii) 30 days as to the remaining systems and other elements of the Building. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense.

2.3 Compliance. Lessor warrants that to the best of its knowledge the improvements on the Premises comply with the building codes, applicable laws, covenants or restrictions of record, regulations, and ordinances ("Applicable Requirements") that were in effect at the time that each improvement, or portion thereof, was constructed. Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 5D), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(e)) made or to be made by Lessee. NOTE: Lessee is responsible for determining whether or not the Applicable Requirements, and especially the zoning, are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed. If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within 6 months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Premises and/or Building, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Unit, Premises and/or Building ("Capital Expenditure"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and an amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.


(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date that on which the Base Rent is due, an amount equal to 1/144th of the portion of such costs reasonably attributable to the Premises. Lessee shall pay interest on the balance but may prepay its obligation at any time. If, however, such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not, however, have any right to terminate this Lease.

2.4 Acknowledgements. Lessee acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises, (b) it has been advised by Lessor and/or Brokers to satisfy itself with respect to the size and condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use, (c) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, (d) it is not relying on any representation as to the size of the Premises made by Brokers or Lessor, (e) the square footage of the Premises was not material to Lessee's decision to lease the Premises and pay the Rent stated herein, and (f) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

~~2.5 Lessee as Prior Owner/Occupant. The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.~~

  
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3. Term.

3.1 Term. The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

~~3.2 Early Possession. Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date. Any grant of Early Possession only conveys a non-exclusive right to occupy the Premises. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such Early Possession. All other terms of this Lease (including but not limited to the obligations to pay Real Property Taxes and insurance premiums and to maintain the Premises) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.~~

3.3 Delay in Possession. Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, as the same may be extended under the terms of any Work Letter executed by Parties, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 Lessee Compliance. Lessor shall not be required to deliver possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. Rent.

4.1 Rent Defined. All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("Rent").

4.2 Payment. Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. All monetary amounts shall be rounded to the nearest whole dollar. In the event that any invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of \$25 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent, Insurance and Real Property Taxes, and any remaining amount to any other outstanding charges or costs.

~~4.3 Association Fees. In addition to the Base Rent, Lessee shall pay to Lessor each month an amount equal to any owner's association or condominium fee levied or assessed against the Premises. Said monies shall be paid at the same time and in the same manner as the Base Rent.~~

5. Security Deposit. Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, for Rents which will be due in the future, and/ or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease.

6. Use.

6.1 Use. Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the improvements on the Premises or the mechanical or electrical systems therein, and/or is not significantly more burdensome to the Premises. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in

  
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Executed at: 1370 N. ST. ANDREWS  
On: 8/7/2012

Executed at: 1370 N. Saint Andrews Pl.  
On: 8/7/12

By LESSOR:  
Assistance League of Southern California

By LESSEE:  
Citizens of the World Silver Lake

By: [Signature]  
Name Printed: Sue Leisner

By: [Signature]  
Name Printed: Amy Held

Title: President

Title: Executive Director

By: \_\_\_\_\_  
Name Printed: \_\_\_\_\_

By: \_\_\_\_\_  
Name Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Address: 1370 N. Saint Andrews Pl.

Address: 1316 N. Bronson Ave.

Los Angeles, CA 90028

Los Angeles, CA 90028

Telephone: (323) 469-1973

Telephone: (310) 482-8470

Facsimile: (323) 469-3533

Facsimile: (213) 542-4701

Email: jsleisner@alac.com

Email: aheld@citizensoftheworld.org

Federal ID No. \_\_\_\_\_

Federal ID No. 45-353-2127

**BROKER:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: ( ) \_\_\_\_\_  
Facsimile: ( ) \_\_\_\_\_  
Email: \_\_\_\_\_  
Federal ID No. \_\_\_\_\_  
Broker/Agent DRE License #: \_\_\_\_\_

**BROKER:**  
\_\_\_\_\_  
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Federal ID No. \_\_\_\_\_  
Broker/Agent DRE License #: \_\_\_\_\_

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 800 W 6th Street, Suite 800, Los Angeles, CA 90017. Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

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## ADDENDUM

Date: August 7, 2012

By and Between (Lessor) Assistance League of Southern California  
(Lessee) Citizens of the World Silver Lake

Address of Premises: 5620 De Longpre Avenue  
Hollywood, CA 90028

Paragraph \_\_\_\_\_

In the event of any conflict between the provisions of this Addendum and the printed provisions of the Lease, this Addendum shall control.

52. Termination; Merger. In addition to the terms and conditions described in Paragraph 35, the following additional terms and conditions shall apply:

a) In the event Lessee is unable to obtain the appropriate Change of Use Permit by December 31, 2012, both Lessee and Lessor have the right to terminate this Lease with six (6) months prior written notice for Lessor to have or for Lessee to vacate the Premises. The six (6) month notice to vacate the Premises on the part of Lessee can be provided as soon as January 1, 2013.

b) On or before, but not after December 31, 2012, Lessee may request of Lessor a two (2) month extension of the December 31, 2012 requirement date to obtain the appropriate Change of Use Permit, to February 28, 2013. The decision to approve or deny the two (2) month extension is at Lessor's sole discretion and will be provided to Lessee on or before January 18, 2013. In the event that Lessor approves Lessee's request for a two (2) month extension, but Lessee is unable to obtain the appropriate Change of Use Permit by February 28, 2013, both Lessee and Lessor have the right to terminate this Lease with four (4) months prior written notice for Lessee to vacate the Premises. This four (4) month notice to vacate the Premises on the part of Lessee can be provided as soon as February 28, 2013.

c) Lessee shall be given the first right of refusal in the event that the Property is put up for sale. Lessor has the right to terminate this Lease with ninety (90) days prior written notice in the event Lessor enters into a fully executed purchase and sale agreement for the Premises. Notwithstanding the above, in no instance shall Lessee be required to vacate the Premises during the school year.

53. Parking.

a) Lessee shall have dedicated fifteen (15) parking spaces in Year One (1), and increasing to twenty (20) parking spaces in Years Two (2) and beyond. Monthly cost shall be \$900 (\$60 per space) for Year One and \$1,200 (\$60 per space) for Year Two and beyond in order to accommodate for parking.

b) Lessee intends to secure the necessary occupancy approvals to fully operate the Premises as a school. Lessee expects the City of Los Angeles to require a minimum number of parking spaces for school use. Should the City require more than the twenty (20) spaces, Lessor shall make all reasonable efforts to accommodate this increase. Additional parking spaces will be negotiated in a separate agreement between the Parties as needed.

54. Description of Improvements to Premises. Lessee intends to secure E-occupancy for the entire Premises and fully operate the facility as a charter school. Lessee envisions converting several of the spaces, including the library and second (2nd) floor conference room, into classrooms as well as any ADA and building code requirements by the City of Los Angeles. Further, Lessee intends to permanently divide classrooms 5 and 6 into separate rooms. All improvements requested by Lessee and required by the City of Los Angeles and relevant agencies will be subject to Lessor's approval and in Lessor's sole discretion. All improvements to the Premises shall be at the sole cost of Lessee.

55. Lessee agrees to commit Ten Thousand Dollars (\$10,000.00) for the purpose of Capital Improvement Projects to be performed on the Premises. Expenses for these Capital Improvement Projects to be expended by Lessee no later than December 31, 2012. Identification of appropriate Capital Improvement Projects to be conducted jointly by Lessor and Lessee mutually, but final approval of appropriate Capital Improvement Projects is at the sole discretion of Lessor.

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**Attachment A to Master Land Use Permit Application  
5620 De Longpre Avenue**

**Project Description**

A Variance to utilize the existing offsite parking and a Zoning Administrator's Adjustment to utilize the existing yard setbacks in connection with the adaptive re-use of an existing two-story 20,546 square foot Children's Club and Day Care building for use as a public charter school serving grades K through 8, with a maximum enrollment of up to 390 students, on a 0.75-acre (33,000 square foot) site classified in the R4-2 zone. An existing public charter school, the Citizens of the World Charter School, currently sharing space on the LAUSD campus of Grant Elementary School at 1530 N. Wilton Place, approximately 0.18 miles from the subject property, with approximately 160 students in grades K-1, would initially be re-located to the subject property. No additional floor area or changes to the exterior of the existing structure are proposed. The conversion work involves the interior remodeling of the existing Children's Club building in order to increase the number of classrooms from 6 up to 13 classrooms.

The requested Parking Variance would be to allow the charter school to utilize the existing 19-space off-site parking lot that currently serves the Children's Club. The Zoning Code requires parking for elementary schools, at the rate of one space per classroom, to be located on the same lot as the classrooms. The existing Children's Club was approved for development in 1995 with 19 off-site spaces located in a parking lot on the next block to the east (located at 5522 De Longpre Avenue), pursuant to a parking variance (Case No. ZA 94-0886(ZV)(YV)). The requested ZA Adjustment would allow the existing 5-foot western side yard and the combined width of the existing 5-foot western side yard and 36-foot eastern side yard to serve the charter school in lieu of the 10 foot western side yard and combined 50-foot minimum width of the two side yards required by LAMC § 12.21.C.3. The ZA Adjustment would result in a western side yard setback of 5' in lieu of 10' and would allow the combined width of the two side yards to be 41 feet, in lieu of 50 feet as required by LAMC § 12.21.C.3 (b).

The conversion of the existing Children's Club building into a charter school will result in a total of up to 13 classrooms, in addition to a library, nurses station, teacher's lounge, kitchen, multi-purpose assembly/gymnasium area, and administrative offices. Outdoors, the school will maintain the existing approximately 3,500 square feet of open grass area as a playground, in addition to the existing swimming pool and the basketball/volleyball court. The school will continue to use the existing on-street student drop-off/pick-up area on De Longpre Avenue at the entrance to the school. The school will be operated by approximately 25 teachers and administrative staff with regular hours of operation from 7:30 a.m. to 3:00 p.m. Monday through Friday. An after school child care program will be provided for up to approximately 50% of the student body between 3:00 p.m. and 6:00 p.m. It is anticipated there will be approximately 10 parent-teacher meetings (one each month). Special events such as parent-student conferences, committee meetings, and fundraisers, would not exceed 2 events per month and no more than one event on a single day. Any special event in the evening would end by 9:00 p.m. Any special event expected to attract more than 50 people will have auxiliary parking agreements with

neighboring facilities. The school will also have limited activities (such as tutoring, enrichment classes and other learning activities) that would occur approximately twice a month on Saturdays in operation from 8:00 am until 12:00 noon. The school would also have a summer school program during a portion of the summer months, with the same hours as the regular school operations.

### Background

The subject property is an approximately .75-acre, 33,000 square foot, rectangular-shaped parcel occupying the midblock section of De Longpre Avenue between Fernwood Avenue and St. Andrews Place in the Hollywood community. The property is currently zoned R4-2. The property is designated on the land use diagram of the Hollywood Community Plan as High Density residential, corresponding to the R4 zone.

The existing Children's Club utilizes an approximately 120-foot long curb-side loading area proposed on De Longpre Avenue, in front of the main entrance. The school would use the same area for drop-off and pick-up. Cars would enter onto De Longpre from Fernwood, queue in the designated drop-off area and continue east along De Longpre to St. Andrews Place. Outdoor playground and landscaped areas totaling approximately 18,697 square feet, including a swimming pool and basketball and volleyball court in the southern portion of the property, would be utilized by the school. The existing 8-foot high wrought iron fence would be maintained around the perimeter of the property to provide security.

The charter school would be operated by applicant Citizens of the World Charter Schools-Los Angeles ("CWC"), a non-profit public benefit corporation. Since September 2010, CWC has operated two charter schools in the Hollywood area, located on a portion of Grant Elementary School at 1530 N. Wilton Place, approximately 0.18 miles to the north, which currently serves 160 students in grades K-1, and also on a portion of the campus of Micheltorena Elementary School, approximately 2 miles to the west at 1511 Micheltorena Street, which opened in September 2012 and serves approximately 100 children in grades 2-3. CWC has been looking for a new, permanent school site in the vicinity of its existing locations which will allow the school to have its own campus. The proposed site on De Longpre Avenue is just .18 miles from the existing Grant Elementary school site and lies within the same community and neighborhood where CWC draws its students from. The proposed .75-acre site is suitable for re-use as a school with the 2-story classroom building containing up to 13 classrooms, a large gymnasium/multi-purpose room, library, lockers, full kitchen, teachers' lounge and administrative offices, and the outdoor area containing a swimming pool, basketball and volleyball court, and a grassy play area, which will accommodate the ultimate school size of up to 390 students, and still provide a substantial landscaped outdoor playground and open space area. CWC will be making the existing gymnasium and swimming pool available to youth groups and other schools after hours and when school is not in session.

### Public Outreach

CWC plans to present the proposed project to the Hollywood Studio District Neighborhood Council.

#### Description of the Property

The property is a flat, rectangular-shaped mid-block parcel, approximately 33,000 square feet in size (200' x 165'), located on the south side of De Longpre Avenue between Fernwood Avenue to the west and St. Andrews Place to the east. The property is zoned R4-2 and is improved with a 2-story, 20,546 square foot Children's Club building, which had been operated by the Assistance League of Southern California, as a kindergarten and after school program containing a gymnasium, boys and girls locker rooms, classrooms and activity rooms, a library and kitchen, and administrative offices. The property is also improved with a swimming pool and basketball/volleyball court located to the rear of the building. A grass lawn is located east of the building. According to the Certificate of Occupancy issued on November 12, 1996, the maximum occupant load for the gymnasium is 350 persons and the maximum occupancy load for the entire building is 974 persons.

#### Surrounding Uses

North: The adjacent property to the north, across De Longpre, is currently zoned (Q)C2-1 and developed with a Home Depot store and its structured and surface parking areas.

South: The adjoining property to the south is zoned R4-2 and developed with a 2-story 65-bed homeless shelter operated by PATH (People Assisting the Homeless) and two 8-unit apartment buildings.

East: The adjoining property to the east is zoned R4-2 and developed with a 1-story preschool/childcare center operated by the Assistance League of Southern California.

West: The adjoining property to the west is zoned R4-2 and developed with a 2-story 12-unit multi-family apartment building.

#### Parking

The parking requirement for elementary schools is "one automobile parking space on the same lot with each classroom" under LAMC Section 12.21.A.4 (f). With the 13 classrooms proposed for the school, the required parking would amount to 13 spaces. The school proposes to use the existing 19-space parking lot located on Assistance League property on the block to the east (at 5522 De Longpre Ave.), approximately 400 feet from the subject property, because a variance for those parking spaces was previously approved in connection with the development of the property as a Children's Club in Case No. ZA 94-0886(ZV)(YV). Based on this precedent, the applicant is seeking a new parking variance to allow these off-site parking spaces to serve the new school in lieu of creating a new parking lot on the school site.

#### Yard Setbacks

In addition to the parking variance, the applicant is requesting a ZA Adjustment to regarding the side yard setbacks required for schools in order to allow the existing side

yards and setbacks to serve the school. The Zoning Code provisions that establish yards for schools, LAMC §12.21.C.3 (b), (c), and (d), apply to schools in R zones as follows:

(b) For churches, clubs, educational institutions, elementary and high schools, libraries or museums, the combined widths of the two side yards on an interior lot shall be not less than 40% of the width of the lot, but need not exceed 50 feet, and on either an interior lot or a corner lot the side yard adjoining another lot in an "RA" or "R" Zone shall be not less than ten feet in width.

(c) The side or rear yard required for the buildings referred to in (a) and (b) hereof, which adjoin property in a "C", "CM" or "M" Zone, or the side yard which adjoins the street side of a corner lot, may be the same as required for buildings in the "R4" Zone.

(d) All other yards in connection with buildings referred to in (a) and (b) hereof, shall comply with the regulations on the zone in which the building is located.

Front yard: The existing Children's Club building observes a 10-foot front yard setback from De Longpre Avenue. Under the R4 zone, front yards are the same as required in the R3 zone, which requires 15 feet, provided that on key lots, the minimum front yard shall be 10 feet. A determination must have been made when the existing Children's Club building was constructed under the property's R4 zoning (which hasn't changed), that the subject property was a key lot, which permitted a 10-foot front yard setback. The provisions of LAMC § 12.21 C 3 (d) state that yards for schools other than side or rear yards shall comply with the regulations of the zone in which the building is located, therefore the existing front yard would be in compliance for a school use.

Rear yard: The existing building is set back 57 feet from the rear property line. There is no special rear yard requirement for a school in this case, so the requirements of the R4 zone apply, which specify a 15-foot rear yard area. Therefore, the existing rear yard would be in compliance for a school use. Note that a portion of the rear yard on the site contains the existing swimming pool and basketball/volleyball court.

Side yards: The existing building observes a 5-foot setback from the adjoining property to the west and a 36' 5 1/2" setback from the adjoining property to the east. In the case of schools, the regulations of LAMC § 12.21 C 3 (b) call for the combined widths of the two side yards on an interior lot to be not less than 40% of the width of the lot, but combined width need not exceed 50 feet. The width of the property is 200 feet, and 40% of that would be 80 feet, therefore the 50-foot minimum applies. The combined width of the two existing side yards is 41' 5 1/2", which is 8' 6 1/2" short of the required combined width for schools. In addition, the regulations call for the side yards that adjoin another lot in an "RA" or "R" zone to be not less than ten feet in width. In this case, the existing western side yard that adjoins the R-4 zoned parcel to the west is only 5 feet wide. The applicant is requesting a ZA Adjustment under LAMC § 12.28 to permit:

The combined width of the two side yards to be 41 feet in lieu of 50 feet, as required by Section 12.21 C 3 (b), and a western side yard setback of 5 feet in lieu of 10 feet, as required by Section 12.21 C 3 (b).

Previous zoning related actions on the site include:

Case No. ZA 94-0886(ZV)(YV) – On February 17, 1995, the Zoning Administrator approved a variance from Sections 12.21.A 4 and 12.21.C 1 to permit in the R4 zone the construction, use and maintenance of a proposed 39,800 square foot replacement Assistance League Children's Club/Day Care Center that 1) will provide 19 off-street parking spaces off-site at 5522 De Longpre Avenue in lieu of the required 86 off-street parking spaces, and 2) an 8-foot in height concrete block fence located on the north, south and west property lines within the required front yard setback.

This 1995 variance approval was granted in connection with the Home Depot project, which relocated the then existing Assistance League Children's Club day care facility from its former site, between De Longpre and Sunset, which was to be re-developed with a Home Depot center, to its present location on the south side of De Longpre Avenue.

**THE FOLLOWING QUESTIONS APPLY TO APPLICATIONS FOR PRIVATE SCHOOL, CHILD CARE, NURSERY OR PRESCHOOL FACILITY.**

**Describe the type of school (e.g., elementary, junior high school, nursery, etc.).**

Public charter school serving grades K – 8.

**What is the maximum number of students (children) to be enrolled at each grade and age level?**

The school will have an enrollment capacity of up to 390 students in grades K-8 (approximately 30-60 students at each grade level).

**What are the hours of operation? Indicate whether Monday through Friday only or also weekends.**

The school will be operated by approximately 25 teachers and administrative staff with regular hours of operation from 7:30 a.m. to 3:00 p.m. Monday through Friday. An after school child care program will be provided for up to approximately 50% of the student body between 3:00 p.m. and 6:00 p.m. It is anticipated there will be approximately 10 parent-teacher meetings (one each month). Special events such as parent-student conferences, committee meetings, and fundraisers, would not exceed 2 events per month and no more than one event on a single day. Any special event in the evening would end by 9:00 p.m. Any special event expected to attract more than 50 people will have auxiliary parking agreements with neighboring facilities. The school will also have limited activities (such as tutoring, enrichment classes and other learning activities) that would occur approximately twice a month



on Saturdays in operation from 8:00 am until 12:00 noon. The school would also have a summer school program during the months of June, July and August, between the hours of 7:30 a.m. and 6:00 p.m., for approximately 50% of the student body.

**What are the number of classrooms and teachers?**

Up to 13 classrooms, up to 13 classroom teachers and 10 enrichment teachers and aides

**What are the number of administrative staff?**

2 administrative staff

**Will there be busses, and, if so, where will they be stored?**

No busses will be involved. Public bus stops are located in the vicinity at Western and Fountain, Western and Fernwood, and Sunset and St. Andrews and Sunset and Wilton Place. Considering the residential density of the surrounding neighborhood, it is anticipated that most of the students will be walking to school.

**Where will cars load and unload students? How many cars?**

The existing Children's Club uses an on-street drop-off and pick-up area along the south side of De Longpre Avenue, in front of the proposed school, which the school will continue to use. Restricted parking hours will be requested.

**Describe the size and location of signs.**

Signs regarding the school will be of an identifying nature only and will conform to City signage requirements.

**Does anyone live on the premises; if so, where?**

No.

**Are there to be special events, e.g., fund-raising events, parent-teacher nights, graduation ceremonies or athletic events? How often are these proposed?**

Yes. It is anticipated there will be approximately 10 parent-teacher meetings (one each month). Special events such as parent-student conferences, committee meetings, and fundraisers, would not exceed 2 events per month and no more than one event on a single day. Any special event in the evening would end by 9:00 p.m.

**Is there a main place of assembly, e.g., auditorium, gymnasium or stadium, and if so, how many fixed seats?**

The existing Children's Club includes an approximate 6,645 square foot gymnasium without fixed seating.

**Is there to be night lighting and/or a public address system (please identify on your plot plan as well as discussing in the application)?**

Security lighting is provided on the existing Assistance League parking lot, one block to the east. Interior security lighting will be provided at night. No public address system.

**What are the number of on-site parking spaces (please be sure these are specifically delineated on your accompanying plot plan)?**

The school proposes 19 parking spaces, which will be provided off site.

**Be sure that your plot plan shows all buildings or other structures, fences/walls (and their height), play area(s), landscaping or other physical features of your proposed facility. Indicate whether an improvement is existing or proposed, as well as its size and proximity to other buildings/structures and to respective property lines.**

See attached.

**Are there to be any buildings/structures demolished/remodeled?**

The proposed plan would include interior remodeling to increase the number of classrooms from 6 up to 13, depending on enrollment and other factors.

### **PROPOSED VARIANCE FINDINGS**

- 1. The strict application of the provisions of the zoning ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations.***

The project site is a rectangular-shaped, mid-block lot, consisting of approximately 75,000 square feet, located on the south side of De Longpre Avenue, between Fernwood Avenue to the west and St Andrews Place to the east, having a street frontage of 200 feet on De Longpre and a depth of 165 feet. The site is zoned R4-2 and designated for High Density Residential land use within the Hollywood Community Plan area. The project site is presently developed with an existing 2-story Children's Club facility, which includes a gymnasium, 6 classrooms, locker rooms, a library and kitchen, activity rooms and administrative offices, with an outdoor swimming pool, basketball/volleyball court and grass playground area. The site is buffered from the freeway to the west by existing mature trees and landscaping around the adjoining apartment complex to the west. Surrounding properties to the south and east are developed with 2-story multi-family apartment buildings and a homeless shelter, while the property to the north is developed with a Home Depot center and the property to the west is developed with a preschool/childcare facility.

The existing Children's Club and day care facility, which has classrooms, a gymnasium, and other educational and activity areas for children, was developed pursuant to a 1995 variance that determined that 19 parking spaces would be required to serve the facility and that those spaces could be located offsite, on an adjoining block. Consequently, the facility was developed without onsite parking. The facility's owner, the Assistance League, has ceased its children's club operations and leased the site to a nearby public charter school in the Hollywood area, that needs to relocate. The site and existing facilities are ideal for the new school's operations, not only because of the existing facilities have been designed for children, but also because the occupancy for the new school use (390 students) will be less than the occupant load permitted under the building's certificate of occupancy (974 occupants), and the only improvements needed to convert the existing building to school use are minor interior improvements that will convert various activity areas to create up to 13 classrooms.

LAMC Section 12.21.A.4 (f) requires parking for elementary schools to be provided at a ratio of one parking space per classroom on the same lot as the classrooms. The general purpose and intent of this parking regulation is to provide an adequate number of parking spaces to serve school uses in close proximity to the classrooms. The parking variance granted by the Zoning Administrator in 1995 (Case No. ZA 94-0886(ZV)(YV)) allowed 19 parking spaces for the development of the existing 2-story building. The 19 parking spaces permitted by the variance were based primarily on the parking needed for the children's club and day care services and activities. Now, instead of a children's club and day care use, the site and the same building will be used as public charter school for grades K-8. The development of the site has not changed since that variance was approved and the existing building will not be increased in height, size, floor area, footprint or location by the school use. Because the facility was constructed without on-site parking, there is no space on the site for a parking lot. The strict application of the zoning regulations would require converting the existing grassy playground area and basketball/volleyball court into a 13-space onsite parking lot, even though a perfectly adequate 19-space parking lot, that has served a similar use on the site for many years, is located approximately 400 feet away on the next block.

Replacing playground areas with parking lot, just to bring the parking spaces closer to the building, when no other significant changes will occur with respect to the use or to the existing site buildings and improvements, would create practical difficulties and unnecessary hardships that are inconsistent with the general purpose and intent of the zoning regulations to provide adequate parking close to schools.

2. ***There are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity.***

The special circumstances applicable to the property relate to the existing improvements on the site, which were designed and approved in 1995 to provide an educational and recreational children's center that would serve the needs of children

in the area, without onsite parking. Consequently, there is no on-site location for a parking lot. This children's center had existed previously on an adjacent site for many years and was approved for relocation to the subject property. The existing improvements, including classrooms, gymnasium, swimming pool, basketball/volleyball court could serve another children's educational/recreational use, such as a school, without significant changes or improvements. Any other re-use of the site would require extensive changes.

3. ***The variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of the special circumstances and practical difficulties or unnecessary hardships, is denied to the property in question.***

Other R4-zoned properties developed with children service uses for the Assistance League on the same block (such as the preschool/childcare center adjoining the property to the east and the theater for children located at the northeast corner of Fernwood and St. Andrews) do not have onsite parking. The parking area for Assistance League facilities (161 spaces) is located one block to the east. But in this case, the reduced and offsite parking allowed by the 1995 variance for the existing building and site development could not be used because the existing Children's Club facility will be converted to a public charter school use, even though no increase in the size, floor area or location of the existing buildings is contemplated and even though the proposed school enrollment of 390 students will be less than the 974-person occupant load that the existing facility has, which has also been operating successfully for many years. The existing site improvements do not allow an area sufficient in size for 13 parking spaces without removing the outdoor playground area and ball court. The substantial property right to adaptively re-use an existing building and improvements on the site for a use that they were designed and developed for, which would not significantly change the existing use of the site, would be lost if the variance were denied.

4. ***The granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the same zone or vicinity in which the property is located.***

The granting of the variance will not be detrimental to the public welfare or injurious to the property or improvements in the same zone and vicinity because the 19 off-site parking spaces have served similar children's service uses on the site for many years. The offsite parking spaces are located within easy walking distance (approximately 400 feet) from the school. Children service uses in the existing building on the site, which contains 6 classrooms, have been longstanding and functioned successfully for many years with the nearby offsite parking spaces and existing setbacks. The site improvements will not be changing and no increase or change in the height, size, floor area, location, or footprint of the existing building will occur. Given the history of use of the existing facility which is similar to a school, granting a variance to allow continued use of the nearby offsite parking will not be

materially detrimental to the public welfare or injurious to property or improvements in the same zone and vicinity in which the property is located.

**5. *The granting of the variance will not adversely affect any element of the General Plan.***

The property is located within the area covered by the Hollywood Community Plan, as updated on June 19, 2012 under CF 12-0303. The Community Plan Map designates the property for High Density residential land uses, corresponding to the R4 zone. The subject property contains approximately 33,000 sf (0.75 acres) and is currently zoned R4-2, which permits school uses as a matter of right. In terms of goals, objectives and policies for schools, the Hollywood Community Plan provides the following:

**School Policies**

Policy CF.5.30: Foster schools which can provide quality education for children and adults in every neighborhood of Hollywood (Map 38).

Policy CF.5.31: Continue to work constructively with the LAUSD to monitor and forecast school service demand based upon actual and predicted growth. Develop and share demographic information about population estimates.

Policy CF.5.32: Continue to work constructively with the LAUSD to promote the siting and construction of public school facilities which are phased to accommodate anticipated population growth.

Policy CF.5.33: Work with LAUSD to ensure that school facilities and programs are expanded commensurate with the City's population growth.

Allowing adaptive re-use of the existing Children's Club facility will implement the foregoing policies. The LAUSD School Board has approved the applicant's charter for a school in the general area, which has been initially established on a portion of an LAUSD elementary school located approximately two blocks to the north. This school has now outgrown its initial start-up facilities and seeks a more permanent location in the area.

Policy CF.5.34: Create community school parks at older elementary schools in neighborhoods with few parks. Maximize the use of public schools for neighborhood use and the use of local open space, public facilities and parks for school use.

Policy CF.5.35: Support the supervised use of indoor and outdoor non-classroom spaces of schools by the general public for recreational activities. Ensure that design features of new schools provide the community with opportunities for direct supervised access to non-classroom areas during non-school hours and on holidays.

Policy CF.5.36: Support the school-specific agreements with LAUSD which will enable communities to jointly use schools for recreational purposes.

The existing recreational facilities of the Children's Club (gymnasium, swimming pool, and basketball/volleyball court) will be made available to outside community groups on weekends and afterhours.

Policy CF.5.37: Encourage the provision of alternative schools, such as charter schools as a method of delivering quality public education at the neighborhood level.

Policy CF.5.38: Encourage partnerships between elementary schools, middle schools and high schools to facilitate the development of shared educational opportunities.

The proposed re-use of the existing facility will allow an established charter school in the area to grow and expand in its own facility.

Policy CF.5.39: Locate new schools in areas with complimentary land uses, access to transit, and recreational opportunities. Encourage the siting of schools in locations which can utilize topography and landscaping, as well as building design, to provide noise and air quality buffering, when necessary.

Policy CF.5.40: Encourage compatibility between school locations, site layouts, architectural designs, and local neighborhood character.

The proposed re-use will make use of an existing educational and recreation facility that has served children in the neighborhood for many years and is located next to a pre-school facility. Public bus stops are located in the vicinity at Western and Fountain, Western and Fernwood, and Sunset and St. Andrews and Sunset and Wilton Place.

Policy CF.5.41: Encourage public school design that buffers classrooms from negative noise and air quality sources. Utilize dense landscaping of trees and shrubs to filter particulate air contaminants from nearby freeways.

The western façade of the existing building does not contain windows or open areas, thus buffering the classrooms from freeway noise and air quality sources. Existing mature landscaping and trees on the property to the west will buffer the site from the freeway noise and air quality sources.

Policy CF.5.42: Encourage siting of public middle schools and high schools within or adjacent to transit stations, Centers, Mixed-Use Boulevards or Mixed-Use Incentive Areas, to maximize accessibility.

The site is located within a proposed Community Center area under the updated Hollywood Community Plan, and one block from Sunset Blvd. and Fountain Avenue. The site is also close to several bus stops, as noted above.

Policy CF.5.43: Support safe and well-maintained pedestrian and bicycle access to school facilities.

Policy CF.5.44: Encourage LAUSD and the Department of Recreation and Parks to continue the shared-use program to facilitate the shared use of schools and recreational facilities in Hollywood. Encourage public schools to site jointly with other community facilities, such as libraries, parks, and auditoriums and work with other community stakeholders, such as Business Improvement Districts and other public/private partnerships.

Allowing adaptive re-use of the existing Children's Club facility will implement virtually all of the forgoing Community Plan policies and would be in substantial conformance with the purpose, intent and provisions of the General Plan and the Community Plan. The proposed project would provide new and continued opportunities for children in the Hollywood area to attend an established local tuition-free public school that emphasizes small classes and high academic standards.

Framework Element. The Framework Element for the General Plan (Framework Element) was adopted by the City of Los Angeles in December 1996 and re-adopted in August 2001. The Framework Element provides guidance regarding policy issues for the entire City of Los Angeles, including the project site. The Framework Element also sets forth a Citywide comprehensive long-range growth strategy and defines Citywide policies regarding such issues as land use, housing, urban form, neighborhood design, open space, economic development, transportation, infrastructure, and public services. While the Framework Element references the City's participation in working with the Los Angeles Unified School District in the planning and coordination of public schools, it does not specifically address efforts with charter schools. However, enabling the relocation of the school from its present site to a nearby site in the same general area would be consistent with a several important goals, objectives, and policies of the Framework Element, including:

#### Schools - GOAL 9N

Public schools that provide a quality education for all of the City's children, including those with special needs, and adequate school facilities to serve every neighborhood in the City so that students have an opportunity to attend school in their neighborhoods.

Objective 9.32 Work constructively with LAUSD to promote the siting and construction of adequate school facilities phased with growth.

Policy 9.32.1 Work with the Los Angeles Unified School District to ensure that school facilities and programs are expanded commensurate with the City's population growth and development.

Objective 9.33 Maximize the use of local schools for community use and local open space and parks for school use.

Policy 9.33.2 Develop a strategy to site community facilities (libraries, parks, schools, and auditoriums) together.

**PROPOSED FINDINGS FOR ZONING ADMINISTRATOR ADJUSTMENTS PER LAMC SECTION 12.28**

1. *That while site characteristics or existing improvements make strict adherence to the zoning regulations impractical or infeasible, the project nonetheless conforms with the intent of those regulations.*

Adjustments to yard, area, height and other requirements are provided for in LAMC §12.28.A and give the authority to grant minor adjustments from certain height and area regulations in the Zoning Code. The R4-2 Zone permits public schools with the yards required by LAMC § 12.21.C.3. The applicant has requested an adjustment from the side yard regulations in LAMC §§12.21.C.3(b) that require for churches, clubs, educational institutions, elementary and high schools, libraries and museums on interior lots, that the combined widths of the two side yards on an interior lot shall be not less than 40% of the width of the lot, but need not exceed 50 feet, and on either an interior lot or a corner lot the side yard adjoining another lot in an "RA" or "R" Zone shall be not less than 10 feet in width, in order to permit the existing western side yard of 5 feet adjoining the R-4 zoned property to the west in lieu of the 10 feet required, and to permit the combined width of the two side yards of the property to be the existing 41 feet in lieu of the minimum 50 feet required.

The proposed project represents the relocation of an existing public charter school in the area to the subject  $\frac{3}{4}$ -acre site that is already developed with a two-story 20,546 square foot Children's Club and Day Care building that includes a 6,645-square foot gymnasium, 6 classrooms, a kitchen, library, activity rooms, locker rooms, and administrative offices designed for young children, with an occupant load of 974 persons. These existing building improvements make strict adherence to the zoning regulations impractical or infeasible. The strict application of the zoning regulations would require portions of the existing children's club building to be demolished in order to provide greater building setback area for what will basically be a continuation of the existing and longstanding children's educational and recreational services uses on the site.

The general purpose and intent of the setback requirements in LAMC §12.21.C.3(b) is to create increased separation from children activity areas in school buildings. The same regulations apply to clubs, which should include the existing children's club. Although the existing western side yard is only 5-feet, the western building's façade does not have windows or open areas, like hallways or balconies, where students could congregate, and the site has a substantial combined side yard width, 41-feet, due to the 36-foot eastern setback, which amounts to approximately 83% of the 50-foot combined side yard requirement. These existing characteristics substantially conform with the general purpose and intent of the setback requirements for purposes of allowing adaptive reuse of a children's service facility that has served a very similar use as that proposed by the school for 16 years.



- 2. That in light of the project as a whole, including any mitigation measures imposed, the project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety.**

The project site is a rectangular-shaped, mid-block lot, consisting of approximately 75,000 square feet, located on the south side of De Longpre Avenue, between Fernwood Avenue to the west and St Andrews Place to the east, having a street frontage of 200 feet on De Longpre and a depth of 165 feet. The site is zoned R4-2 and designated for High Density Residential land use within the Hollywood Community Plan area. For the past 16 years, the project site has been improved and operated with an existing 2-story Children's Club and Day Care facility, which includes a gymnasium, 6 classrooms, locker rooms, a library and kitchen, activity rooms and administrative offices, with an outdoor swimming pool, basketball/volleyball court and grass playground area. Surrounding properties to the west, south and east are developed with 2-story multi-family apartment buildings and a homeless shelter, while the property to the north is developed with a Home Depot center and the property to the east is developed with a preschool/childcare facility.

As noted above, the existing Children's Club building has an occupant load of 974 persons, and provided a variety of educational day care and recreational activities for children when it was operated by the Assistance League. Designed as a facility to serve children, with classrooms, a gym, library, and kitchen, the building can accommodate the school's enrollment of 390 students. The school relocating to the site has been operating on a portion of an LAUSD elementary school site for 2 years. The school caters to students living in the surrounding neighborhood. Student drop-off and pick-up will occur in the same location on De Longpre Ave., that the Children's Club used. The project site is served by several public transit stops, and is also near high density residential uses. Residents in the surrounding area would benefit from having a tuition-free public school in their neighborhood within an easy commute, walking or biking distance. The school's activities would occur primarily during the daytime with only periodic evening functions.

The project's existing location, size, height, setbacks, operations and other features have served children's educational and recreational operations that are similar to the proposed school use for the past 16 years, and the adaptive reuse of the improvements to enable an existing institution to continue and expand the provision of new educational opportunities to the surrounding residential community, will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety.

- 3. That the project is in substantial conformance with the purpose, intent and provisions of the General Plan, the applicable community plan and any applicable specific plan.**

See the above General Plan findings for the parking variance.

# **Exhibit 10**



# This Week in the Journal

SEPTEMBER 9, 2004

**CORRESPONDENCE**

- 1143 Diastolic Heart Failure
- 1146 Obesity and the Metabolic Syndrome in Children and Adolescents
- 1148 Palliative Care
- 1149 Case 11-2004: A Boy with Rash, Edema, and Hypertension
- 1150 Havana and the Coma and Death Symposia

**BOOK REVIEWS**

- 1152 Molecular Basis of Breast Cancer: Prevention and Treatment
- 1153 Cancer Prevention and Early Diagnosis in Women
- 1153 Benign Breast Diseases: Radiology — Pathology — Risk Assessment

**CONTINUING MEDICAL EDUCATION**

- 1157 Diastolic Heart Failure
- 1158 Thiazolidinediones
- 1159 Oral Erythromycin and the Risk of Sudden Death from Cardiac Causes

## Next Week in the Journal

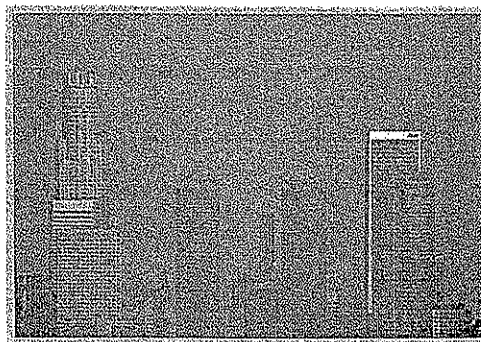
SEPTEMBER 16, 2004

### Learner-Centered Medical Education

Kenneth Ludmerer

**ORIGINAL ARTICLE**

### The Effect of Air Pollution on Lung Development from 10 to 18 Years of Age



David McVey/Getty Images

Between the ages of 10 and 18 years, the lung undergoes major growth. There has been reason to believe that exposure to air pollution during this period of lung growth leads to a restriction of lung growth, but strong supporting data have been lacking. In this study,

conducted in southern California, children from communities with greater air pollution had significantly poorer lung function than children from communities with cleaner air.

Lung development is not fully realized in children who grow up in communities with polluted air. The magnitude of this effect is clinically and physiologically significant.

SEE P. 1057; EDITORIAL, P. 1132

# The NEW ENGLAND JOURNAL of MEDICINE

ESTABLISHED IN 1812

SEPTEMBER 9, 2004

VOL. 351 NO. 11

## The Effect of Air Pollution on Lung Development from 10 to 18 Years of Age

W. James Gauderman, Ph.D., Edward Avol, M.S., Frank Gilliland, M.D., Ph.D., Hita Vora, M.S.,  
Duncan Thomas, Ph.D., Kiros Berhane, Ph.D., Rob McConnell, M.D., Nino Kuenzli, M.D., Fred Lurmann, M.S.,  
Edward Rappaport, M.S., Helene Margolis, Ph.D., David Bates, M.D., and John Peters, M.D.

### ABSTRACT

#### BACKGROUND

Whether exposure to air pollution adversely affects the growth of lung function during the period of rapid lung development that occurs between the ages of 10 and 18 years is unknown.

#### METHODS

In this prospective study, we recruited 1759 children (average age, 10 years) from schools in 12 southern California communities and measured lung function annually for eight years. The rate of attrition was approximately 10 percent per year. The communities represented a wide range of ambient exposures to ozone, acid vapor, nitrogen dioxide, and particulate matter. Linear regression was used to examine the relationship of air pollution to the forced expiratory volume in one second (FEV<sub>1</sub>) and other spirometric measures.

#### RESULTS

Over the eight-year period, deficits in the growth of FEV<sub>1</sub> were associated with exposure to nitrogen dioxide (P=0.005), acid vapor (P=0.004), particulate matter with an aerodynamic diameter of less than 2.5  $\mu\text{m}$  (PM<sub>2.5</sub>) (P=0.04), and elemental carbon (P=0.007), even after adjustment for several potential confounders and effect modifiers. Associations were also observed for other spirometric measures. Exposure to pollutants was associated with clinically and statistically significant deficits in the FEV<sub>1</sub> attained at the age of 18 years. For example, the estimated proportion of 18-year-old subjects with a low FEV<sub>1</sub> (defined as a ratio of observed to expected FEV<sub>1</sub> of less than 80 percent) was 4.9 times as great at the highest level of exposure to PM<sub>2.5</sub> as at the lowest level of exposure (7.9 percent vs. 1.6 percent, P=0.002).

#### CONCLUSIONS

The results of this study indicate that current levels of air pollution have chronic, adverse effects on lung development in children from the age of 10 to 18 years, leading to clinically significant deficits in attained FEV<sub>1</sub> as children reach adulthood.

From the Department of Preventive Medicine, University of Southern California, Los Angeles (W.J.G., E.A., F.G., H.V., D.T., K.B., R.M., N.K., E.R., J.P.); Sonoma Technology, Petaluma, Calif. (F.L.); Air Resources Board, State of California, Sacramento (H.M.); and the University of British Columbia, Vancouver, B.C., Canada (D.B.). Address reprint requests to Dr. Gauderman at the Department of Preventive Medicine, University of Southern California, 1540 Alcazar St., Suite 220, Los Angeles, CA 90089, or at jimg@usc.edu.

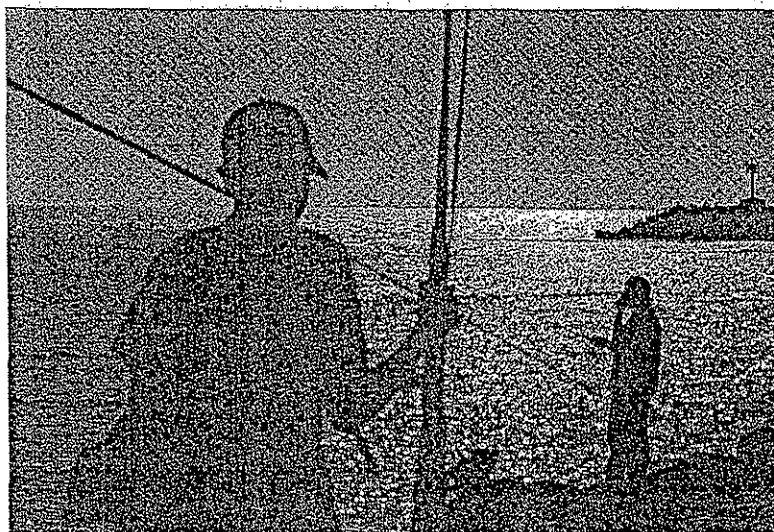
N Engl J Med 2004;351:1057-67.

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# Los Angeles Times

January 26, 2007

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LAUREN BIRCH/LOS ANGELES TIMES

## BEACH AFFRONT

Study finds that many sewage spills in Los Angeles County are neither reported nor cleaned up. Officials blame myriad regulations for the communication breakdown. CALIFORNIA, B1

IN ONE

vice  
t's  
base

Column 'Dear Ms. Army wife' offers candid soldiers and she can relate.

D FAUSSET  
letter

From Ft. Campbell, Ky., PZER unveiling his plan for a troop increase in Iraq this month. President Bush spoke of the war by America's mills — of "the quiet sacred holidays and ... at the dinner table,

the elegant phrase he longed worthy of Hopper painting. He tends to be messier.

Here, on the sprawling home of the 1st Airborne Division, one intimate catalog item — a running of the chesting hearts, arms, exasperated emotionally wound that has flourished deployments to Iraq

## Prison pay hikes drain staff at state hospitals

Lack of health workers forces Atascadero to turn away new patients.

By LEE ROMNEY  
Times Staff Writer

ATASCADERO — Court orders mandating drastic pay increases for health personnel in California prisons have led to an exodus of workers from state mental hospitals and left the facilities struggling to provide adequate patient care.

Staff shortages at Atascadero

State Hospital, where psychiatrist vacancies stand at 70%, have caused the facility to all but freeze new admissions.

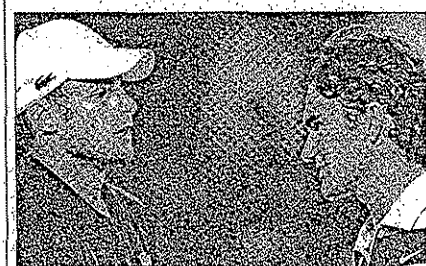
All the state's mental hospitals, which like the prisons are also under federal scrutiny, report staff departures for prison jobs that now pay about 40% more. And they fear that many more staffers will leave.

At Palton State Hospital in San Bernardino, the medical staff chief pleaded with the federal court-appointed monitor in a December letter, saying a mass exodus of Department of Mental Health "psychiatrists and physicians is expected, and we are al-

ready seeing the start of it affecting our institution. Recruiting new people has become increasingly difficult."

In order to keep Napa State Hospital licensed, the state had to hire contract pharmacists after many fled for higher-paying prison jobs. Workers at Metropolitan State Hospital in Norwalk now refer to the facility as "the Titanic" as psychologists apply in droves for prison system jobs. Recruiting e-mails featuring a photo of happy correctional staff members were sent directly to hospital psychologists this month, noting that 1,000 positions [See Atascadero, Page A14]

## Inside Today's Times



## CHENEY'S KEY ROLE IN LEAK CASE DETAILED

A former aide testifies in Libby's trial that the vice president directed the effort to discredit a CIA agent's husband

## Cooperative tone of Sadr surprises U.S.

The cleric's movement, long a foe of America, says it backs the new Iraq security plan.

### SOME DOUBT MOTIVES

By BORZOU DARAGANI  
Times Staff Writer

BAGHDAD — Muqtada Sadr, the radical anti-American cleric, has backed away from confrontation with U.S. and Iraqi forces in recent weeks, a move that has surprised U.S. officials who long have characterized his followers as among the greatest threats to Iraq's security.

Thursday, a leader of the Sadr movement in one of its Baghdad strongholds publicly endorsed President Bush's new Iraq security plan, which at least some U.S. officials have touted as a way to combat Sadr's group.

"We will fully cooperate with the government to make the plan successful," said Abdul-Hussein Khaab, head of the local council in the Shiite Muslim-dominated Sadr City neighborhood. "If it is an Iraqi plan done by the government, we will cooperate."

Over the last several weeks, the Shiite cleric and his followers have dropped their threats to quit Iraq's U.S.-backed government, and after years of shunning the "occupier," they have allowed their emissaries to meet with U.S. officials.

Many U.S. officials are skeptical of Sadr's moves, citing his history as leader of a violent group and wondering whether he and his movement have really changed or are merely lying low at a time of particular scrutiny and potential peril.

"There's a change of behavior that we can see," U.S. Ambassador Zalmay Khalilzad told reporters this week. "If it's a change of heart, that's a good thing. If it's a change of tactic, we need to be cautious."

Allies of Sadr suggest he has begun heading the appeals of other Shiite leaders, including Prime Minister Nouri Maliki, to temper his actions in order to preserve unity in the Shiite-dominated government.

"We were not going to be dragged into a trap to clash with the government or any other of our people," said Nassar Rubale, a member of parliament who is close to Sadr. "We are aware such a thing could happen."

Others suggest the cleric has been mollowed by the realities of exercising power. The Sadr movement controls several government ministries, including Health and Transportation.

Control of those bureaucra-



MUQTADA SADR  
Allies suggest he has begun heading the appeals of other Shiite leaders.

## FREEWAY AIR DAMAGES YOUNG LUNGS

Children living nearby show signs of lifelong harm, USC study finds.

By THOMAS H. MAUGH II  
Times Staff Writer

In the largest and longest study of its kind, USC researchers have found that children living near busy highways have significant impairments in the development of their lungs that can lead to respiratory problems for the rest of their lives.

The 13-year study of more than 3,600 children in 12 Central and Southern California communities found that the damage from living within 500 yards of a freeway is about the same as that from living in communities with the highest pollution levels, the team reported Thursday in the online version of the medical journal *Lancet*.

"If you live in a high-pollution area and live near a busy road, you get a doubling of the damage," said lead author W. James Gauderman, an epidemiologist at the Keck School of Medicine of USC.

"Someone suffering a pollution-related deficit in lung function as a child will probably have less than healthy lungs all of his or her life," he said.

stigma of the contamination is hurting the economy of the upper Hudson," said David King, the EPA's Hudson River project manager.

Twenty-six years after Congress passed the Superfund law to clean up the nation's most dangerous dumping grounds, the list of mega sites keeps growing as more mines, landfills, military bases and factories qualify.

Superfund's national priority list includes more than 1,200 chemical sites, but only one of every eight rises to "mega" status. New Jersey leads with 18, but California's 16 megas will soon more than double, with 18 others expected to meet the \$50-million

mark.

"State programs can deal with garden-variety sites, but mega sites are ones that nobody but the federal government can deal with," said Katherine Probst, a senior fellow at Resources for the Future, an environmental think tank in Washington, who has researched Superfund for 15 years.

Mega cleanups averaged \$140 million each in 2000, 10 times the standard Superfund project, according to Resources for the Future. California's 16 mega sites' cost estimates range from \$100 million to \$450 million, said Elizabeth Adams, the EPA's regional Superfund cleanup chief

in San Francisco.

"Today, a real mega site is well over the \$100-million mark. Sadly, \$50 million may not be what it once was," Probst said.

#### Funding lags behind

Yet federal funding for Superfund oversight has not kept up with the surge in mega sites, and many cleanups remain in the early stages. At 22% of all sites, human exposure to chemicals is not under control, the EPA says.

Polluters pay for most cleanups, but Superfund's annual budget, which supports EPA analyses, has remained at about \$1.2 billion since 1987. With inflation, that is a 40% decline.

cluding the Hudson River — are underwater. Dredging them risks uncovering more polluted layers or leaving toxic residue.

"It's not like vacuuming your carpet," said Richard Luthy, Stanford University's chairman of civil and environmental engineering and a member of a National Research Council committee on mega sites. "You are, in every case, left with some material on the bottom that you haven't completely picked up. Just because you can dredge doesn't mean you can get everything."

At a small cleanup in San Francisco Bay's Richmond Harbor, DDT-laden sludge was dredged in 1997. But high con-

the PCBs, which are likely human carcinogens and can disrupt immune systems and brain development, rendered the river's fish inedible.

GE maintained that removing PCBs from the Hudson was too risky, and in 1984, the EPA agreed. The agency reversed course in 2001, concluding that dredging could be done safely and setting performance standards. Finally, in a November court settlement, GE agreed to dredge 10%. If an independent panel approves the results, GE can voluntarily dredge the rest or face a likely EPA order.

The main risk, King said, is unleashing buried PCBs. To re-

The dredging is expected to last six to eight years, but after decades of delay in the start-up, Hudson River Valley residents are skeptical about when the toxic mud will be gone.

In Fort Edward's museum, a sign reads: "The roots of the present lie deep in the past." For residents of mega-site communities, the past, present and future are defined by a toxic legacy.

"We could come back two decades from now, and it will still be going on," said Peter Berle, New York's former environmental commissioner. "Hopefully, someday, we'll be free of PCBs."

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## Tainted freeway air harms children's lungs, study says

[Pollution, from Page A1]

to be in the small airways of the lung and is normally associated with the fine particulate matter emitted by automobiles.

"This tells me that I wouldn't want to be raising my children near a significant source of fine-particle air pollution," said economist C. Arden Pope III of Brigham Young University, an expert on air pollution and health who was not involved in the study. "I, myself, would want to be living in areas where the exposure is lower."

The research is part of an ongoing study of the effects of air pollution on children's respiratory health. Previous findings have detailed how smog can stunt lung growth and how living close to freeways can increase the risk of children being diagnosed with asthma.

This latest study of freeway proximity and lung capacity was funded by the California Air Resources Board; the National Institute of Environmental Health Sciences; the Environmental Protection Agency; the National Heart, Lung and Blood Institute; and the Hastings Foundation.

Gauderman and his colleagues recruited groups of fourth-grade students, average age 10, in 1993 and 1996. Their schools were scattered from Atascadero in San Luis Obispo County to Alpine in San Diego County.

The team collected extensive information about each child's home, socioeconomic status and other factors that might impinge on health.

Once each year, the team visited the schools and measured the children's lungs, as-

sessing how much air could be expelled in one breath and how quickly it could be expelled.

These cohorts of children "are truly an important resource because the study has been going on so long," said epidemiologist Jonathan Samet of Johns Hopkins University's Bloomberg School of Public Health, who also did not take part in the study. The size and scope of the study make it very difficult to replicate, he said.

Results from the study reported in 2004 indicated that children in the communities with the highest average levels of pollution suffered the greatest long-term impairment of lung function.

In the new study, Gauderman and his colleagues found that by their 18th birthday, children who lived within 500 yards of a free-

way had a 3% deficit in the amount of air they could exhale and a 7% deficit in the rate at which it could be exhaled compared with children who lived at least 1,500 yards, or nearly a mile, from a freeway. The effect was independent of the overall pollution in their community.

Gauderman had no estimate for the percentage of people in Southern California living within 500 yards of a freeway, but he noted that in a typical city such as Long Beach, it is about 17%.

The most severe impairment was observed in children living near freeways in the communities with the highest average pollution — Upland, Mira Loma, Riverside and Long Beach. Those children had an average 9% deficit in the amount of air they could expel from the lungs.

"Even if you are in a relatively

low regional pollution area, living near a road produces [lung problems]," Gauderman said.

About one-third of the children moved during the course of the study but stayed in the same community. Lung impairment was smaller among those who moved farther from the freeways.

The finding is important "because it shows that within communities, some children are at higher risk than others," Dr. Thomas Sandstrom and Dr. Bert Brunekreef wrote in an editorial accompanying the paper. "Thus, environmental equity is an issue of local rather than regional dimensions."

The results were also independent of the children's initial health and whether they were smokers. "This suggests that all children, not just susceptible subgroups, are potentially af-

fected by traffic exposure," Gauderman said.

Although the deficit in lung growth seems small, it could have long-term effects, Samet said.

"The concern is that the exposure leaves young adults with smaller lungs than they might have had otherwise," he said. That could leave them more vulnerable to lung diseases and more susceptible to the effects of pneumonia and other infections.

All the researchers conceded that there is little that can be done to mitigate the effects of the traffic pollution now.

But when local governments are planning new schools and new housing developments, Gauderman said, "this should be taken into account."

thomas.maugh@latimes.com



# CALENDAR

Tuesday, January 30, 2007

calendarlive.com



## CRITIC'S NOTEBOOK

# It may be time to hit the brakes

Putting homes, schools and parks by freeways was seen as a final frontier in L.A., but a USC study on pollution could force a rethinking.

By CHRISTOPHER HAWTHORNE  
*Times Staff Writer*

A new study from researchers at USC about the effects of local highway pollution on children's health would be alarming under any circumstances, especially for parents. But it happens to arrive just as Los Angeles is building or planning scores of projects — including housing, parks and schools — right on the edge of major freeways.

Seen in that light, the study carries significant implications not just for antipollution efforts but also for the future shape of the city. It should make us think not just about cleaning the air but about how and where we build.

In the last few years, we've come to view land near freeways

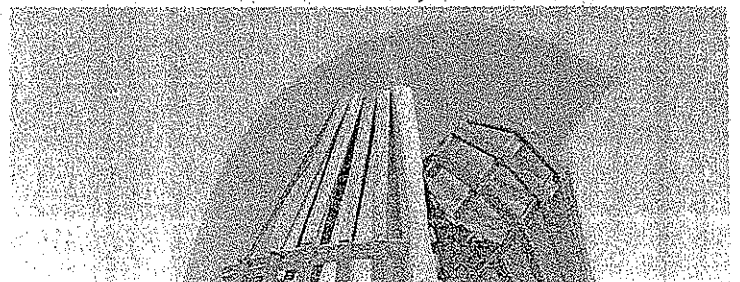
as a last frontier in a Los Angeles that grows more crowded by the year. When developers and public agencies such as the Los Angeles Unified School District are searching for large, empty parcels of land, they often find that the only ones that they can afford are freeway-adjacent, in the unlvely jargon of the real estate business.

And when planners, architects or academics get together to talk about and sketch designs for the Los Angeles of the future, their proposals inevitably call for new buildings swarming like kudzu along and across freeways.

In the same way that the futuristic city plans of the last century looked to the air, calling for buildings on stilts or stacked like pancakes or connected by floating zeppelins, architects these days tend to see L.A.'s ribbon of highways as the unlikely foundation for a new kind of post-sprawl urbanism.

Last month, Eric Owen Moss won a competition sponsored by the History Channel that asked architects to imagine and help design the Los Angeles of 2106.

[See Notebook, Page E8]



# Building near freeways is an issue of public health

(Notebook, from Page E1)

"We intend to build over, under, around and through the freeways" of the city, he declared in his winning entry.

Of course, it's hardly surprising to learn that pollution levels are higher near freeways than in other parts of the city. But the data from USC are compelling enough to suggest that when it comes to zoning, we should give up the idea of that land as a means for reshaping L.A. and increasing density and see it instead as territory to be avoided

— at least when it comes to placing facilities where kids spend a good portion of the day.

Proposals such as Moss' may anticipate the day when we'll no longer use cars, at least in their current form, and the freeways that once carried them will be empty and ready for reinvention. But even in the most optimistic scenarios, we still face several decades of highway pollution.

The USC study, which tracked 3,600 children for 13 years, found that those living within 500 yards of a highway

faced risk of permanent health damage, including stunted lung growth and respiratory problems.

"Someone suffering a pollution-related deficit in lung function as a child will probably have less than healthy lungs all of his or her life," the study's lead author, USC epidemiologist W. James Gauderman, told The Times last week.

Even within that fairly tight 500-yard radius, we are building a number of high-profile projects, quite a few of which are

designed for children or would be used heavily by them.

Housing continues to sprout along the edges of the region's highways — including stucco boxes and high-end, themed apartment complexes such as the Medici, which practically leans out over the 101 as it cuts through downtown.

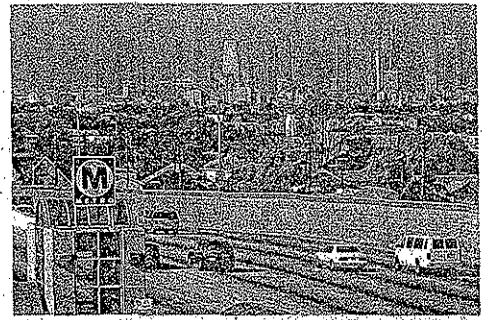
And the LAUSD's massive construction campaign includes a number of new schools next to some of our busiest roadways. Nearing completion is a new high school designed by Perkins + Will at the so-called Metromedia site. Commuters on the 101 have watched the school rise on North Wilton Place, no more than 100 feet from the freeway. The architectural flagship of the construction effort is a new high school for the arts, designed by the Austrian firm Coop Himmelblau. It will be built facing another stretch of the 101, across the freeway from the Cathedral of Our Lady of the Angels downtown.

As architectural solutions to tricky, overlooked sites, the schools are impressive. But through the lens of public health, they look altogether different.

In Hollywood, meanwhile, planners are working to gain approval for a new park that would be built directly atop a curving portion of the 101, between Bronson Avenue and Wilton Place. Preliminary designs for the park have been greeted as an ingenious solution to the open-space crunch in Los Angeles — and, in many ways, a sign of things to come. Councilman Eric Garcetti, who represents the neighborhood, said as much three weeks ago, after the City Council voted to spend \$100,000 studying the feasibility of a park in that site.

"We've come to a place in Los Angeles [where], for better or for worse, it's actually cheaper to look at putting a cap over the Hollywood Freeway to build a park than buying land in the middle of Hollywood," he told a broadcast reporter.

It's a good thing the park is still being studied. Maybe the act of capping the freeway will reduce pollution levels inside the park enough to reduce the risk to the children who play there to an acceptable level. But if it won't, "buying land in the middle of Hollywood," no matter how ex-



**POLLUTION:** The Harbor Freeway at Slauson Avenue. A new study shows the ill effects of freeway air on young lungs.

KEN HAVELY/LOS ANGELES TIMES

persive, will be a more responsible option, environmentally, morally and probably legally.

At the very least, local governments will have to dig deep into the results of the USC study and similar reports as they begin to decide how big a health risk is presented by putting kids in schools, apartments or parks adjacent to freeways. They will have to look not just at proximity to freeways but also at wind patterns and other factors that affect the quality of neighborhood air. And as they do that they will have to be ready to reassess their planning strategies, perhaps in dramatic ways.

But the mechanism for doing so is not as powerful or as centralized as it needs to be, according to Roger Sherman, an architect in Santa Monica and co-director, with Dana Cuff, of City Lab, a new urban planning think tank at UCLA. Cuff and Sherman teamed up in the History Channel competition.

"Caltrans has one approach to thinking about these pieces of land, LAUSD has another and various cities have still others," Sherman said. "There's really a need for a regional coordinating authority. Without one, I think we're going to see neighborhood councils take more active measures to deal with these issues."

The councils, whose clout has been growing in recent years, could push for exclusionary zoning, for example, to make development near freeways impossible or more difficult. But that

approach raises its own risks.

"You may see a kind of Balkanization," Sherman said. "Some communities along the freeway will decide to deal with the problem by putting up barriers along the freeway or planting to affect their microclimates, and others won't."

Most controversial of all, the USC study may open a discussion on the possibility of local governments using eminent domain to carve out new space for housing or parks a safe distance from local freeways. To a limited degree, the LAUSD has already relied on eminent domain simply to find school parcels it considers appropriate to its needs.

Determining the fate of buildings already planned or under construction near freeways will be no less tricky: Given the statistics gathered in the USC study, it's hard to imagine the LAUSD cutting the ribbon on the Perkins + Will high school overlooking the 101 with much enthusiasm about its location. Still, it's equally hard to imagine the district shutting down the school altogether over traffic pollution fears.

Perhaps the district will be able to plausibly argue that it didn't understand the full range of risks that come with building so close to freeways. But it's getting more and more difficult for any of us in this city to make that claim.

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<p><b>NATIONAL</b> Digital Stereo 310248-MANN (PG-13)</p> <p><b>BLOOD AND CHOCOLATE (PG-13)</b> 12:00-2:30-5:00-7:30-10:10</p>	<p><b>CHINESE 6</b> 323777-FLM #059 All Theatres THX and Digital Stereo</p> <p><b>IN DIGITAL PROJECTION</b> EPIC MOVIE (PG-13) 12:00-2:10-4:20-7:00-9:20</p>	<p><b>BLOOD AND CHOCOLATE (PG-13)</b> 11:50-2:20-4:50-7:20-10:00</p> <p><b>THE LAST KING OF SCOTLAND (R)</b> 12:50-3:50-6:50-9:50</p>	<p><b>THE GOOD SHEPHERD (R)</b> 1:30-5:30-9:00</p> <p><b>DELIVER US FROM EVIL (NR)</b> 12:50-3:00-5:30-7:50-10:10</p>
<p><b>BRUIN</b> 11-2pm: Bargain Matinee 1st Show Only THX IN DIGITAL PROJECTION Digital Stereo BLOOD DIAMOND (R) 12:30-3:50-7:20-10:30</p>	<p><b>EPIC MOVIE (PG-13)</b> 12:40-3:30-5:20-7:40-9:50</p> <p><b>BLOOD AND CHOCOLATE (PG-13)</b> 11:50-2:20-5:00-7:50-10:20</p>	<p><b>STOMP THE YARD (PG-13)</b> 11:20-2:10-5:00-7:50-10:30</p> <p><b>FREEDOM WRITERS (PG-13)</b> 11:10-1:50-4:30-7:30-10:20</p>	<p><b>THE GOOD GERMAN (R)</b> 12:50-3:20-6:30-9:00</p> <p><b>ARTHUR AND THE INVISIBLES (PG)</b> 11:00-1:20</p>
<p><b>FESTIVAL</b> 11-2pm: Bargain Matinee 1st Show Only THX THE DEPARTED (R) 12:15-3:40-7:10-10:20</p>	<p><b>THE HITCHER (R)</b> 12:30-2:40-4:50-7:10-9:40</p> <p><b>STOMP THE YARD (PG-13)</b> 11:20-2:00-4:40-7:20-10:10</p>	<p><b>CASINO ROYALE (PG-13)</b> 3:30-7:00-10:10</p> <p><b>VAN NUXY'S</b> &gt; INDICATES NO CHILDREN 5 &amp; UNDER ADMITTED Bargain Matinee Shows Before 4 pm</p>	<p><b>BOBBY (R)</b> 1:20-3:50-6:30</p> <p><b>THE DEPARTED (R)</b> 12:20-3:30-6:40-9:50</p>
<p><b>WESTLAKE VILLAGE</b> 11-2pm: Bargain Matinee 1st Show Only THX THE DEPARTED (R) 12:15-3:40-7:10-10:20</p>	<p><b>AGOURA HILLS</b> Bargain Matinee Shows Before 4 pm</p> <p><b>AGOURA 8</b> 29445 Agoura Hills Rd. 818-707-9998 (#438) All Theatres THX and Digital Stereo</p>	<p><b>PLANT 16</b> New Hope Blvd. South of Rescoe 818-779-0821 #106 All Theatres Digital Stereo</p> <p>&gt; SMOKIN' ACES (R) 12:00-2:30-5:00-7:40-10:20</p>	<p><b>BORAT (R)</b> 1:10-3:10-5:20-7:30-9:30</p> <p><b>HAPPY FEET (PG)</b> 1:40-4:10-6:50-9:10</p>
<p><b>WESTLAKE VILLAGE 8</b> 11-2pm: Bargain Matinee 1st Show Only THX SMOKIN' ACES (R) 11:20-2:00-4:40-7:30-10:20</p>	<p><b>EPIC MOVIE (PG-13)</b> 12:40-2:50-5:30-7:40-9:50</p> <p><b>BLOOD AND CHOCOLATE (PG-13)</b> 12:20-2:40-5:20-7:50-10:30</p>	<p>&gt; VOLVER (R) 1:20-4:30-7:30-10:30</p> <p>&gt; BLOOD AND CHOCOLATE (PG-13) 11:40-2:10-4:40-7:10-9:50</p>	<p><b>CHARLOTTE'S WEB (G)</b> 12:10-2:20-4:30</p> <p><b>THE HOLIDAY (PG-13)</b> 6:50-9:40</p>
<p><b>CATCH AND RELEASE (PG-13)</b> 11:00-1:40-4:20-7:10-9:50</p>	<p><b>LETTERS FROM IWO JIMA (R)</b> 12:00-3:20-6:50-10:00</p>	<p>&gt; THE HITCHER (R) 12:30-3:00-5:30-8:00-10:40</p> <p>&gt; G.I. JESUS (R) 4:40-7:10-10:10</p>	<p><b>CASINO ROYALE (PG-13)</b> 7:00-10:00</p> <p><b>ERAGON (PG)</b> 1:40-4:10</p> <p><b>ROCKY BALBOA (PG)</b> 1:40-4:10</p>

## Smithsonian to open its 'Vault' on TV series

From the Associated Press  
WASHINGTON — Actor Tom Cavanaugh's newest gig is taking him behind the scenes at

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# It's worse than dirty

L.A.'s notorious air pollution is hardest on kids. The closer to a freeway they live, play or attend school, the more likely it is that their developing lungs' capacity will be reduced.

BY ERIN CLINE DAVIS  
Special to The Times

EVERYONE is familiar with the gray-brown haze that often blankets Los Angeles, and the fact that the city consistently ranks as one of the most polluted in America.

But what many may forget is that the dismal reports of L.A.'s air pollution only capture the average amounts of toxins in the air, and that some places within the urban sprawl are far dirtier than others. Official numbers do not take into account the fact that pollutants are at much higher levels within a few hundred feet of the freeways that crisscross the city — and for the adults and kids who live, work or go to school there, the effects add up.

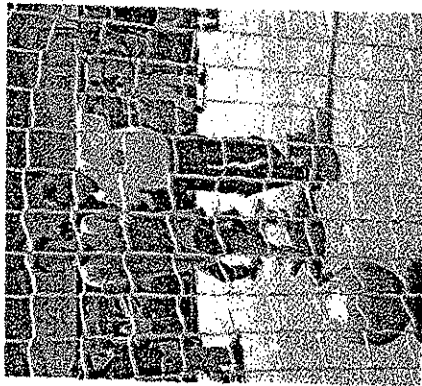
For kids, whose lungs are still growing, these effects can be especially damaging.

Mounting scientific evidence reveals that exposure to air pollution interferes with the development of children's lungs, reducing their capacity to breathe the air they need. Although the long-term consequences aren't known, it is known that growth in lung function is nearly complete by the end of adolescence.

Because lung capacity diminishes as people grow older, children exposed to air pollution may enter adulthood with the deck stacked against them.

Proximity to freeways appears to matter. Recently, studies have shown that the lung capacity of children who live within 500 meters (1,650 feet) of a freeway is significantly reduced compared with those who live more than 1,500 meters (4,950 feet) away.

For kids who already live in an area with high levels of pollution, living near



RICARDO DEARATANHA LOS ANGELES TIMES

**RISKY:** The nose's natural filter is bypassed when kids play hard and breathe through the mouth.

a freeway is "adding insult to injury," says Dr. John Barnes, professor of medicine at UC San Francisco and professor of public health at UC Berkeley.

To help protect children from the heightened effects of this extra dose of air pollution, California passed a law in 2003 prohibiting schools from being built within 500 feet of major roadways. Districts are allowed to build within this buffer zone only if space limitations leave no option or the district can find ways to mitigate the increased air pollution. Yet a September article in The Times reported that the L.A. Unified School District was building five schools within 500 feet of a freeway and had plans for two more.

The district is now reconsidering its plans and working on new policies aimed at limiting students' exposure to pollution at schools built near freeways, but such laws can do only so much. Even if they aren't going to school near a freeway, children may still be walking down the street or playing in their backyard near one. Thousands will still be exposed to dangerous levels of air pollution.

## Stunted lung development

In 2004, USC researchers reported that children living in areas with higher pollution, such as San Dimas and Riverside, had stunted lung development compared with children living in areas with lower pollution, such as Atascadero and Alpine.

The findings came from the Children's Health Study, which in 1993 recruited about 1,700 fourth-graders from 12 California communities and studied their lung function over

[See Smog, Page F6]

abett

BY JAN GREENE  
Special to The Times

Cathy Barnes eling on business years ago when s pain in her abdor medical center ti and carried out e heart. The tests c.

When she got her regular doct exam found a mi scan showed a kit immediately sch

Barnes believ time in her treat enough to ask for cords from the P. show them to her nating the need i "Having copies o all that time," she

WEIGHING IN  
Protein k  
the bottl

We taste new protein-packed waters. Page 1

IN THE LAB  
Brannt  
stem cell

They emerge a possible can culprits. Page 1

She Touched Our Hearts — But We Never Touched Hers

When Rene LePage had heart surgery, Long Beach Memorial Medical Center

# A clear pattern of risk emerges from haze

(Smog, from Page F7)

The effects on children's lungs were both statistically and clinically significant. The proportion of children with low lung function was 4.9 times greater in the community with the highest level of fine-particle pollution (Miraflores) compared with the community (Lompoc) with the lowest levels (79% versus 16%). Results were similar when the researchers looked at other categories of pollution, such as nitrogen dioxide and elemental carbon.

In February, the USC group published another report, in the journal *The Lancet*, showing that living near a freeway could further affect a child's lung development.

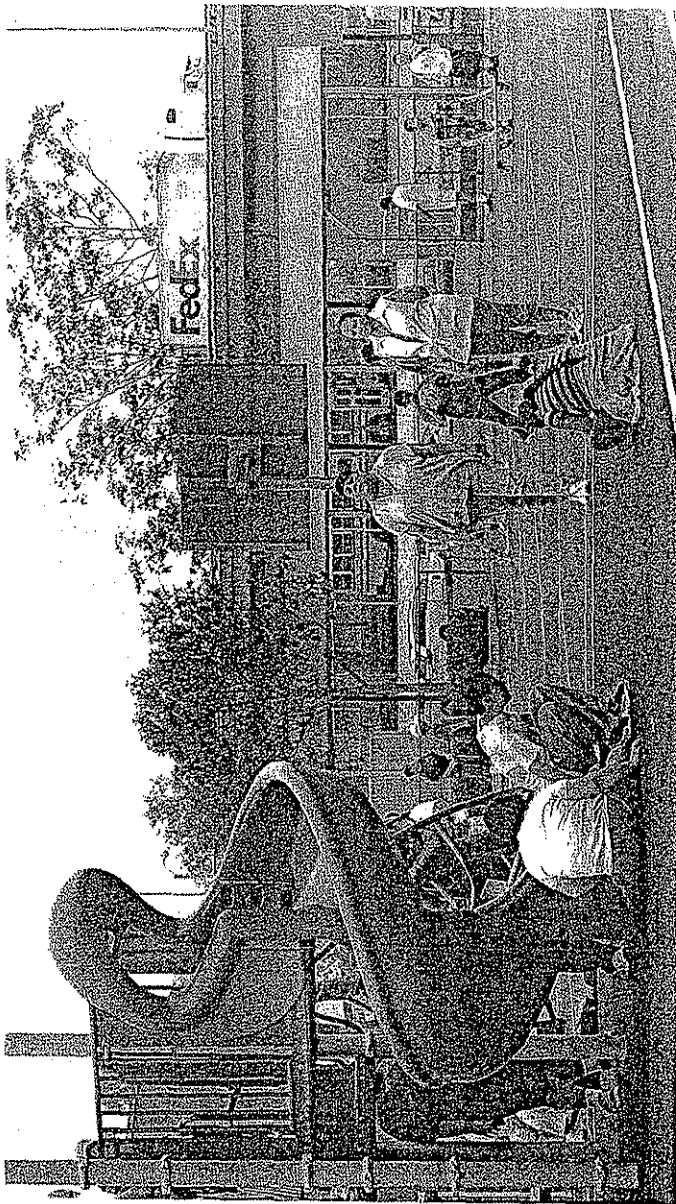
As in the 2004 study, researchers followed the group of fourth-graders recruited in 1993, as well as a later group recruited in 1996. In this study, however, the children in each city were further subdivided into those who lived close to (within 500 meters) or far (more than 1,500 meters) from a freeway or other major road.

As in the other study, researchers would visit the children every year at their schools and measure with a device called a spirometer how much and how fast each child could exhale.

They found that children who lived close to a freeway in a low-pollution community had about a 4% decrease in their lung function compared with children living in the same community but far from a freeway. This decrease was similar to that seen in children who lived in highly polluted communities but far from a major road.

The results were worst for the children who lived near a freeway within a polluted city. They had the greatest reduction in lung function over the course of the eight years each child was tracked — about 9%, compared with the kids in clean cities who lived at least 1,500 meters from a major road.

Lung development is nearly complete by age 18 — meaning that someone with a deficit in lung function at the end of adolescence will probably continue to have less than healthy lung function for the rest of his or her life. And that could lay the adult



LOCATION, LOCATION: The Perez Alfonso Special Education Center is by a freeway ramp. A 2003 California law limits schools' proximity to major roadways.

adult life is known to be a major risk factor for respiratory and cardiovascular diseases, as well as for mortality," said W. James Gauderman, an epidemiologist at the USC Keck School of Medicine and leader of both studies.

The results of the USC study make sense, given what scientists know about the concentrations of tailpipe pollutants near major roads. Jean Opital, an officer for the South Coast Air Quality Management District, who evaluates studies on the health effects of air pollution, says that pollution concentrations are highest in the first 150 meters of a large road but then start to drop off. But calculations predict that to get down to the levels seen upwind of a freeway, you have to get about

the best air quality, proximity to sources does matter," he says.

Taking in more pollutants Children are especially vulnerable to air pollution, because they breathe more rapidly than adults relative to their body weight and lung size. This results in exposure to a relatively larger dose of any air pollutants. Kids also spend a lot of time engaged in vigorous physical activity, leading to even heavier breathing.

When they play hard, they tend to breathe more through their mouths, bypassing the natural filtering effects of the nose, allowing more pollutants into their lungs. And unlike adults, who are likely to stop their activities when effects of pollution

— continuing to expose themselves to pollution.

The heavy brew they are exposed to has various toxic components — carbon monoxide, sulfur dioxide, nitrogen dioxide — and the two that pose the greatest threat to human health: ground-level ozone and particulate matter.

Ground-level ozone is formed by a chemical reaction between volatile organic compounds and oxides of nitrogen emitted by cars and other sources such as power plants that takes place in the presence of sunlight. In L.A., the ozone breeze usually pushes the ingredients of ozone farther inland. But calm days provide the perfect conditions for a blanket of ozone to cover the city.

Particulate matter in the air is a mixture of solids and liquid droplets that vary in size. Particles larger than 10 microns (about one-tenth the diameter of a human hair) do not usually reach a person's lungs, but they can irritate the eyes, nose and throat. Exposure to "coarse" particles (in the range of 2.5 to 10 microns in diameter) and "fine"

ing, throat irritation and difficulty breathing.

It can also worsen asthma attacks and increase the susceptibility of the lungs to infections, allergens and other air pollutants — making exposure especially risky for those with asthma and other lung conditions such as chronic obstructive pulmonary disease.

The smallest particles of all — so-called "ultra-fine" particles — are of increasing concern to air pollution experts. Air levels of these tiny bits of air pollution, which measure less than 0.1 micron or one-thousandth the diameter of a human hair, are not regulated by state or federal agencies, and their health effects are, only now beginning to be

and lung disease.

A study of more than 4,000 Swiss adults ages 18 to 60 during the course of 11 years, which appeared last week in the online edition of the *New England Journal of Medicine*, has shown that the inevitable decline in lung function seen in adults is lessened in those who are exposed to reduced levels of particle pollution.

Exposure to "coarse" particles (in the range of 2.5 to 10 microns in diameter) and "fine"

# Dirty air has toxic components

[Smog, from Page F6]

What researchers do know is that ultra-fine particles travel far deeper into the lungs than other types of particle pollution. They can even pass through the lining of the lungs, gaining access to the bloodstream. This allows them to travel to other organs and possibly interfere with their function.

Ultra-fine particles might also make their way into the brain, USC's Gauderman says. He says there is some suspicion in the research community that they can actually travel straight to the brain through the olfactory nerve at the top of the nasal passage.

They are so small that standard air filters cannot remove them. "They act like a gas, getting in around doors and windows," Gauderman says.

When pollutants are inhaled, gases such as ozone and the chemicals stuck to the surfaces of various sizes of particulate matter react with molecules in the lungs, injuring cells. The body's response to this injury is inflammation, which causes the airways in the lungs to constrict.

Children have narrower airways than adults, so pollution that might cause only a mild inflammatory response in an adult can significantly constrict the airways in a young child. This can be especially dangerous for children with asthma.

Long-term exposure to air pollution can cause chronic inflammation. In response, the body will attempt to wall off the damaged parts of the lungs, creating tissue that's less pliable than healthy tissue. That,

Balmes says, explains why decreased lung function like that seen in the Children's Health Study comes about.

"It's basically a scarring process," he says.

## Reducing risks at schools

Angelo Bellomo, head of the Office of Environmental Health and Safety for the Los Angeles Unified School District, says his office is taking the dangers posed by freeway pollution seriously.

"We've got to do everything we can do that is within our power to reduce that risk," he says.

As a start, his office has begun taking ultra-fine particles, which were not previously considered, into account when analyzing new locations for schools.



REED SAXON Associated Press

**INHALING EXHAUST:** Pollution concentrations are higher in neighborhoods close to large thoroughfares.

## Trees may help fight pollution

Can trees help fight smog? Thomas Cahill, a professor of physics and atmospheric sciences at UC Davis, has results suggesting they can reduce levels of ultra-fine particle pollution near freeways.

He has found that in windy conditions, trees along the side of a freeway can help mix the air and dilute the concentration of ultra-fine particles. In calm conditions, trees seem able to capture the particles, preventing them from traveling to nearby homes or schools.

Cahill says that once ultra-fine particles stick to the leaves of trees, they will not blow off. Instead, they will remain on the tree until the leaves drop or they are washed away in the rain.

He says that other researchers have not been interested in looking at trees as mitigation for ultra-fine particles because older research had shown that trees could not block fine particles (which are about 25 times larger than ultra-fine particles) from blowing off roadways.

Cahill says it's important to use the right trees to block ultra-fine particles. Some trees may not absorb enough particles. Others emit chemicals that can contribute to ozone formation. Trees with lots of needles, such as redwoods and cedar cedars, he says, are best.

—ERIN CLINE DAVIS

There are more than 70 district campuses within 500 feet of freeways, housing more than 60,000 students. Bellomo's office is compiling a list that ranks the schools by level of risk based on the number of students, the number of years students spend at the school, distance to freeways and the volume of diesel trucks that travel the nearby freeways.

The office will be developing a range of options and associated costs for upgrades to existing

schools that would reduce school occupants' exposure to nearby sources of air pollution. Its report is due at the beginning of March.

Bellomo says his office will be looking at all options, including some promising new filtration technologies.

He admits that the school district can't do much to reduce the risks of air pollution when children are outside, but he aims to reduce the risks indoors enough so as to offset the out-

door exposure.

The district will do what it can, Bellomo says, but the most effective way to reduce the risk from freeway pollution for children would be for state and federal regulators to enact rules that reduce pollution at the source.

Angela Beach, 41, of Sherman Oaks, will be following the district's progress.

Her 6-year-old son, who suffers from chronic asthma, attends Hesby Oaks School, a recently reopened campus in Encino that is within 500 feet of the 101 Freeway, Firmament Avenue, a bit of greenbelt and a sound wall are all that stand between the athletic fields and the constant rush of cars on the 101 and 405 interchange.

Beach says her son's asthma was well controlled when he was in preschool. He didn't have trouble playing outside like all the other children.

But now, she says, "he just can't do it."

The effects of the pollution near the freeway aren't just physical for her son, Beach says. He doesn't understand why he can't play at school. He gets frustrated and angry when he has to abandon basketball practice because he can't get the air he needs. Beach has had to explain to his coach that it isn't that he doesn't want to play, it's that he's isn't able to.

Beach says her daughter, who is 8 and does not have asthma, has also commented on the changes on her body since she started at her new school, even though the issue of air quality is never discussed with her. She comes home from school, Beach says, and tells her mother how she struggles on the playground, complaining, "It's harder here," comparing Hesby to her previous school, Sherman Oaks Elementary, which is just shy of a mile from the 101 and 405 freeways.

Beach wants the district to do all it can with filtration systems at Hesby and other schools. She is also lobbying the city and school district to plant trees behind Hesby because some research has shown that they could absorb some of the pollution that is flowing into the outdoor hallways and lunchroom of the campus.

"These," Beach says, "are problems that affect the lives of every child, forever."

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### Highway Exhaust Stunts Lung Growth, Study Finds

A new study suggests that children who grow up within a third of a mile of a freeway may be sustaining permanent respiratory problems.



The study in California focuses on proximity to a freeway, not just Los Angeles.

Researchers studied developing lung function in 1,445 children living in 12 Southern California communities for eight years, from age 10 to 18. They found that the closer the children lived to a freeway, the more likely they were to experience reduced growth in lung function as measured by the standard tests.

"That living near freeways is a health issue is something we've known about for a long time," said Gennet Pauwwe, a spokeswoman for the California Air Resources Board, which financed part of the research. "All of this points to the fact that California's air pollution control program needs to continue with its aggressive reduction in air pollutants. But I think this would translate to any other part of the U.S. where people are living near heavily trafficked roadways."

The findings were published online Friday by the British journal Lancet.

"Our finding of a larger impact on small lung airways is consistent with what is known about the types of pollutants that are emitted from the tailpipe," said W. James Gauderman, the lead author and an associate professor of preventive medicine at the University of Southern California. These pollutants, he continued, "can be inhaled deeply into the lung and may have the largest impact on the smallest lung airways."

The study was not restricted to the notoriously smoggy Los Angeles basin. "Our findings were observed in all of these children, including those living in areas of lower pollution," Dr. Gauderman said, "so it suggests that in any urban area where children are living near busy roads, they are likely to have adverse respiratory effects. It's not just L. A."

The development of lung function was also lower in nonasthmatic and nonsmoking teenagers living near freeways, suggesting that the highways had an adverse effect on otherwise healthy children. Growth of lung strength and capacity, the researchers write, is largely complete by age 18, and this means that a child with a deficit at that age will probably suffer lifelong diminished lung function.

"The study is significant in the finding that it isn't just regional air pollution, which policy makers have focused on," said Frederica Perera, director of the Columbia Center for Children's Environmental Health at the Mailman School of Public Health in New York. "These results indicate that it's also important to consider local variations in air pollution."

The researchers started with a group of 3,600 children, using questionnaires to gather information on parental income, history of asthma, prenatal exposure to maternal smoking and household exposure to smoking and pets. Then, using yearly questionnaires, they tracked asthma status, personal smoking and exposure to secondhand smoke. They also recorded the distance of each child's home from the nearest limited-access highway and from other major nonfreeway roads.

To determine lung function, the scientists used standard tests that measure how much air a child can exhale during a forced expiration and how forcefully he can do so. Normally, these numbers gradually increase as children grow. The children were tested an average of six times over the eight years of the study.

About 11 percent of subjects per year dropped out of the study for various reasons.

Although the authors controlled the study for socioeconomic status, an editorial with the

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# **Exhibit 11**



# Study Links Close Proximity to Freeways With Autism

## Report Finds Heightened Risks for Families Within 1,000 Feet of Highways

BY ELLIN KAVANAGH

Living near a freeway may be associated with increased risk of autism, according to a study published by a team of researchers from the USC Keck School of Medicine, Childrens Hospital Los Angeles and the UC Davis MIND Institute.

The paper appears online in the journal *Environmental Health Perspectives*.

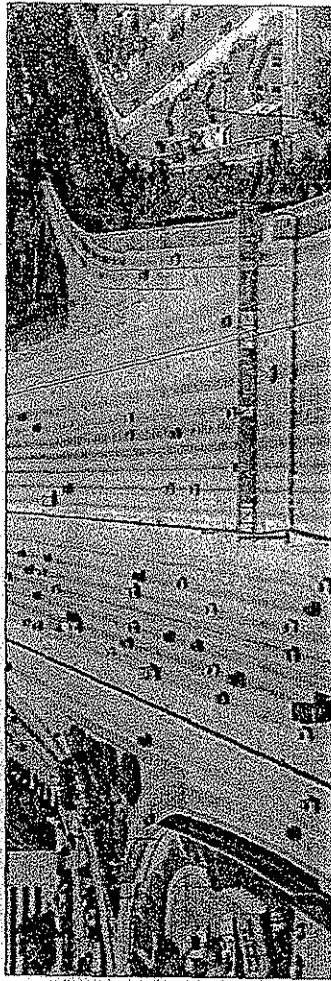
Children born to mothers living within 309 meters of a freeway (or just over 1,000 feet) appeared to be twice as likely to have autism, said Heather Volk, first author on the study. Volk holds joint appointments at the Community, Health Outcomes & Intervention Research Program at The Saban Research Institute of Childrens Hospital Los Angeles, the Zilkha Neurogenetic Institute and the Department of Preventive Medicine at the Keck School.

Autism is a developmental disorder that has long been ascribed to genetic factors. While changes in diagnostic criteria and

increased awareness have been thought to contribute to the rising incidence of the disorder, these factors alone cannot explain the dramatic increase in the number of children affected. The Centers for Disease Control and Prevention reported a 57% increase between 2002 and 2006. The new study supports the theory that environmental factors, in conjunction with a strong genetic risk, may be one possible explanation for the increase.

Data from children with autism and typically developing children, who served as controls, were drawn from the Childhood Autism Risks from Genetics and the Environment (CHARGE) study, a population-based case-control study of preschool children. Children were between the ages of 24 and 60 months at the start of the study and lived in communities around Los Angeles, San Francisco and Sacramento.

Population-based controls were recruited from state of California birth files and were



A study found that living within 309 meters (about 1,000 feet) of a freeway at birth was associated with a two-fold increase in autism risk.

frequency matched to the autism cases by age, gender and broad geographic area. Each participating family was evaluated in person. All children were assessed for autism using well-validated instruments.

The study examined the locations where the children's families lived during the first, second and third trimesters of the mother's pregnancies, and at the time of the baby's birth, and looked at the proximity of these homes to a major road or freeway. The participants' gestational ages were determined using ultrasound measurements and prenatal records.

Volk and her colleagues found that living within 309 meters of a freeway at birth was associated with a two-fold increase in autism risk. This association was not altered by adjustment for child gender or ethnicity, maximum education in the home, maternal age or prenatal smoking. The researchers found

no consistent pattern of association of autism with proximity to major roads, as opposed to freeways, however.

Traffic-related air pollutants have been observed to induce inflammation and oxidative stress in toxicological and human studies. The emerging evidence that oxidative stress and inflammation are involved in the pathogenesis of autism supports the findings of this study.

"We expect to find many, perhaps dozens, of environmental factors over the next few years, with each of them probably contributing to a fraction of autism cases. It is highly likely that most of them operate in conjunction with other exposures and/or with genes," said Irva Hertz-Picciotto, chief of the division of environmental and occupational health in the Department of Public Health Sciences at UC Davis, and principal investigator on the CHARGE study.

Article courtesy USC HSC Weekly.

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# Proximity to freeways may raise autism risk

SHARI ROAN

Children born to mothers who live close to freeways have twice the risk of autism, researchers reported Thursday. The study, its authors say, adds to evidence suggesting that certain environmental exposures could play a role in causing the disorder in some children.

"This study isn't saying exposure to air pollution or exposure to traffic causes autism," said Heather Volk, lead author of the paper and a researcher at the Saban Research Institute of Children's Hospital Los Angeles. "But it could be one of the factors that are contributing to its increase."

Reported cases of autism increased by 57% between 2002 and 2006, according to the Centers for Disease Control and Prevention, although professionals still debate whether rates have actually risen or a greater proportion of autistic children is being diagnosed.

An estimated 1 in 100 children is diagnosed with autism today. There is no cure, although research has

shown that various therapies can mitigate some symptoms, especially if begun early in life.

In the current study, published online in the journal Environmental Health Perspectives, researchers looked at 304 children with autism and, for comparison, 259 children who were developing normally. The children, between the ages of 24 months and 60 months at the start of the study, lived in communities around Los Angeles, San Francisco and Sacramento.

Each family was evaluated in person, and all of the children received developmental assessments. Researchers collected data on where each child's mother lived during pregnancy and at the time of birth, and the proximity of the homes to a major road or freeway.

Children living about 1,000 feet from a freeway at birth — about 40% of the sample — had a two-fold increase in autism risk. The link held up even after researchers controlled for other factors that may influence development, such as ethnicity, parental education, maternal age and exposure to tobacco smoke.

The study did not find a link between autism development and proximity to a major road, as opposed to a freeway. That may be due to the type and quantity of chemicals dispersed on freeways compared with major roads, Volk said.

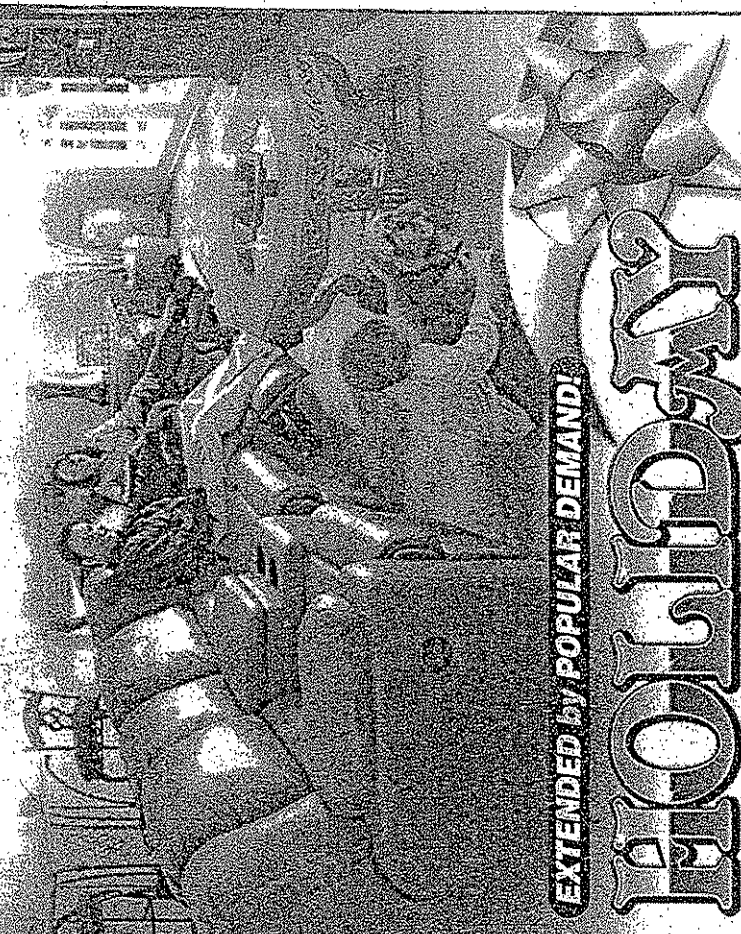
Gayle Windham, chief of the epidemiology surveillance unit with the California Department of Health Services Environmental Investigations Branch, said the study did not directly implicate air pollution as a risk factor for autism because it did not have a way of measuring how much pollution the mothers were exposed to during pregnancy.

"They are using a proxy measure for air pollution, which is distance to a freeway," she said. "But you still don't know how much time the women spent at home or working or commuting." Windham was not involved in the study.

Families residing close to freeways may have to wait longer for research before scientists can issue advice or recommendations on what to do about this potential risk, Volk said.

shari.roan@latimes.com

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# **Exhibit 12**



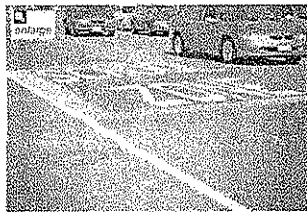
## Science News

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### Traffic-Related Pollution Near Schools Linked to Development of Asthma in Pupils, Study Suggests

ScienceDaily (Apr 2 2010) — Living near major highways has been linked to childhood asthma, but a new study led by researchers at the Keck School of Medicine of the University of Southern California (USC) suggests that traffic-related pollution near schools is also contributing to the development of asthma in kids.



A new study suggests that traffic-related pollution near schools contributes to the development of asthma in kids. (Credit: iStockphoto/Robert Hadfield)

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The researchers found that the risk of developing asthma due to exposure at school was comparable to that of children whose exposure occurred primarily at home, even though time spent at school only accounted for about one third of waking hours. Children in schools located in high-traffic environments had a 45 percent increased risk of developing asthma. The study appears in the journal *Environmental Health Perspectives* and is now available online.

Asthma is the most common chronic childhood illness in developed countries and has been linked to environmental factors such as traffic-related air pollution.

"While residential traffic-related pollution has been associated with asthma, there has been little study

of the effects of traffic exposure at school on new onset asthma," said lead author Rob McConnell, M.D., professor of preventive medicine at the Keck School of Medicine of USC. "Exposure to pollution at locations other than home, especially where children spend a large portion of their day and may engage in physical activity, appears to influence asthma risk as well."

The study drew upon data from the Children's Health Study (CHS), a longitudinal study of children in Southern California communities that was designed to investigate the chronic effects of air pollution on respiratory health. Using a cohort of 2,497 kindergarten and first grade children who were asthma-free when they entered the CHS, researchers examined the relationship of local traffic around schools and homes to diagnosis of new onset asthma that occurred during three years of follow-up.

Traffic-related pollution exposure was assessed based on a model that took into account traffic volume, distance to major roadways from home and school and local weather conditions. Regional ambient ozone, nitrogen dioxide and particulate matter were measured continuously at one central site in each of the 13 study communities. The design allowed investigators to examine the joint effects of local traffic-related pollution exposure at school and at home and of regional pollution exposure affecting the entire community.

Researchers found 120 cases of new asthma. The risk associated with traffic-related pollution exposure at schools was almost as high as for residential exposure, and combined exposure accounting for time spent at home and at school had a slightly larger effect.

Although children spend less time at school than at home, physical education and other activities that take place at school may increase ventilation rates and the dose of pollutants getting into the lungs, McConnell noted. Traffic-related pollutant levels may also be higher during the morning hours when children are arriving at school.

Despite a state law that prohibits school districts from building campuses within 500 feet of a freeway, many Southern California schools are located near high-traffic areas, including busy surface streets.

"It's important to understand how these micro-environments where children spent a lot of their time outside of the home are impacting their health," McConnell said. "Policies that reduce exposure to high-traffic environments may help to prevent this disease."

The study was funded by grants from the National Institute of Environmental Health Sciences, the U.S. Environmental Protection Agency, the South Coast Air Quality Management District and the Hastings Foundation.

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# **Exhibit 13**

# More deaths in state are linked to air pollution

By JANET WILSON  
Times Staff Writer

As many as 24,000 deaths annually in California are linked to chronic exposure to fine particulate pollution, triple the previous official estimate of 8,200, according to state researchers.

The revised figures are based on a review of new research across the nation about the hazards posed by microscopic particles, which sink deep into the lungs.

"Our report concludes these particles are 70% more dangerous than previously thought, based on several major studies that have occurred in the last five years," said Bart Croes, chief researcher for the California Air Resources Board. Croes will present his findings at a board meeting in Fresno this morning.

The studies, including one by USC tracking 23,000 people in greater Los Angeles, and another by the American Cancer Society monitoring 300,000 people across the United States, have found rates of heart attacks, strokes and other serious disease increase exponentially after exposure to even slightly higher amounts of metal, dust or other fragments from tailpipes and smokestacks.

It is difficult to attribute individual deaths to particulate pollution, Croes conceded, but he said long-term studies that account for smoking, obesity and other risks have increasingly zeroed in on fine particulate

late pollution as a killer. "There's no death certificate that says specifically someone died of air pollution, but cities with higher rates of air pollution have much greater rates of death from cardiovascular diseases," he said.

Californians exposed to high levels of fine particulates had their lives cut short on average by 10 years, the board staff found.

Researchers also found that when particulates are cut even temporarily, death rates fall.

"When Dublin imposed a coal ban, when Hong Kong imposed reductions in sulfur dioxide, when there was a steel mill strike in Utah... they saw immediate reductions in deaths," Croes said.

More measures will be needed, air board officials said, including eventually lowering the maximum permissible levels of soot statewide. California already has the lowest thresholds in the world, at 12 micrograms per cubic meter, but researchers say no safe level of exposure has been found. More regulations are being drafted, including one requiring cleaner heavy-duty trucks.

"We must work even harder to cut short these life-shortening emissions," Air Resources Board Chairwoman Mary Nichols said in a statement.

Clean air advocates said they would be watching closely. "These numbers are shocking; they're incredible," said Tim Carmichael, senior policy director for the Coalition for Clean Air, a statewide group. He and others said the board

must strengthen a soot cleanup plan submitted to them by the San Joaquin Valley Air Pollution Control District. A hearing and vote on the plan is scheduled for today.

Numerous Central Valley public health groups wrote Nichols this week, urging bans on the use of industrial equipment on bad air days, tougher controls on boilers and crop drying equipment, and other

action. The economic cost attributed to premature deaths and illnesses linked to particulate exposure in the Central Valley has been estimated at \$3 billion a year, and \$70 billion statewide, according to separate studies. Those figures are expected to be revised upward based on the new report.

"We must clean up the air. We cannot afford further delay," the group wrote.

janet.wilson@latimes.com



MARCIO JOSE SANCHEZ/Associated Press

## NO MANSON VICTIMS FOUND

Jeff Hollowell, left, a detective with the Inyo County Sheriff's Department, and Sheriff Bill Lutze wrap up the search for human remains at a ranch west of Death Valley where Charles Manson and his followers hid in 1969

LA Times 5/22/08 P. B-3

# **Exhibit 14**

# Starkey Evidence Blog

## Impact of Classroom Noise on Children's Listening

### Listening Effort at Signal-to-Noise Ratios that are Typical of the School Classroom

Howard, C. S., Munro, K. & Plack, C. J. (2010).  
Listening effort at signal-to-noise ratios that are typical  
of the school classroom. *International Journal of  
Audiology*, 49, 928-932.

*This editorial discusses the clinical implications of an  
independent research study. The original work was not  
associated with Starkey Laboratories and does not  
reflect the opinions of the authors.*

Everyday activities often require attention to more  
than one concurrent task. The ability to do this  
successfully depends on a number of factors;  
including distractions, the difficulty of the tasks and

the perceived importance of the tasks. In a classroom, children regularly have to attend to multiple tasks at the same time. For instance, they may be taking notes and reading information on a board or a computer screen, while also listening to the teacher and comments or questions from other students. To complicate matters, these tasks are often carried out in the presence of varying levels of background noise.

Classroom noise has a detrimental effect on learning (Shield & Dockrell, 2003). Completing more than one task at a time in a noisy place may adversely affect learning because it requires greater listening effort on behalf of the student. In other words, in the presence of background noise and when attending to multiple tasks, greater cognitive resources must be dedicated to understanding speech. This means that performance on one or more of the tasks, including comprehension of the spoken lesson, can deteriorate. Classroom signal to noise ratios (SNRs) have been measured in the range of -7dB to +5dB (Arnold & Canning, 1999; Crandell & Smaldino, 1995, 2000). Low SNRs are known to have a particularly detrimental effect on speech perception for hearing-impaired listeners, especially children (Blandy & Lutman, 2005; Jamieson et al. 2004). Therefore, the effect of SNR on listening effort and classroom multi-tasking are of special concern for hearing-impaired students.

Listening effort can be measured in adults with self-report ratings, in children it is usually measured with dual-task paradigms. Hicks and Tharpe (2002) compared the performance of children with mild hearing loss to that of normal hearing children in a dual-task study. The primary task was word recognition at 70dB in quiet and in multi-talker babble at SNRs of +10dB to +20dB. The secondary task measured visual reaction time to randomly presented lights. The authors found that reaction time was longer

# **Exhibit 15**

FROM THE DESK OF JON PERICA  
10338 ETIWANDA AVE., NORTHRIDGE, CA 91326

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February 20, 2012

Honorable City Council

**APPEAL JUSTIFICATION – APCC 2008-2703 SPE-CUB-SPP-SPR-1A AND COUNCIL FILES 12-1604 AND CF 09-2092 – TARGET RETAIL PROJECT, 5520 SUNSET BLVD., HOLLYWOOD.**

My name is Jon Perica and I worked in the Los Angeles Planning Department for 35 years, including working as a Zoning Administrator for 20 years issuing legal decisions on over 2,500 cases. My decisions were based on the required legal findings and a fair and impartial evaluation of each case irrespective of the applicant and political popularity of the case. None of my cases were ever overturned by a Superior Court action. Over these many years of ruling on development projects I have learned what makes a “good” project. Unfortunately, the Target Hollywood project is not a good project and can’t legally be supported.

I have reviewed the applicant’s requests and the City Planning Dept. and Central Area Planning Commission’s actions granting approval for the above-cited commercial project at 5520 Sunset Blvd. in Hollywood. I previously submitted a letter in 2009 regarding this case, pointing out at that time that the Commission’s incomplete findings for its original approval of the project were the worst I had ever seen for any Planning Commission grant in my 35 years with the Planning Department. Upon review of the Commission’s 2012 findings, and the developer’s supplemental findings adopted by the City at the November 13, 2012 Planning and Land Use Management Committee’s hearing for the matter (also known as the PLUM Committee), I again strongly believe that the City Council should deny the applicant’s requests for the following reasons:

**1. Failure to make all the required findings.**

The City of Los Angeles’ Zoning Code (Section 11.5.7.F.2) contains five required findings that must be individually reviewed and upheld in order to justify the approval of each requested exception to the Vermont/Western Transit Oriented District Specific Plan (also referred to as the Station Neighborhood Area Plan, or “SNAP”). The City of Los Angeles must also independently issue each of these five required findings in order to approve any exception for a deviation from the requirements of SNAP’s Development Standards and Design Guidelines. Therefore, both the applicant and the City Planning Department are required by the Zoning Code to address each of the project’s requested exceptions by separately delineating the five required findings to determine if the exceptions are justified.



Target has requested eight exceptions from SNAP; five of those exceptions are from SNAP's Development Standards and Design Guidelines. Each of these requested exceptions requires 5 separate findings. The Zoning Code at Section 11.5.7.F.2 clearly lists the five separate findings that must be submitted and reviewed for any exception to be approved. The City's Zoning Code could have listed all of the required five findings together as a group but it does not. Instead, each finding is delineated separately for a very good reason, since it is required under Section 65906 of the California Government Code, and by implication, Section 562 of the Los Angeles City Charter.

**Justification for Required Findings** – The reasons for the separate findings are numerous. Asking for an exception to a long established City Planning requirement constitutes a major deviation from what the community, council office, neighborhood councils and Planning Department have spent years to formulate and enact. The City's various Specific Plans are especially sensitive to such deviations since they go beyond the underlying zoning to establish additional restrictive regulations that enhance and preserve the unique characteristics of a distinct community. The purpose of a Specific Plan is primarily one of correcting past planning mistakes and strictly controlling future development, to improve the quality of that development, and to enhance the quality of life of local residents and businesses. To deviate from the City Planning community standards requires a very compelling justification to override the Zone Code.

The fact that SNAP's Development Standards and Design Guidelines have so many details is therefore a reflection of the vigorous and exacting standards that Specific Plans are held to. To reach consensus on those Standards, all of the major stakeholders in the community meet and confer through a series of public hearings over a period of many years. The resulting ordinance is a carefully crafted roadmap specifically designed to improve the community by requiring that future construction both enhance the visual environment while also being compatible with the appearance and scale of the surrounding neighborhoods. To deviate from the Standards would therefore negate that harmonious effort, causing adverse impacts and incompatible design features that would result in a negative impact on the entire community. Any deviation therefore must be taken very seriously, and the City must rigorously enforce the five required findings made for each requested exception in order to justify a grant for approval.

**Specific Reasons Findings are Inadequate** – Target requested five exceptions from SNAP's Development Standards. These are: 1) An exception to reduce the transparent building elements such as windows and doors to 24 percent in lieu of the required minimum 50 percent; 2) An exception from the required 10-foot setback of the second-floor from the first floor; 3) An exception to allow entrance balconies to exceed the permitted height of 30 feet; 4) An exception from the requirement that roof lines be articulated; and 5) An exception allowing relief from the allowable hours of store deliveries. Target is also seeking exceptions from other aspects of SNAP's zoning regulations, including an exception from the restriction that commercial buildings not exceed 35 feet in height, in order to make the building over 74 feet in height. Each of these requested exceptions requires rigorous review under the Los Angeles Municipal Code.

Unfortunately, however, instead of following the Zoning Code by showing the five required findings for each requested exception, Target merely submitted findings for four of the five exceptions from the Development Standards as a group, not delineating how each of the exceptions is justified. For the City Planning Department to accept this, and for the City Council to approve it, is unprecedented.

**Problems of Missing Findings** – Under the Municipal Code, Target was required to submit the five required findings for each of the five requested exceptions from SNAP’s Development Standards, for a total of 25 separate findings. To approve the exceptions with anything less is clearly prohibited by the clear and unambiguous language of the Code. Target did provide separate findings for its requested exception for relief from the allowable hours of store deliveries, but lumped the other four exceptions together as a group with incomplete, generalized findings. The City or any stakeholder who reads the Target findings cannot clearly determine if all five required findings have specifically been submitted for each exception as required by the Code. Such “generalized” applicant findings do not address each exception request so it is impossible to determine if all of the required justifications are made to approve each exception, or if Target made adequate arguments for each exception being requested. A generalized argument for one of the five findings to justify one exception might be inadequate for the remaining exceptions. Without specifically answering all of the required findings for each of the four exceptions, the application is incomplete, and the requested exceptions cannot be approved. Until the five general findings for each of the four non-delineated requested exceptions are replaced by 20 specific findings, the City has no legal right to grant their approval.

**Lack of Independent Planning Department Judgment** – Target’s lack of separate findings for its requested exceptions from SNAP’s Development Standards is either an intentional effort to hide the fact that the exceptions cannot be justified, or this large corporation is merely trying to save money by not paying its consultant to do what is required by the Zoning Code. The justification for either is inadequate, and the City Planning Department has no legal basis for accepting such generalized findings. The department has compounded the error by adopting such incomplete findings as “their” own findings.

The Planning Department is an independent governmental decision-maker, and it must therefore make an independent evaluation of each requested exception. By using the applicant’s language as their own, the unbiased decision-making process and judgment of the Planning Department is seriously called into question. Furthermore, the Planning Department’s determination to approve the four subject exceptions by adopting Target’s generalized findings also makes the Planning Department at fault for not following their own Zoning Code requirements and more than 50 years of Planning Department policy, which has always required separate findings for each separate exception request.

It’s bad enough that Target submitted inadequate findings for its requested exceptions from SNAP’s Development Standards, but the Planning Department is even more at fault for basing their approvals on incomplete findings that confuse the public. Issues of approval or denial must be made by the Planning Department based on a complete set of facts that the general public and decision-makers can clearly understand and evaluate. That situation did not occur when the Planning Department approved the four exceptions based only on the applicant’s incomplete findings and not on their own independent judgment. Some might say that this situation looks like the Planning Department was working for Target.

**Corrective Planning Department Action** – The Planning Department’s decision to approve the four Development Standards exceptions requested by Target that are based on generalized findings cannot legally be justified because the findings are incomplete. Therefore, the Planning Department must redo the findings so that every request for an exception has the five required

findings clearly and separately numbered with adequate justification for each. Finally, all planning staff working on this case should be reminded that it is their clear responsibility to uphold the legal requirements of the Los Angeles Municipal Code and City Charter, which requires that five findings for any exception or variance shall be separately made for each applicant request.

**2. The Commission's approval of 8 Specific Plan Exceptions is a serious indicator of a poorly designed project that is inappropriate for this site.**

To request more than just several discretionary changes from the Specific Plan shows the project is too large, too tall, and out of scale with what the by-right building standards allow. The limitations on height, setbacks and parking, and even a requirement for free delivery to area residents, are all being disregarded and the amount of non-compliance with the Specific Plan is huge.

The problem with the project's current design is that the applicant started with the project he wanted and dismissed the Specific Plan requirements for what was required. What the unequaled amount of 8 exceptions from the Specific Plan requested for this Sunset Blvd. project shows is a complete disregard for the protective provisions and standards of good quality development that the Zone Code creates and maintains. What is most insulting in this Commission decision is that Target's "big box" is asking for so much of a deviation in height. The original request for a building height of 80 feet, reduced to a token 74 feet, is over twice the Specific Plan height limit of 35 feet. This is a **profound increase and it is totally beyond the scope and spirit of the Specific Plan.** Exceptions from the Specific Plan are not intended to be "blank checks" where the applicant can ask for anything he wants. The intent of any granted exception is to preserve the major parts of the Specific Plan while permitting minor deviations or adjustments that are limited in nature so as to keep the "integrity" of the Specific Plan requirements, and a height increase grant of 5-9 feet would be within the range of a reasonable Exception request based on a roof design feature or a sloping lot where Building and Safety defines height measurements as five feet from the lowest part of the project. The approved 74-ft height request makes a total **mockery** of the Specific Plan. To double the height makes even having a Specific Plan height limit worthless if it can be exceeded by such a large amount. This approved height sets a **terrible precedent** for other projects in the local community to cite. The height limit was perhaps the **single most important justification to creating the Specific Plan in the first place** and this grant makes the Specific Plan **meaningless.**

If it is City policy to totally disregard their Specific Plans, the City should just be more honest and revoke the Specific Plan and let the applicants play "let's make a deal" with every new project. Is it any wonder that neighborhood councils feel that city adopted planning documents and ordinances are worth very little in the way of neighborhood protection when the City requirements and standards are so routinely violated without legal justification and at a scale never contemplated by the original planning documents? This Commission's determination is just one more City decision to invalidate the goals of a Specific Plan and one of the worst recent examples of the City not enforcing its own planning standards and goals.

**3. There is no commensurate Public Benefit to justify 8 discretionary Specific Plan Exceptions.**

The Specific Plan's standards are not being protected and implemented because the Central Area Planning Commission's findings do not explain how granting the exceptions to the Specific Plan's standards help implement the Specific Plan's goals. How does granting an Exception allowing the

applicant to adhere less to the requirements of the Specific Plan help meet the goal of the Specific Plan that was put in place for developers to do more? Doing less in the past was unacceptable to the local residents of the subject area and the justification for adopting the Specific Plan was to better define the quality of new construction that would occur. A massive 74-foot-tall building with a roofline allowed to come out to the very sidewalk creates a "Berlin Wall" effect that is not pedestrian friendly, and yet creating a better pedestrian atmosphere was one of the primary goals for creating the Specific Plan in the first place.

Furthermore, there is no Commission or applicant proof that any other exception was granted in the local area for another commercial project to exceed the permitted height by over double the City limit, so that particular grant cannot be approved. Similarly, the Commission and applicant never provided any justification explaining why this subject lot is significantly different in zoning, size or topography than the similar commercial properties on the same street, so the "special circumstances" finding is clearly not justified. By not even addressing this crucial issue, the Commission and applicant indicate there is really no justification to support the required findings.

**4. There is a better project design that the applicant should provide the City.**

The vast majority of recent development in Hollywood have requested only a few discretionary exceptions to the Zone Code, and the applicant for Target should redesign his project so that it meets the Specific Plan requirements in as many areas as possible, particularly in conformance to height limitations and setbacks. Most of the exceptions requested by the applicant don't mean that the Specific Plan requirements can't be followed, but that the applicant doesn't want to because he won't change the design of his current project. The applicant doesn't limit what the City can consider for the design of a project at this site. As a Zoning Administrator acting on these same types of issues for 20 years, I often asked the applicant or architect to change the project design, and that is exactly what the City should require. Make the applicant show you a project within the Specific Plan's 35-foot height limitation and with all or almost all of the Code requirements followed and then evaluate that project as an alternative to this design. The City, not the applicant, controls the final design.

**Summary** – The Central Area Planning Commission's approval of the eight Specific Plan exceptions for the Target project lacks supporting evidence to justify the required findings. The Commission's justifications for the findings are not born out of reality, and Target's approved building design would totally redefine the skyline for the local community for no valid reason while opening up the community to future similar tall buildings in the area. If challenged in the courts, it is my professional opinion that case law precedents show that the City will lose an appeal of this request, and this project, as proposed, will not be built. Do the right thing now and ask the applicant to design a better project that is consistent with the Specific Plan.



Jon Perica  
Retired Zoning Administrator

# **Exhibit 16**

**1375 N WESTERN AVE 90028**

**APPLICATION / PERMIT NUMBER: 12014-10000-04519**

**PLAN CHECK / JOB NUMBER: B12LA14846**

- [Home](#)
- [Help](#)
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**Permit Application or Issued Permit Information**

**GROUP:** Building  
**TYPE:** Bldg-Addition  
**SUB-TYPE:** Commercial  
**PRIMARY USE:** (17) Restaurant  
**WORK DESCRIPTION:** BUILDING ADDITION AND RENOVATION FOR AN EXISTING RESTAURANT; EXPAND RESTAURANT INTO (E) POST OFFICE (CHANGE OF USE FROM POST OFFICE TO RESTAURANT)  
**PERMIT ISSUED:** No      **PERMIT ISSUE DATE:** N/A      **ISSUING OFFICE:** N/A  
**CURRENT STATUS:** Reviewed by Supervisor      **CURRENT STATUS DATE:** 02/07/2013

**Permit Application Status History**

Submitted	12/17/2012	PCIS IMPORT
PC Assigned	01/24/2013	CHIHARU SUZUKI
Reviewed by Supervisor	02/07/2013	SUEN LIEU

**Permit Application Clearance Information**

DAS Clearance	Not Cleared	01/28/2013	FELIX FIGUEROA
Green Code	Not Cleared	01/30/2013	MARCUS LEVIAS
Comm Cor/Mini-Mall	Not Cleared	02/06/2013	CHIHARU SUZUKI
Eng Process Fee Ord 176,300	Not Cleared	02/06/2013	CHIHARU SUZUKI
Food Service Establishment	Not Cleared	02/06/2013	CHIHARU SUZUKI
Food establishment approval	Not Cleared	02/06/2013	CHIHARU SUZUKI
Highway dedication	Not Cleared	02/06/2013	CHIHARU SUZUKI
Low Impact Development	Not Cleared	02/06/2013	CHIHARU SUZUKI
Prking lot landscape/Water mgmt	Not Cleared	02/08/2013	CHIHARU SUZUKI
Project located in CRA area	Not Cleared	02/06/2013	CHIHARU SUZUKI
Roof/Waste drainage to street	Not Cleared	02/06/2013	CHIHARU SUZUKI
Sewer availability	Not Cleared	02/06/2013	CHIHARU SUZUKI
Title 19 building approval	Not Cleared	02/06/2013	CHIHARU SUZUKI
ZI	Not Cleared	02/06/2013	CHIHARU SUZUKI

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**Architect Information**

Sun, Wen-Jay Jason; Lic. No.: C22697  
 2121 W MISSION RD STE 303  
 ALHAMBRA, CA 918031420

**Engineer Information**

Owen, Stanley Sianchen; Lic. No.: C38584  
 606 WALNUT AVE  
 ARCADIA, CA 91007

**Licensed Professional/Contractor Information**

**Inspection Activity Information**

**Inspector Information**

No data available

**Pending Inspection Request(s)**

No data available

**Inspection Request History**

No data available

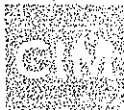
BACK    NEW SEARCH

# **Exhibit 17**

Please forward this information to Susan Gray and advise on next steps. As you know, we are inches from pulling our building permit and I just want to make sure that we have met requirements such that you/CRA can provide our clearance requirement.

Thanks and have a great weekend.

Mike



INVESTING IN URBAN COMMUNITIES

**H. MICHAEL SCHWARTZMAN**

Vice President, Development

Direct: 323-860-4886

Cell: 240-994-4415

6922 Hollywood Blvd

Ninth Floor

Los Angeles, CA 90028

[mschwartzman@cimgroup.com](mailto:mschwartzman@cimgroup.com)

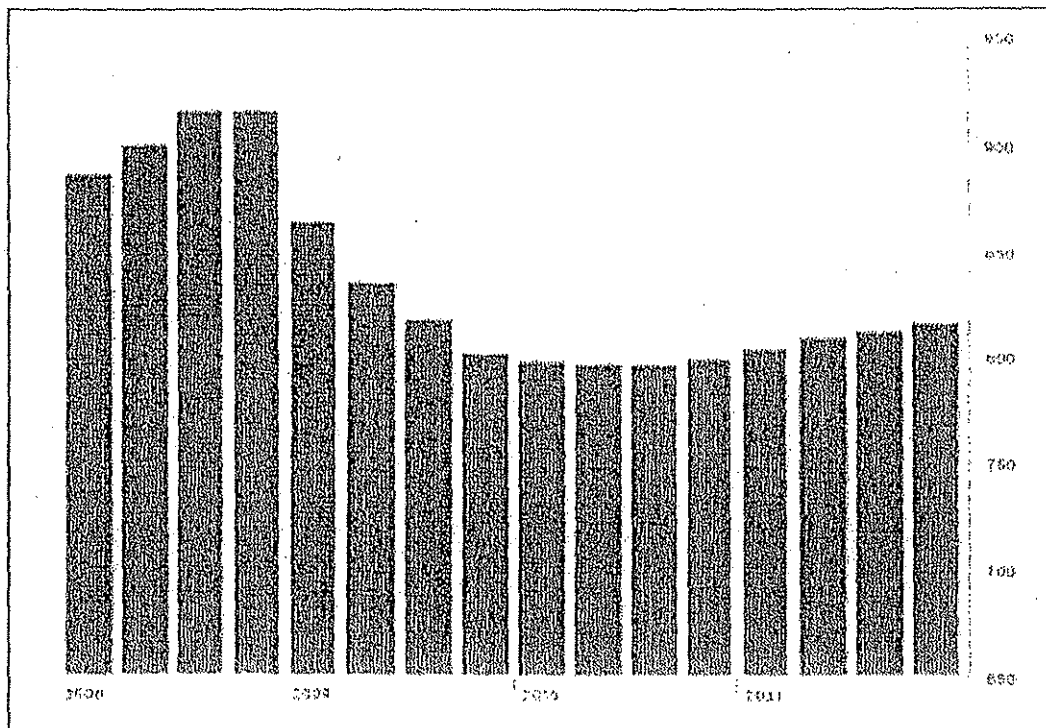


NOTE: This development budget cost comparison analysis is based on the original developer's budget evaluation prepared by Keyser Marston Associates, dated October 3, 2007, and incorporated in the project's OFA with CRA executed October 16, 2007.

	Original Developer	Current Ownership	Delta	Comments
<b>LAND COSTS</b>				
Land Acquisition Costs	\$19,740,000	\$21,000,000	\$1,260,000	
Associated Land Costs	\$128,000	\$205,000	\$77,000	
<b>TOTAL LAND COSTS</b>	\$19,868,000	\$21,205,000	\$1,337,000	CIM purchases fully entitled land with permit drawings from lender in receivership at estimated \$7.5 million discount to market
<b>HARD COSTS</b>				
Demolition	\$204,000	\$735,000	\$534,000	Included in building component pricing
On-site Improvements	\$673,000	\$0	(\$673,000)	Reflects 2012 hard bid GMP pricing versus 2007 costs (commodity pricing, less depth)
Park	\$1,663,000	\$6,800,000	\$4,403,000	Reflects difference between condo and loft style (exposed materials) apartment grade building, finishes, higher efficiency and all building systems)
Parking Garage	\$23,630,000	\$0	(\$23,630,000)	Included in residential component pricing
Residential Component	\$75,580,000	\$48,098,000	(\$27,482,000)	Reflects 2012 hard bid GMP pricing versus 2007 est. costs
Residential Shell	\$232,000	\$0	(\$232,000)	Allow \$100/SF for restaurant and \$60/SF in-line retail
Retail Component	\$2,754,000	\$1,250,000	(\$1,504,000)	No FF&E provided for retail product
Retail Tenant Improvements	\$829,000	\$1,123,360	\$690,360	Reflects 2012 hard bid GMP pricing versus 2007 est. costs
Retail FF&E	\$4,000	\$0	(\$4,000)	No FF&E provided for office product
Office Component	\$8,131,000	\$5,800,000	(\$2,331,000)	Based on executed GMP contract for construction (complete set of construction documents)
Office Tenant Improvements	\$1,609,000	\$1,755,000	\$146,000	Current Ownership only had to finish documents and buy limited construction administration services
Office FF&E	\$14,000	\$0	(\$14,000)	Includes school fees for residential units and applicable building permit fees
Contingency	\$5,721,000	\$600,000	(\$5,121,000)	Reflects zero legal costs for condominium construction and in house accounting
<b>TOTAL HARD COSTS</b>	\$120,135,000	\$67,127,360	(\$53,007,640)	Greater buying power in market due to large, local portfolio
<b>SOFT (INDIRECT) COSTS</b>				Covers minimal fees
Architecture/Engineering & Consultants	\$7,208,000	\$1,911,000	(\$5,297,000)	Differences between marketing condo homes versus apartments with internal property management
Permits & Fees	\$5,267,000	\$2,135,996	(\$3,131,014)	Retail marketing included in residential marketing cost
Taxes, Legal & Accounting	\$3,604,000	\$1,630,000	(\$1,974,000)	Office marketing included in residential marketing cost
Insurance	\$597,000	\$213,000	(\$384,000)	Reflects internal leasing staff with outside co-brokerage tenant rep
Residential FF&E	\$0	\$70,000	\$70,000	Percentage versus fixed fee set by fund structure
Marketing	\$3,452,000	\$745,000	(\$2,707,000)	Executed contracts and fixed expenses requires little contingency
Residential Units	\$191,000	\$0	(\$191,000)	
Retail Space	\$604,000	\$0	(\$604,000)	
Commercial Office	\$0	\$937,000	\$937,000	
Leasing Commissions	\$3,604,000	\$3,800,000	\$196,000	
Developer Fee	\$1,226,000	\$300,000	(\$926,000)	
Sold Cost Contingency	\$25,753,000	\$11,261,986	(\$14,491,014)	
<b>TOTAL SOFT COSTS</b>	\$25,753,000	\$11,261,986	(\$14,491,014)	
<b>FINANCING</b>				
Interest Carry	\$24,266,000	\$1,800,000	(\$22,466,000)	Projected at 50% versus 85% loan-to-cost and apartment versus condo building (reduced timeline and interest carry period)
Financing Fees	\$3,395,000	\$525,000	(\$2,870,000)	Reflects relationship banking on apartment building, not condo
Lease-up Revenue - Retail	(\$219,000)	\$0	\$219,000	Conservative underwriting with free rent presumes commercial leasing revenue commences after building delivery
Lease-up Revenue - Commercial	(\$502,000)	\$0	\$502,000	Same as above
Residential Closing, Commissions & Warranties	\$7,007,000	\$0	(\$7,007,000)	Will deliver apartment building, not condominium
<b>TOTAL FINANCING COSTS</b>	\$33,345,000	\$2,325,000	(\$31,020,000)	
<b>TOTAL PROJECT COSTS</b>	\$199,705,000	\$101,919,346	(\$97,785,654)	

### Project Timing – 2007 versus 2012:

The previous developer's budget was established and underwritten by CRA/LA in 4Q2007, one of the most expensive periods in the construction industry over the past decade. From 2003 to 2008, the financial markets sought real estate investments and construction projects were underway across the nation and across the world. The US debt markets devised numerous products to put home mortgage loans within reach of the masses and the race for home ownership fueled production of single family homes, townhouses and condominium developments. Coupled with new office, retail, hospitality and public work project deliveries, costs for labor, materials and commodities futures escalated rapidly as oil and transportation costs outpaced inflation. New demands on construction materials from emerging markets in China, Brazil and Russia placed additional upward pressure on pricing through its peak in 2008, until the 2009 global recession immediately halted everything, especially new construction. As the Construction Cost Index bar graph below reveals, construction costs have remained flat over the past few years since leveling off in 2010. Our project has benefited from today's low pricing while finalizing our guaranteed maximum price (GMP) with our general contractor, HW&A Structures, an affiliate of Portland based Howard S. Wright and Balfour Beatty Company parent company. Balfour Beatty is an industry leading, International construction company with coverage in every major market. Coupled with CIM's market depth, the CIM-Balfour Beatty buying leverage translates into double percentile savings to our project.



Source: Turner Construction National Construction Cost Index

According to our calculations for total hard costs, less contingency and commercial tenant Improvements for retail and office space, the previous developer projected over \$112.3 million versus our actual GMP cost of approximately \$63.6 million, which equates to a difference of \$48.6 million.

### Condominium versus Apartments:

A tremendous difference between our hard costs and the previous developer's estimates is attributable to residential project type. We plan to deliver 301 loft-style, market rate rental apartment units, not high-end condominiums. We project this cost delta is worth approximately \$80,000 per unit or \$24

million. With our loft-style approach, we plan to expose the building systems like mechanical ductwork and plumbing pipes, concrete columns, slabs, etc. as opposed to spending millions of dollars to concealing them with drywall ceilings, soffits or architectural millwork.

Delivering a condominium building also requires a great deal of cost for legal fees to map units, create condominium documents, and finalize covenants, conditions and restrictions. A condominium developer also incurs enormous expenses on marketing, sales and co-brokerage commissions - about 6% per unit versus our minimal overhead to lease an apartment with in-house property management staff. By law, the condo developer must set aside a warranty service reserve, since condominiums fall under consumer protection law where the condominium developer is no different than a single family home builder that must stand behind its product for years after settlement. The difference to insure a condominium project versus a rental apartment building is well over four million dollars due to the litigious aspects of the ten year tail related to such projects. We believe our savings for these soft cost line items alone is worth over \$13 million.

Since acquiring the site, we have spent months working on the building interior components while maintaining substantial conformance with the exterior design as entitled. It's effectively the same building; however, the previous developer's building program predominantly comprised of two bedroom units - 60% two bedrooms to 40% one bedroom units. Without changing demising wall locations between units, we simply created a building program that is now 65% one bedrooms and 35% two bedrooms to meet today's market demand. This allowed us to create fewer unit layouts so our building tier plans are repetitive vertically throughout the residential tower. This increases constructability, building efficiency and shortens our overall construction schedule. Since our parking ratio is one space per bedroom, our total parking requirement decreased by almost 70 parking spaces, thereby reducing our garage and completely eliminating the lowest subterranean garage level.

#### Financing and Interest Costs:

The most significant advantage that we have over our competition, especially the previous developer, is our ability to obtain equity and debt financing at very compelling rates. Where the original developer underwrote the project with 85% debt-to-equity, we only incorporate 55% leverage. This reduces both our lender's risk profile and its applied interest rate. The original developer's interest rate on loan proceeds was 8.8%, while our interest rate is sub 5% since we presently have \$9.5 billion under management and have tremendous relationship banking partners. We project the difference between total interest carry and associated financing fees to be over \$25 million.

Please do not hesitate to call if you would like to discuss this evaluation in greater detail. Thank you in advance for your time and effort.

Sincerely,



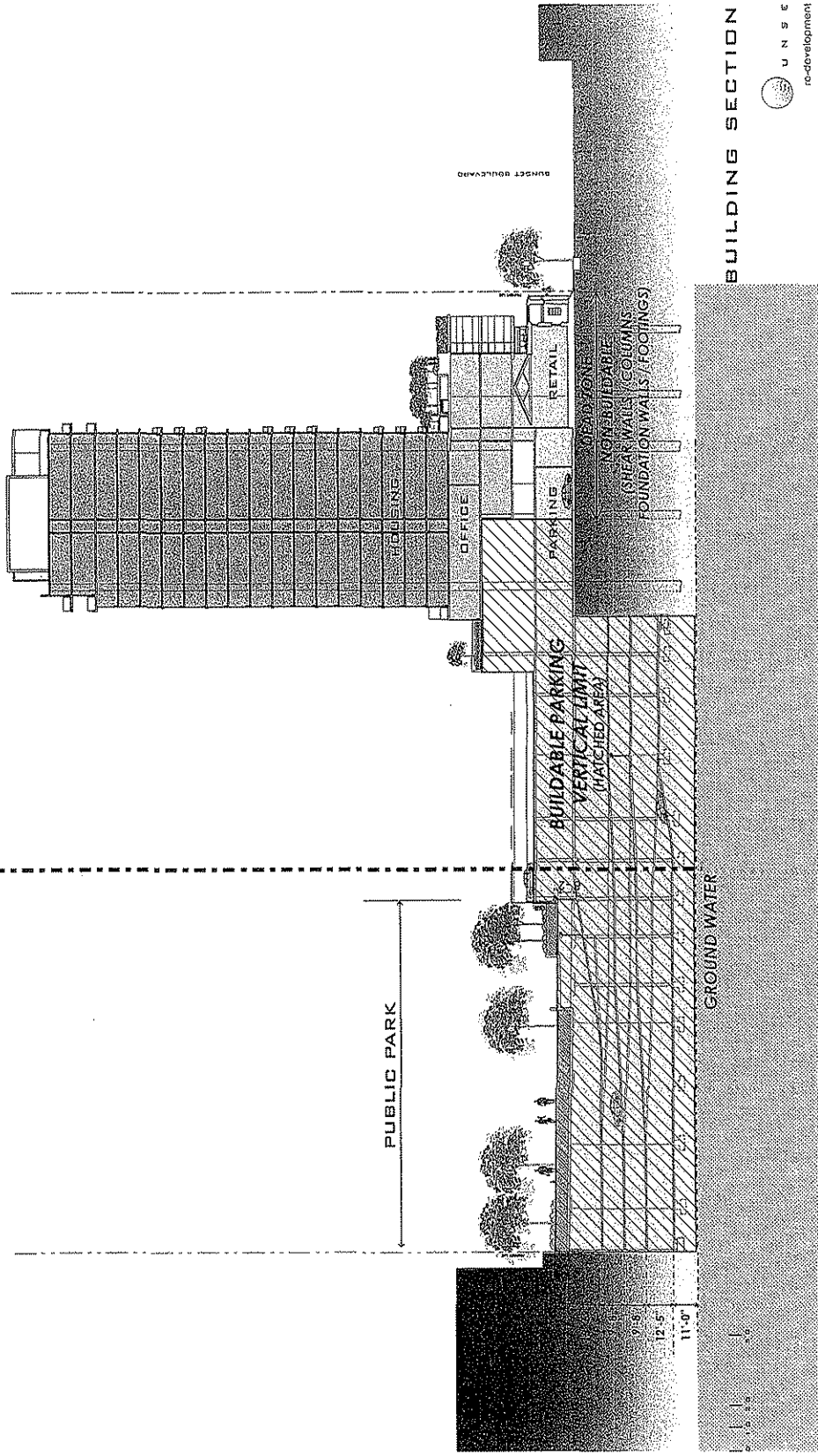
H. Michael Schwartzman  
Vice President, Development  
On behalf of 5929 Sunset (Hollywood) LLC

# EXHIBIT C2

## PARKING AVAILABILITY "DEAD ZONE"

R4-1VL ZONE C2-2D-SN ZONE

PUBLIC PARK



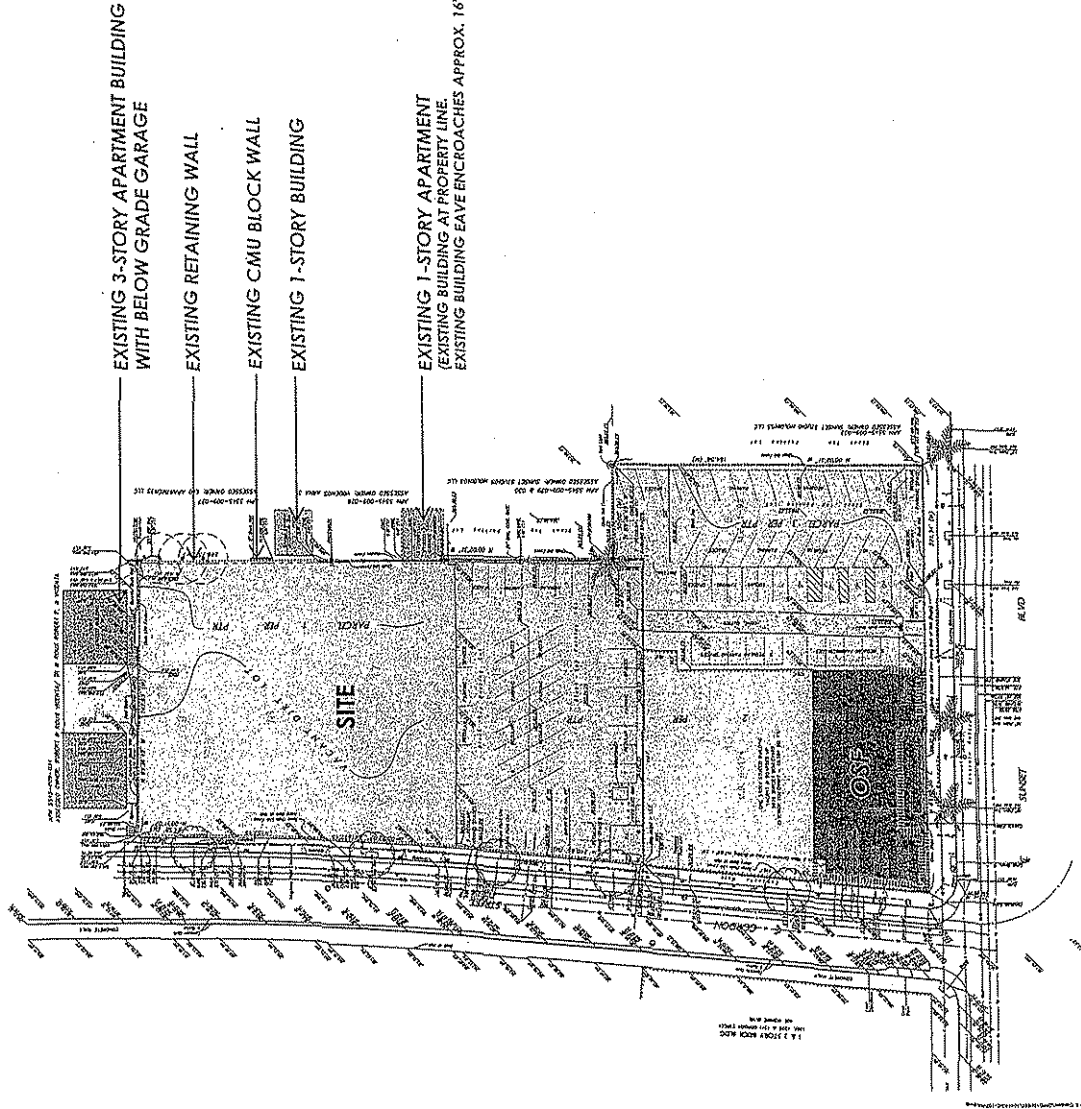
BUILDING SECTION



UNSET  
re-development mixed-use project  
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

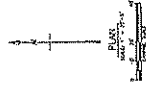
003 - 10/20/11/11 - 10/20/11/11

# EXHIBIT D1 ADJACENT BUILDINGS



BRONSON AVENUE 3

SURVEY FOR REFERENCE ONLY



1:100000



1100 W. WASHINGTON  
 SUITE 100  
 CHICAGO, IL 60606  
 (312) 467-1111

*Signature*



UNBET  
 1100 W. WASHINGTON  
 SUITE 100  
 CHICAGO, IL 60606  
 (312) 467-1111

UNBET  
 1100 W. WASHINGTON  
 SUITE 100  
 CHICAGO, IL 60606  
 (312) 467-1111

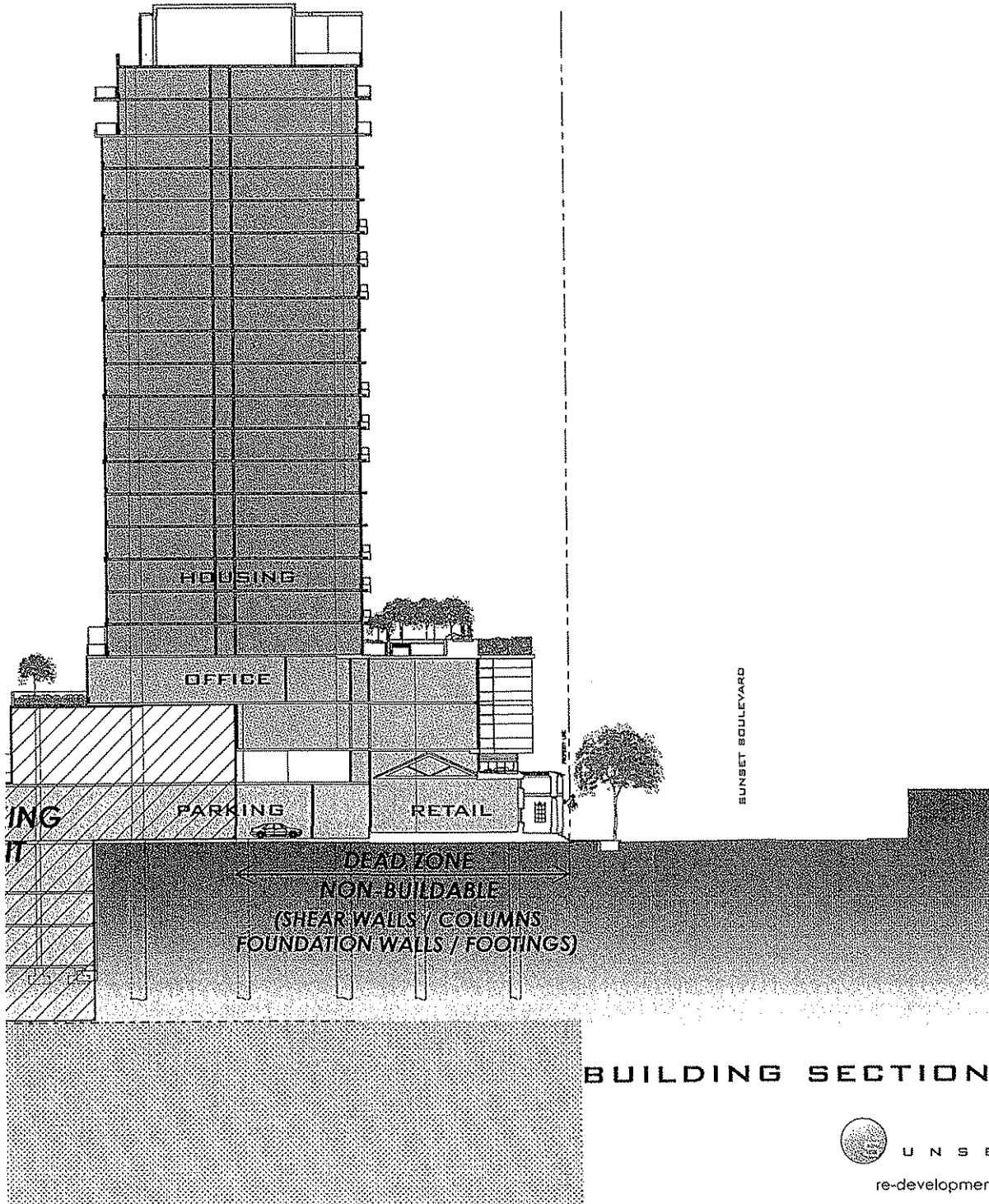
DATE: 12/12/11  
 SHEET: 1 OF 1  
 PROJECT: BRONSON AVENUE

C1.00

# EXHIBIT C2

ZONE

## PARKING AVAILABILITY "DEAD ZONE"



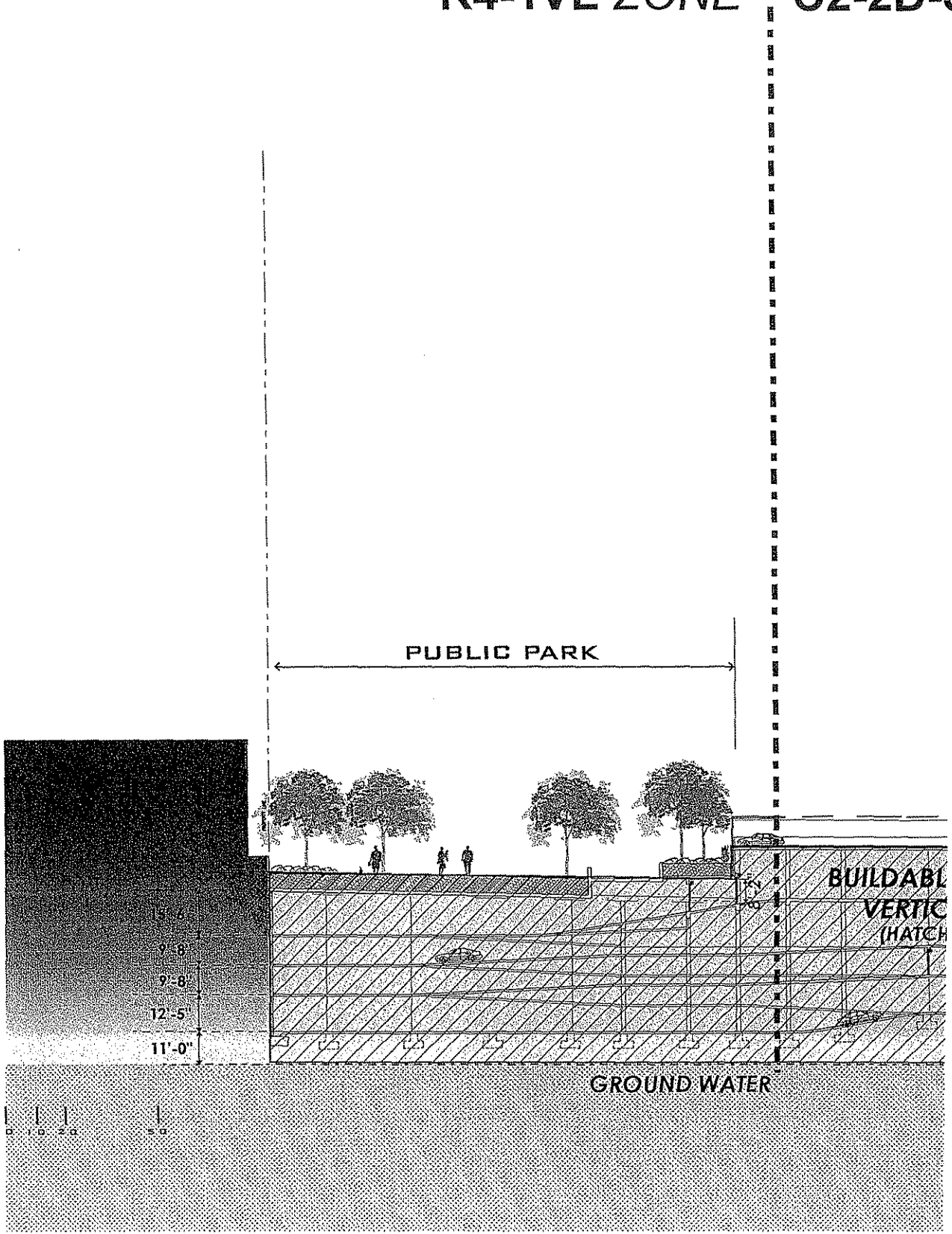
UNSET

re-development mixed-use project

PUNNET + GORDON  
Hollywood, California

GEO ARCHITECTS Incorporated

# R4-1VL ZONE C2-2D-S



Bell, Neelura

---

From: Bell, Neelura  
Sent: Monday, May 07, 2012 10:52 AM  
To: Cortez, Michael  
Subject: RE: Old Spaghetti Tower Site Caught Up in Assessor Scandal

Yep, I saw the LA Times front page story.

*Neelura*  
213.368.9126

---

**From:** Cortez, Michael  
**Sent:** Monday, May 07, 2012 10:49 AM  
**To:** Bell, Neelura; Rudd, Christopher  
**Subject:** Old Spaghetti Tower Site Caught Up in Assessor Scandal

In case you didn't see this on Friday/

Shenanigans

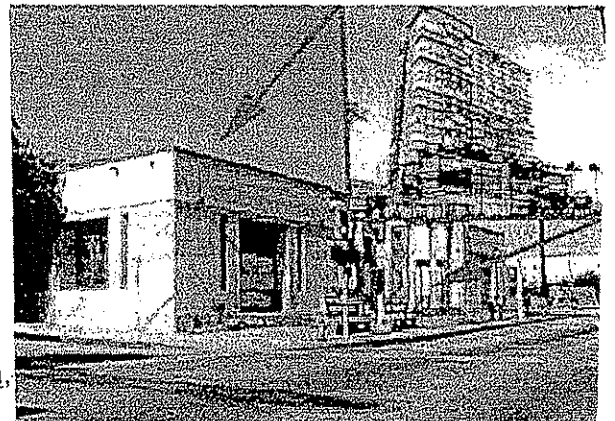
## Old Spaghetti Tower Site Caught Up in Assessor Scandal

Friday, May 4, 2012, by [Adrian Glick Kudler](#)

[Share on email](#)

Well, now things are getting pretty interesting in the LA County Assessor scandal, in which a tax appraiser and Assessor John Noguez are accused of underassessing properties (and thus lowering their property tax burdens) in exchange for political contributions. Previous reports have involved single family homes on the Westside, but now the LA Times reports that the infamous old Old Spaghetti Factory at Sunset and Gordon is now caught up in the mess. The site had been owned by developer Gerding Edlen, who came up with plans for a mixed-use tower; its lender took it

back in late 2010, and then developer CIM Group bought up the site and the plans last summer. Sometime before CIM's purchase, but after Gerding Edlen had gotten entitlements to build a 22 story residential and retail tower, "Ramin Salari, a property tax consultant and campaign fundraiser for...Noguez, lobbied to reduce the shuttered





restaurant's tax bill because, he said, the land it sat on wasn't worth the \$14 million his clients had paid for it. He convinced Noguez's staff to assess the shuttered eatery, and three smaller parcels nearby, for \$7.2 million."

And then it sold for \$21 million>>

A month after getting "the last of several six-figure tax refunds based on the lower value," the property sold for \$21 million. He also lobbied for a \$7.6 million value in 2008 and a \$6.3 million value in 2009. To repeat: assessed at \$7.2 million. Sold at \$21 million. The rank and file saw it "as confirmation of a growing suspicion that Noguez and his top aides were ignoring their duty to assess fair market values." But a spokesperson tells the LAT that the lower value was just due to "uncertainty over the planned development's future."

The District Attorney's office executed search warrants last week that cover Salari's and Noguez's home, as well as several assessor's offices. Salari gave "at least \$10,000" to Noguez's 2010 County Assessor campaign.

- [Assessor's value for Hollywood landmark fell well below sale price \[Updated\]](#) [LAT]
- [Tax Appraiser Undervalued Westside Properties to Help His Boss](#) [Curbed LA]
- [Old Spaghetti Factory Archives](#) [Curbed LA]

Michael Cortez  
CRA LA  
3055 Wilshire Blvd. | Suite 1120 | Los Angeles, CA 90010  
T 213-368-3500 | 213-368-9127 (direct line) | F323- 461-1487  
E [mcortez@cra.lacity.org](mailto:mcortez@cra.lacity.org) | [www.crala.org](http://www.crala.org)



Please consider the environment before printing this email

5929 W Sunset Blvd



REvised 3/8/12

Application #: B07LA11313  
Plan Check #: B07LA11313  
Event Code:

07010 - 10000 - 04545  
Printed: 03/05/12 02:48 PM

Bldg-New GREEN - MANDATORY City of Los Angeles - Department of Building and Safety  
Apartment  
Regular Plan Check  
Plan Check  
**APPLICATION FOR BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY**  
Last Status: Verifications in Progress  
Status Date: 05/28/2008

L TRACT	BLOCK	LOT(S)	ARB	COUNTY MAP REF#	PARCEL ID # (PIN #)	ASSESSOR PARCEL #
BAGNOLI TRACT NO. 2		19		M B 9-174	148-5A191.308	5545 - 009 - 007
BAGNOLI TRACT NO. 2		18		M B 9-174	147A191 31	5545 - 009 - 006
BAGNOLI TRACT NO. 2		17		M B 9-174	147A191 39	5545 - 009 - 005
BAGNOLI TRACT NO. 2		16		M B 9-174	147A191 41	5545 - 009 - 035
BAGNOLI TRACT NO. 2		15		M B 9-174	147A191 46	5545 - 009 - 035
PAUL AND ANGEL REYES S		6	1	M B 1-92	147A191 60	5545 - 009 - 031

**1. PARCEL INFORMATION**  
 Area Planning Commission - Central  
 LADBS Branch Office - LA  
 Council District - 13  
 Certified Neighborhood Council - Hollywood Studio Dist  
 Community Plan Area - Hollywood  
 Census Tract - 1910.00  
 District Map - 147A191  
 Energy Zone - 9  
 Fire District - 1 (w/in 100' of St.)  
 Fire District - 2  
 Near Source Zone Distance - 1.2  
 Thomas Brothers Map Grid - 593-G4

ZONING(S): (T)(Q)C2-2D-SN

**4. DOCUMENTS**

ZI - ZI-1352 Hollywood Redevelopment RENT - YES	ORD - ORD-176172	CPC - CPC-1999-2293-ICO
ZI - ZI-2277 Hollywood Redevelopment	ORD - ORD-165662-SA340	ORD - ORD-180094
ZI - ZI-2330 Hollywood Signage Suppl	ORD - ORD-165662-SA350	CRA - ZI 1352 HOLLYWOOD
ZI - ZI-2374 Los Angeles State Enterpris	ORD - ORD-173562	CPC - CPC-2002-4173-SUD
		CPC - CPC-1986-833-GPC
		CPC - CPC-2003-2115-CRA

**5. CHECKLIST ITEMS**

Special Inspect - Concrete > 2.5ksi	Special Inspect - Grade Beam/Caisson	Special Inspect - Rebar Welding
Special Inspect - Field Welding	Special Inspect - Grading/Leav. Below 1:1 PI	Special Inspect - S.M.R. Frame-Concrete
Special Inspect - Fire Proofing	Special Inspect - Prestress Concrete	Special Inspect - Structural Observation

**6. PROPERTY OWNER, TENANT, APPLICANT INFORMATION**  
 (Owners):  
 5929 Sunset Hollywood Llc 6922 Hollywood Blvd 10TH FL LOS ANGELES CA 90028  
 5929 Sunset Hollywood Llc 6922 Hollywood Blvd 10TH FL LOS ANGELES CA 90028  
 Tenant:  
 Applicant: (Relationship Agent for Owner)  
 Bruce Miller - Bruce Miller & Associates 354 S. Spring St #415 LOS ANGELES, CA 90013 (213) 625-2592

2. EXISTING USE	PROPOSED USE	3. DESCRIPTION OF WORK
	(05) Apartment (16) Retail (17) Restaurant	NEW 22-STORY TYPE I-A FULLY SPRINKLERED MIXED USE (CORE AND SHELL ONLY), 301 RESIDENTIAL UNITS, GROUND FLOOR RETAIL, 2 FLOORS OF OFFICE AND 6 LEVELS OF PARKING (4 LEVELS SUBTERRANEAN). TI FOR COMMERCIAL USES UNDER SEPERATE PERMIT.

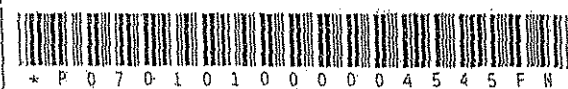
2. # Units on Site & Use: 1 OF 3 TV

**10. APPLICATION PROCESSING INFORMATION**  
 BLDG. PC By: Catherine Nuezca Gaba D&S PC By: Eddie Garin  
 OK for Cashier: Coord. OK:  
 Signature: Date:  
 For inspection requests, call toll-free (888) LA4BUILD (524-2845).  
 Outside LA County, call (213) 482-0000 or request inspections via  
 www.ladbs.org. To speak to a Call Center agent, call 311 or  
 (866) 4LACITY (432-2489). Outside LA County, call (213) 473-3231.  
 For Cashier's Use Only W/O #: 71004545

**11. PROJECT VALUATION & FEE INFORMATION** Final Fee Period

Permit Valuation: \$63,000,000	PC Valuation:
FINAL TOTAL Bldg-New	1,862,440.17
Permit Fee Subtotal Bldg-New	239,122.75
Energy Surcharge	
Handicapped Access	
Plan Check Subtotal Bldg-New	90,242.48
Off-hour Plan Check	45,121.24
Plan Maintenance	300.00
Fire Hydrant Refuse-To-Pay	
E.Q. Instrumentation	6,300.00
O.S. Surcharge	7,621.73
Sys. Surcharge	22,865.19
Planning Surcharge	22,487.19
Planning Surcharge Misc Fee	10.00
Sewer Cap ID:	
	Total Bond(s) Due:

**12. ATTACHMENTS**  
Plot Plan



# **Exhibit 18**