

MASTER APPEAL FORM

City of Los Angeles – Department of City Planning

APPEAL TO THE: Central Area Planning Commission
(DIRECTOR, AREA PLANNING COMMISSION, CITY PLANNING COMMISSION, CITY COUNCIL)

REGARDING CASE #: DIR-2013-3749-SPR

PROJECT ADDRESS: 909 W. Temple Street

FINAL DATE TO APPEAL: March 11, 2014

- TYPE OF APPEAL:**
- 1. Appeal by Applicant
 - 2. Appeal by a person, other than the applicant, claiming to be aggrieved
 - 3. Appeal by applicant or aggrieved person from a determination made by the Department of Building and Safety

APPELLANT INFORMATION – Please print clearly

Name: Palmer Temple Street Properties LLC

- Are you filing for yourself or on behalf of another party, organization or company?
 Self Other: _____

Address: 11740 San Vicente Blvd., Suite 208

Los Angeles, CA Zip: 90049

Telephone: (310) 207-3100 E-mail: _____

- Are you filing to support the original applicant's position?
 Yes No

REPRESENTATIVE INFORMATION

Name: Greg Smith, Vice President of Development, GH Palmer Associates

Address: 11740 San Vicente Blvd., Suite 208

Los Angeles, CA Zip: 90049

Telephone: 310-597-0500 E-mail: greg@ghpalmer.com

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

JUSTIFICATION/REASON FOR APPEALING – Please provide on separate sheet.

Are you appealing the entire decision or parts of it?

- Entire Part

Your justification/reason must state:

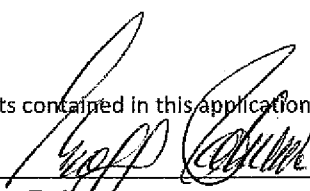
- The reasons for the appeal
- How you are aggrieved by the decision
- Specifically the points at issue
- Why you believe the decision-maker erred or abused their discretion

ADDITIONAL INFORMATION/REQUIREMENTS

- Eight (8) copies of the following documents are required (1 original and 7 duplicates):
 - Master Appeal Form
 - Justification/Reason for Appealing document
 - Original Determination Letter
- Original applicants must provide the original receipt required to calculate 85% filing fee.
- Original applicants must pay mailing fees to BTC and submit copy of receipt.
- Applicants filing per 12.26 K "Appeals from Building Department Determinations" are considered original applicants and must provide notice per 12.26 K 7.
- Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the City (Area) Planning Commission must be filed within 10 days of the written determination of the Commission.
- A CEQA document can only be appealed if a non-elected decision-making body (i.e. ZA, APC, CPC, etc...) makes a determination for a project that is not further appealable.

"If a nonelected decision-making body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decision-making body, if any."
 --CA Public Resources Code § 21151 (c)

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

Appellant Signature:  Date: 3/11/2014

Geoff Palmer, Managing Member
 Palmer Temple Street Properties LLC
 Planning Staff Use Only

Amount \$6736.25	Reviewed and Accepted by MNGUYEN	Date 03/11/14
Receipt No. 15551	Deemed Complete by	Date

- Determination Authority Notified Original Receipt and BTC Receipt (if original applicant)

**Appeal to the Central Area Planning Commission
From Determination of Director of Planning Site Plan Review
DIR-2013-3749-SPR**

The Appellant, Palmer Temple Street Properties LLC, respectfully requests the Central Area Planning Commission grant its request to adopt a modified Site Plan in lieu of the previously approved Site Plan for the mixed-use apartment project commonly referred to as the Da Vinci mixed-use apartment project. The project, which is currently under construction, consists of two buildings, located at 909 W. Temple Street and 900 W. Temple Street, which are physically separated by Temple Street (a designated Major Highway Class II on the Central City Community Plan Circulation Map). The project is designed to function as a single development with a cohesive design and different, complementary uses in each of the two buildings. The project includes approximately 526 residential units and approximately 10,230 square feet of commercial uses. The 909 W. Temple Street building (located to the north side of Temple) will contain approximately 338,904 square feet, and includes the project's main pool and gym facilities, as well as its basketball court, a library, and resident services office where packages from mail and express delivery carriers will be delivered for resident pick-up. The 900 W. Temple Street building (located on the south side of Temple) will contain approximately 260,722 square feet, and will include a smaller pool and gym facilities. An aerial of the project site and surrounding area is included at Exhibit A.

Pursuant to case no. DIR-2013-3749-SPR, the Appellant is requesting approval of a modified Site Plan that includes an elevated pedestrian bridge in the 900 block of W. Temple Street adjacent to the 110 Freeway overpass, which would connect the two project buildings located at 909 W. Temple Street with 900 W. Temple Street. The proposed pedestrian bridge is a covered walkway for project residents to link one building to the other and provide an alternative way for residents to access the amenities that are located in the project's two buildings, specifically during the evening hours when some project residents may not want to cross the street alone due to notable safety concerns in the project area. The pedestrian bridge is particularly important in this area due to homeless encampments that are regularly located in the large area under the adjacent 110 Freeway overpass, which threaten the safety and health of project residents. Moreover, because the project is located in an isolated area at the northwest corner of the downtown Civic Center area, there are no active nighttime retail or residential uses in this area that promote additional pedestrian activity that could help reduce potential safety concerns during the evening hours. Because the project is providing substantial public amenities to enhance the streetscape and support the City's pedestrian-oriented policies in the Central City Community Plan area, the addition of an internal pedestrian bridge to a project at the very edge of the Plan area that addresses residents' safety concerns will not impede those benefits or the City's overall pedestrian walkability goals for the Civic Center area.

For the reasons set forth in detail below, the Appellant disagrees with the Director's Site Plan Review Determination Letter, dated February 24, 2014 (the "Determination Letter") and respectfully requests that the Central Area Planning Commission approve the Site Plan with the pedestrian bridge as proposed by the Appellant. Included at Exhibit B is a letter of support for the pedestrian bridge from the Downtown Los Angeles Neighborhood Council dated February 11, 2013.

I. THE APPELLANT HAS A LEGITIMATE CONCERN FOR THE HEALTH AND SAFETY OF THE PROJECT RESIDENTS LIVING IMMEDIATELY ADJACENT TO FREEWAY OVERPASSES WITH CHRONIC ISSUES OF HOMELESS ENCAMPMENTS.

The project site is bounded on the west by the 110 Freeway and on the north by the 101 Freeway. The project area has a chronic problem with homeless encampments because freeway overpasses are a neglected area of the City that the homeless regularly migrate toward for protection from the elements. This is particularly true for the 110 Freeway overpass over W. Temple Street, which is immediately adjacent to the project site and provides regular shelter and hiding places for a sizeable homeless population. As demonstrated in images below, the 110 Freeway overpass has resulted in an approximately 285-foot long “dead zone,” where homeless encampments proliferate during the evening hours and where pedestrians are discouraged from walking due to safety risks.

At present, the Los Angeles Police Department (“LAPD”) is unable to enforce City Ordinance 137,269 (Los Angeles Municipal Code section 41.18) that prohibits sleeping on public streets. In Jones v. City of Los Angeles, 444 F.3d 1118, 1138 (9th Cir. 2006), the Ninth Circuit Court of Appeal ruled that the LAPD may not enforce the City Ordinance which provides that “[n]o person shall sit, lie or sleep in or upon any street, sidewalk or other public way” (Ordinance 137,269, Los Angeles Municipal Code section 41.18) “so long as there is a greater number of homeless individuals in Los Angeles than the number of available beds.” The Ninth Circuit found that such enforcement violates the 8th Amendment protection from cruel and unusual punishment. (*Id.*) Jones v. City of Los Angeles was vacated due to a settlement, which limits the City’s ability to arrest homeless persons for sleeping, sitting, or standing on public streets until the City constructs 1,250 units of permanent supportive housing for the chronically homeless, at least 50 percent of which must be located within Skid Row or greater downtown Los Angeles. (*See Jones v. City of Los Angeles*, 505 F.3d 1006 (9th Cir. 2007), *see also* Settlement Agreement, Jones v. City of Los Angeles, No. 03-CV-01142 (C.D. Cal. Sept. 15, 2008).) The Ninth Circuit also ruled in Lavan v. City of Los Angeles, 693 F.3d, 1022 (9th Cir. 2012) that the 4th and 14th Amendments protects property of the homeless left on the street from seizure and immediate destruction, despite the fact that City Ordinance 123,979 (Los Angeles Municipal Code section 56.11) prohibits individuals from leaving property upon any sidewalk.



Homeless encampments lining the sidewalks beneath the Temple Street overpass “dead zone.” 2/2014

The Appellant is pursuing a modified Site Plan that would allow a pedestrian bridge specifically because it is concerned about the safety of project residents and potential incidents that could occur during the evening hours when the homeless population is more active in the surrounding area. *

The Appellant specifically disagrees with the following finding in the Determination Letter: “Placing “safe” activity (pedestrian sidewalk activity) near “unsafe” activity (the dead zone under the freeway overpass)

creates natural surveillance and can increase the perception of safety.” (Determination Letter p. 4, referring to the “natural surveillance” concept discussed in the Crime Prevention Through Environmental Design “Design Out Crime” Guidelines at p. 8.) The acknowledged “dead zone” identified in the Determination Letter is along the same public sidewalk that passes in front of the project just a few feet away along Temple Street, where all residents would be required to cross the street during the evening hours to access either the project’s 909 W. Temple Street or the 900 W. Temple Street building in the absence of a pedestrian bridge.

The significant problem with the Director’s finding is that development of the project will not change the conditions in the existing “dead zone.” There are neither residences nor ground floor, public-serving uses on the west side of the 110 Freeway overpass leading all the way to the nearest cross-street at N. Beaudry Avenue. Accordingly, there is unlikely to be any increased pedestrian activity through the “dead zone” during the evening hours where it could either discourage homeless encampments due to high foot traffic or deter potential criminal activity. Instead of increasing “natural surveillance” within the “dead zone,” the Director’s determination puts project residents at risk by requiring any resident who wants to travel from one project building to the other during the evening to instead wait at a cross-walk immediately adjacent to a “dead-zone” area where there is virtually no surveillance at all.



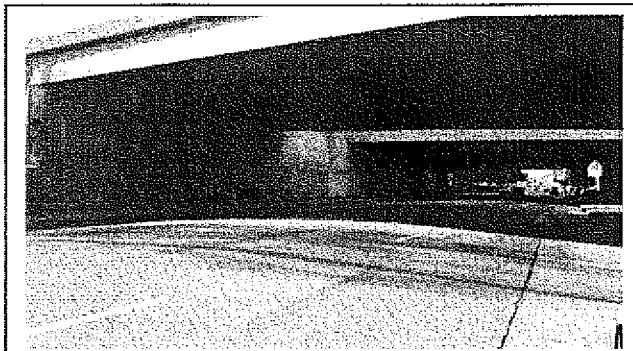
Figueroa Plaza
Fremont Street elevation

Further, the project is located in an isolated area and there are no active nighttime retail or residential uses that promote additional nighttime pedestrian activity. The adjacent block is predominantly occupied by City and County service buildings. While these services create a vibrant daytime population, City and County services close at 5:00 p.m., leaving the sidewalks mostly empty. The Appellant is not aware of any plans to diversify the street level uses in the City or County buildings by adding restaurant, retail or other uses that could increase evening

activity.

Moreover, the “perception of safety” is not enough to actually protect project residents. A resident in one project building who needs to access the other building during the evening hours will primarily do so to use gym facilities, to pick up packages, to study in the library, or to play basketball. These residents will be in a particularly vulnerable state, carrying school or gym bags or packages delivered to the resident services office, which will make them prime targets for potential criminal activity. It is reasonably foreseeable that a project resident who is traveling alone and carrying a package and must wait at a cross-walk at night adjacent to the unpatrolled freeway overpass will attract attention and risk being victimized by individuals who can quickly retreat under the overpass area and hide in a number of concealed locations. Therefore, in the absence of a pedestrian bridge, project residents will be made potential targets by being placed adjacent to an area with existing safety threats and no other evening surveillance or pedestrian activity.

The best form of self-defense is not being placed in a situation where you have to defend yourself. While the Appellant anticipates that most project residents will cross Temple Street at the street level to travel from one project building to another because it will be a faster, more direct path of travel, it is important to provide an alternative for residents who may travel between the buildings alone at night and feel unsafe. The concept of natural surveillance and “eyes on the street” do not mean literally putting people on the street as the Determination Letter contends; they mean orienting buildings to have greater visibility in relation to the street. The proposed pedestrian bridge will put more “eyes on the street” by inserting a visually prominent feature above the street near the 110 Freeway overpass that is open on both sides and at a higher elevation to increase views onto the street below. Residents will be more apt to walk between the buildings when they are not afraid for their own safety, which in turn will help create more



The 285-foot long Temple Street “dead zone” overpass will never have “eyes on the street.” Homeless encampments line the sidewalks on both sides of the street.

2/2014



The two-acre area beneath the Caltrans 110/101 Freeway interchange includes a 500 foot long sidewalk that will never have “eyes on the street.” Homeless encampments hide from view behind the concrete abutments. *2/2014*

activity and “eyes on the street” from the pedestrian bridge above that will help promote safe space and deter criminal activity on the street below in front of the project.

The Director’s determination also contends that: “[o]ne of the negative side effects of bridges is the undermining of safety at street level by removing people from the street, thus increasing opportunities for crime.” (Determination Letter p. 4.) However, as discussed above, forcing all project residents to cross Temple Street during the evening hours will not change conditions under the 110 Freeway overpass. There is no existing residential or retail community on the west side of the Freeway overpass that will facilitate additional pedestrian activity under the overpass. Instead, and consistent with existing conditions, the homeless population in the area will continue to set up encampments under the overpass without any surveillance.

The City cannot expect that project residents will “police” the homeless encampments beneath the freeway overpass, and it cannot expect that the homeless encampments will become a safer place because project residents are forced to use the street and interact with the homeless population. To avoid potential risks, residents in one project building likely will simply choose not to use resident amenities in the other building during the evening hours. All that will accomplish is a less active, less successful development, and fewer “eyes on the street” from any vantage point.



Temple Street overpass homeless encampment trash dump. *March 2014*

Further, public health concerns warrant providing an alternative means of pedestrian access between the 909 W. Temple Street and 900 W. Temple Street buildings. According to the Center for Problem-Oriented Policing: "Conditions in homeless encampments can be dangerous to health. Garbage attracts rodents and other vermin. Food cannot be stored, and dishes cannot be washed properly, facilitating the spread of foodborne diseases. Depending on a camp's location, some residents might use portable toilets or public facilities, but most are likely

to use an outdoor location. Poor hygiene contributes to dental and skin problems. Other environmental hazards, such as batteries and fuels, are used for heating and cooking.... Many transients living in encampments report addiction to drugs or alcohol." (See Exhibit C, Sharon Chamard, *Homeless Encampments*, Center for Problem-Oriented Policing, U.S. Department of Justice, January 2010, at 6.) Requiring project residents to be on the street next to the "dead zone" under the 110 Freeway during the evening hours where serious public health concerns continue unabated will not solve the problem.

The Appellant cannot control the City's homeless problems in the area surrounding the project site, and therefore should not be prohibited as a matter of an unwritten "planning policy" from providing design features that respond to the unsafe conditions adjacent to the site. It is well documented that criminal activity increases in areas of homeless encampments and that adverse health conditions do exist. (See Exhibit C, *Homeless Encampments*, p. 14.) In the past year alone, LAPD reported 651 crimes within a one-mile radius of the project. Exhibit D shows the one-mile radius in the past year, and was generated from www.crimemapping.com. The proposed pedestrian bridge will serve to protect the health and safety of the project residents primarily during the evening hours. Therefore, as discussed in further detail below in Section II.A.1.B, the project complies with the Central City Community Plan Police Protection Policy 5-2.1 as well as the Crime Prevention Through Environmental Design "Design Out Crime" Guidelines.

II. THE PROJECT SATISFIES ALL APPLICABLE SITE PLAN REVIEW FINDINGS

As discussed in detail below, and contrary to the statements in the Director's Determination Letter, the Site Plan proposed by the Appellant with the proposed pedestrian bridge complies with all of the City's applicable Site Plan Review findings.

A. The project is in substantial conformance with the purposes, intent and provisions of the General Plan, applicable community plan, and any applicable specific plan.

The Appellant disagrees with the Determination Letter's finding that the project is not in substantial conformance with the purposes, intent and provisions of the General Plan, applicable

community plan, and any applicable specific plan. The property is located within the Central City Community Plan area, in the Civic Center district in Downtown Los Angeles and is subject to the Downtown Design Guide. Contrary to the Determination Letter's findings, the project, including the addition of the pedestrian bridge, is in substantial conformance with the purposes, intent and provisions of the General Plan, applicable community plan, and any applicable specific plan.

1. Central City Community Plan

The project, including the addition of the pedestrian bridge, advances a number of the specific goals and objectives contained in the Central City Community Plan. As explained in the findings for the project's existing, approved Site Plan Review (DIR-2012-61-SPR), the project "provides substantial new housing units that not only increase the City's housing supply but helps to improve the jobs-housing balance Downtown." (DIR-2012-61-SPR Determination p. 18.) In addition, as the existing Site Plan Review findings state "[t]he location and the mixed-use nature of the project advance a number of City goals that aim to locate density and intensity in centers that are served by transit, proximate to jobs and which contribute to an enlivened and walkable environment." (DIR-2012-61-SPR Determination p. 18.) Further, the project "will advance Community Plan goals that aim [to] create a more active, walkable and 24-hour Downtown" because the project "will put to productive use parcels that are currently underused and . . . will activate the northwestern-most portion of the Civic Center." (DIR-2012-61-SPR Determination p. 18.) With the addition of the pedestrian bridge, the project will continue to support all of these Central City Community Plan policies and goals. The Determination Letter for the Appellant's modified Site Plan Review incorrectly found that the project is inconsistent with policies regarding the pedestrian streetscape and safety; these policies are discussed in more detail below.

a. The Project Enhances the Pedestrian Streetscape

The project includes substantial benefits to enhance the pedestrian streetscape, and the addition of the proposed pedestrian bridge does not impact these enhancements. The Central City Community Plan includes goals and objectives regarding the pedestrian experience. With respect to the Civic Center the Central City Community Plan states: "[t]he civic center should be a pedestrian-oriented district used by visitors, workers and residents. Enhancement within the public realm must be made including an open space network which links elements within the Civic Center as well as connecting the Civic Center to surrounding districts." (Central City Community Plan p. III-9.) In addition, Pedestrian Circulation Policy 11-6.1 states: "[p]reserve and enhance Central City's primary pedestrian-oriented streets and sidewalks and create a framework for the provision of additional pedestrian friendly streets and sidewalks which complement the unique qualities and character of the communities in Central City." (Central City Community Plan p. IV-8.)

The project is consistent with these policies by including the following design elements to enliven the pedestrian space and to enhance the open space network:

- A public plaza at Temple Street and Figueroa, including public seating and tower element.
- Street level retail along Temple Street and Fremont Avenue.

- Additional building lobbies along Temple Street to promote resident access.
- A request to City Council to approve wider sidewalks as a traffic calming measure.
- New street trees and sidewalk paving.
- A seating/landscape area along Fremont Avenue to provide a break in the pedestrian street wall, and articulation of the building above to provide relief and light onto Fremont Avenue.
- Signalization of the intersection at Temple and Fremont, including a safer pedestrian cross-walk and dedicated right-turn deceleration lane into the project. This will create a safer passage for children crossing Temple on their way to neighborhood schools.
- Re-alignment of the Temple and Fremont intersection to promote the urban form of the existing street system.
- Rebuilding of the storm water system within Fremont Street to collect surface water.

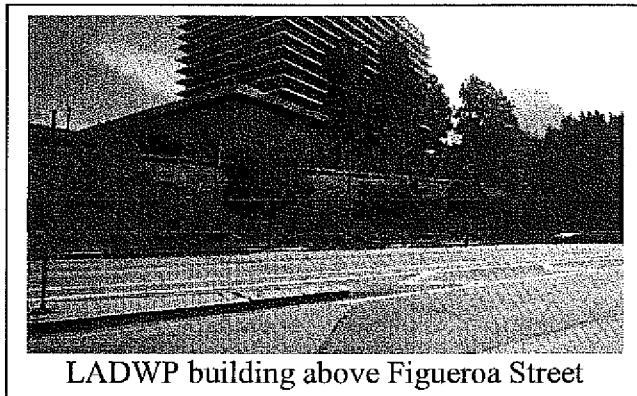
The addition of the pedestrian bridge does not negatively impact these significant pedestrian improvements. The proposed pedestrian bridge serves to connect the private, internal functions of the apartment buildings above, and would not adversely affect the street below. The pedestrian bridge does not connect the project with any other use in the neighborhood and therefore will not divert pedestrians from otherwise using the City street system to access nearby uses. Moreover, the pedestrian bridge would not facilitate internal access for the project's retail uses on Fremont Street. The pedestrian entrances to the retail uses are provided on the street front, and project residents wanting to access the retail uses will still come to the street front to access those uses. Therefore, the Appellant specifically disagrees with the Determination Letter's finding that "[b]y diverting people away from the street, Temple Street will be hampered in its goal of becoming an amenity for area workers and residents. The immediate surrounding area will continue to function as a place to pass through, rather than a place to which is defined by walkability, social interaction, pedestrian amenities and retail choices." (Determination Letter p. 3.)

Unlike several existing pedestrian bridges in the Central City Community Plan area, the project's proposed pedestrian bridge does not connect the project to other uses, and therefore would not affect other uses or provide access to those uses that avoids the sidewalk. The proposed pedestrian bridge would not negatively impact pedestrian trips to or from work, school, daycare, church, retail shopping, or restaurants because the bridge does not connect to any of those neighborhood uses. In fact, the project includes a new signalized crosswalk at Temple Street and Fremont Avenue for the specific purpose of facilitating safe pedestrian activity and accessibility at the street level to all of those neighborhood uses.

In addition, because the project is in the isolated, northwest corner of the Civic Center area, providing a pedestrian bridge for limited, primarily evening hour use will not adversely impact overall walkability to other uses in the Civic Center. Uses that will be frequented by residents walking to and from the project (including Civic Center buildings, retail, restaurants, and the proposed Regional Connector transit stop) are located to the east of the project. To the west is the "dead zone" created by the 110 Freeway overpass, and there are no active ground floor uses to the west of the overpass leading all the way to the nearest cross-street at N. Beaudry Avenue. Providing a limited use, internal pedestrian bridge at the western edge of the project adjacent to

the 110 Freeway overpass will not impede walkability or affect pedestrian-orientation goals for the broader Civic Center area located to the east.

It is also important to note that many pedestrians will not use a bridge if they can cross at street level in about the same time, or if a more direct route is available. The proposed pedestrian bridge connects a single floor of the internal corridors of the project's two buildings, and would be located at the far north of the 900 W. Temple Street building and at the far west of the 909 W. Temple Street building. Therefore, it does not provide the most direct path of travel between the two buildings. The proposed bridge is only intended to provide an alternative means of crossing the street for safety reasons during the evening hours, when project residents may travel from one building to the other alone. However, most residents are expected to use the crosswalk at street level as a more direct and convenient route to cross the street.



LADWP building above Figueroa Street

In terms of retail, the project area is in many respects functionally isolated from the rest of the Civic Center area of downtown. To the immediate north and west of the project site are the 110 and 101 Freeways, where homeless encampments exist and no development can occur. To the east is the Department of Water and Power building above a significant grade change along Figueroa Street, and the parking garage of City and County service buildings at Temple

Street and Fremont Avenue. This hampers any potential continuity of retail activity along Temple Street.

The project includes 10,000 square feet of street level retail along Temple and Fremont and a public plaza at the corner of Temple and Figueroa. The project retail is intended to serve primarily the daytime population of the project area, when there will be a substantial number of City and County workers and visitors in nearby buildings. However, the evening population of the area is not enough to support any substantial evening hour operations. Further, there is no existing residential or retail community on the west side of the Freeway overpass that will facilitate additional pedestrian activity under the overpass to access the project's retail uses in the evening. Accordingly, and contrary to the implications in the Determination Letter, there is not expected to be a substantial evening population in the area that would promote pedestrian activity or provide "natural surveillance" of nighttime activities.

Further, as discussed above, the proposed pedestrian bridge does not connect to the retail or negatively impact street level retail activity that will primarily occur during daytime hours. All pedestrian retail entrances are appropriately located on the public sidewalk and will promote the use of the street front. The proposed pedestrian bridge is but one element of a project that has been specifically designed to support and promote a mixed-use, safe and pedestrian-focused environment.

Therefore, based on the substantial contributions the project is making to promote pedestrian activity and to make the surrounding neighborhood pedestrian friendly, the project with the proposed pedestrian bridge complies with Pedestrian Circulation Policy 11-6.1.

b. The Pedestrian Bridge is Necessary to Protect the Health and Safety of Residents

Central City Community Plan Police Protection Policy 5-2.1 supports the addition of the pedestrian bridge to promote the health and safety of the project residents. Police Protection Policy 5-2.1 provides “[p]romote the safety and security of personal property through proper design and effective use of the built environment which can lead to a reduction in the incidence and fear of crime, reduction in calls for police service, and to an increase in the quality of life.” (Central City Community Plan p. III-12.) To implement this policy, the Central City Community Plan provides that whenever possible the design guidelines contained in the City’s Crime Prevention Through Environmental Design “Design Out Crime” Guidelines should be incorporated. (Central City Community Plan p. III-12.) The “Design Out Crime” Guidelines discuss the concept of natural surveillance to “[p]rovide an opportunity for people engaged in normal everyday activity to observe the space around them” and that projects should be designed to “[p]rovide a good visual connection between residential and/or commercial units and public environments such as street, common areas, parks, sidewalks, parking areas and alleys.” (Crime Prevention Through Environmental Design “Design Out Crime” Guidelines p. 8.)

As discussed in detail above, the Appellant has significant safety concerns associated with the area surrounding the project site. In the past year alone LAPD reported 651 crimes within an one-mile radius of the project and there are homeless encampments immediately adjacent to the project site under the 110 Freeway overpass. It is well documented that criminal activity increases in areas of homeless encampments and health conditions in encampments raise additional concerns. By providing an alternative access route between the project’s two buildings, the proposed pedestrian bridge will serve to protect the health and safety of the project residents and reduce the “incidence and fear of crime,” and therefore complies with the Police Protection Policy 5-2.1.

The Determination Letter incorrectly finds that the addition of the pedestrian bridge is inconsistent with Police Protection Policy 5-2.1 by claiming that the addition of the pedestrian bridge would remove people from the street and therefore would not promote safety in the area by adding natural surveillance and “eyes on the street.” (Determination Letter p. 4.) The determination states “[p]lacing ‘safe’ activity (pedestrian sidewalk activity) near ‘unsafe’ activity (the dead zone under the freeway overpass) creates natural surveillance and can increase the perception of safety.” (Determination Letter p. 4.) However, the “dead zone” referred to in the determination is along the same public sidewalk that passes in front of the project just a few feet away along Temple Street, where some residents would be required to wait alone to cross the street during the evening hours to access either the project’s 909 W. Temple Street or the 900 W. Temple Street building in the absence of a pedestrian bridge. The significant problem with the Director’s finding is that development of the project will not change the conditions in the existing “dead zone.” There are neither residences nor ground floor, public-serving uses on the west side of the 110 Freeway overpass leading all the way to the nearest cross-street at N. Beaudry Avenue. Accordingly, there is unlikely to be any increased pedestrian activity through

the “dead zone” during the evening hours where it could either discourage homeless encampments due to high foot traffic or deter potential criminal activity. Instead of increasing “natural surveillance” within the “dead zone,” the Director’s determination puts project residents at risk by requiring them to be on the street during the evening hours immediately adjacent to a “dead-zone” area where there is virtually no surveillance at all.

Further, as discussed above, the pedestrian bridge is actually designed to enhance natural surveillance and put more “eyes on the street” consistent with the “Design Out Crime” Guidelines by inserting a visually prominent feature above the street that is open on both sides and at a higher elevation to increase views onto the street below. The pedestrian bridge will increase the visual connection between the development and the public space. Residents will be more likely to walk between the buildings during the evening when they are not afraid for their own safety, which in turn will help create more “eyes on the street” from the pedestrian bridge above. This additional activity will provide more natural surveillance that will help promote safe space on the street below in front of the project. In the absence of a bridge, residents may be discouraged from walking between the buildings at night, which would reduce evening activity and the increased visual connection between the project and the street that is encouraged by the “Design Out Crime” Guidelines. Therefore, for all of the foregoing reasons, the pedestrian bridge is consistent with Police Protection Policy 5-2.1 and the “Design Out Crime” Guidelines.

2. Downtown Design Guide

The project with the proposed pedestrian bridge also complies with all pertinent provisions of the Downtown Design Guide, which is a part of the Central City Community Plan. Most significantly, the Downtown Design Guide contains no provision that prohibits the installation of a pedestrian bridge. Although the Determination Letter attempts to interpret policies in the Downtown Design Guide as prohibiting pedestrian bridges because they could discourage some street-level activity, the Downtown Design Guide itself expressly contemplates the installation of two pedestrian bridges: one bridge at Broadway that would connect to the Los Angeles State Historic Park (i.e., the Cornfields property); and one bridge over the 110 Freeway to connect the area north of the Freeway to Chinatown. (See Downtown Design Guide pp. 58 - 59.) Therefore, the Downtown Design Guide recognizes that pedestrian bridges are appropriate in certain areas of downtown under appropriate circumstances.

As explained in the findings for the project’s existing Site Plan Review approval (DIR-2012-61-SPR) “the project complies with all pertinent provisions of the Downtown Design Guide,” and “provides a mix of uses, bringing neighborhood supporting commercial uses in close proximity to future residents of the project and reducing automobile trips.” (DIR-2012-61-SPR Determination p. 19.) The addition of a pedestrian bridge to the project does not change this finding or the fact that the project is consistent with the Downtown Design Guide policy to “incorporate a pedestrian-oriented scale at the street level.” (Downtown Design Guide p. 19.)

Nevertheless, the Determination Letter incorrectly finds that the inclusion of a pedestrian bridge makes the project inconsistent with these Downtown Design Guide policies. The Appellant specifically disagrees with the following finding in the Determination Letter: “The proposed pedestrian bridge will not advance the goals of the Downtown Design Guide; it will not contribute to the pedestrian-scale design of the two approved buildings and will hamper the

development's pedestrian orientation. These two buildings, without a pedestrian bridge connecting them, would reinforce the City's aim to encourage activity at street level, to create a walking city that promotes both street-level retail activity and well-designed building facades that present a welcoming face to the public." (Determination Letter pp. 4 - 5.)

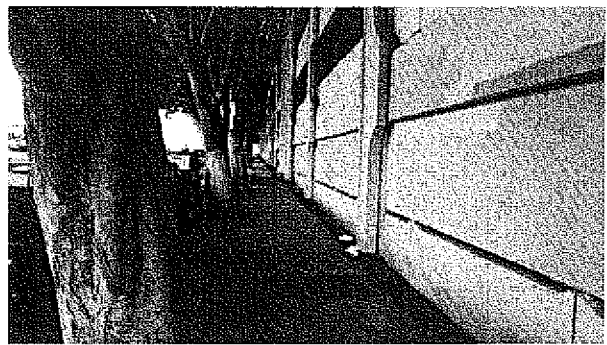
In making this finding, the Determination Letter ignores the substantial benefits the project is providing to enhance the pedestrian-oriented scale at the street level to promote retail and pedestrian activity. The addition of a pedestrian bridge to the project neither adversely impacts nor impedes these enhancements. The project will continue to provide the following design elements that enhance the pedestrian-oriented scale and promote street-level activity:

- A public plaza at Temple Street and Figueroa, including public seating and tower element.
- Street level retail along Temple Street and Fremont Avenue.
- Additional building lobbies along Temple Street to promote resident access.
- A request to City Council to approve wider sidewalks as a traffic calming measure.
- New street trees and sidewalk paving.
- A seating/landscape area along Fremont Avenue to provide a break in the pedestrian street wall, and articulation of the building above to provide relief and light onto Fremont Avenue.
- Signalization of the intersection at Temple and Fremont, including a safer pedestrian cross-walk and dedicated right-turn deceleration lane into the project. This will create a safer passage for children crossing Temple on their way to neighborhood schools.
- Re-alignment of the Temple and Fremont intersection to promote the urban form of the existing street system.
- Rebuilding of the storm water system within Fremont Street to collect surface water.

With respect to activating the pedestrian experience, the project's existing Site Plan Review approval findings state that "the mix of uses and the design of the project contribute to the built form and development pattern of this section of Downtown, helping to improve the pedestrian orientation of the streets on which the project fronts and to activate these areas." (DIR-2012-61-SPR Determination p. 19.) The existing findings further elaborate that "[c]onsistent with the Downtown Design Guide, a good portion of the frontages of both Temple Street and Fremont Avenue is transparent and is designed with either retail spaces or the project's common areas such as lobbies and gym facilities . . . [and] each of the retail spaces have individual entries off the sidewalk and as do at the residential lobbies, which can also be accessed from the sidewalk." (DIR-2012-61-SPR Determination p. 19.) Additionally, the findings state "improvements for Temple Street aim to increase the sidewalk width to enhance the pedestrian orientation of the area . . . consistent with the Downtown Design Guide." (DIR-2012-61-SPR Determination p. 19.)

With the incorporation of the significant pedestrian-oriented design elements described above, the project achieves the overall objectives of the Downtown Design Guide. The addition of the pedestrian bridge does not detract from those significant pedestrian-oriented benefits and the consistency of the project with the Downtown Design Guide. The proposed pedestrian bridge does not change the orientation of the project's street level retail or detract from the pedestrian

scale of the facade. The proposed bridge responds to special considerations of adding residential uses to an isolated edge of the Civic Center area, where there are special safety and health considerations that need to be addressed to provide project residents with a safe, alternative path of travel between the project's two buildings. The project itself is a significant and needed departure from the stark facades of the existing civic buildings in the neighborhood and its numerous design elements (including a public plaza) will promote more pedestrian activity; however, it does need to respond to the safety concerns created by its existing context to be successful.



Temple and Fremont is dominated by the County Health building parking structure.

In addition, the Downtown Design Guide recognizes that planning policies must include flexibility that is informed by the context of each site. The Downtown Design Guide provides: "In the spirit of affording maximum creativity, projects that do not adhere to the letter of every provision in the Design Guide, but none-the-less demonstrate a clear alternative approach which is superior to and achieves all the prominent objectives of the Design Guide, will be recognized as a valid alternative." (Downtown Design Guide p. 2.) The Downtown Design Guide

therefore recognizes that planning policies must be informed by the context of each site and that flexibility must be allowed where alternative approaches still achieve the Design Guide's prominent objectives. Here, the project is proposing to create a vibrant, mixed-use community with significant pedestrian-oriented benefits to promote pedestrian activity in an area of the Civic Center where no such uses currently exist. These elements promote all of the prominent objectives of the Downtown Design Guide. However, the addition of a pedestrian bridge as an alternative access point during the evening hours is a necessary addition to the project to promote resident safety. The fact that the project site is surrounded on two sides by Freeways and adjacent to active homeless encampments supports the addition of an internal pedestrian bridge to the project, particularly where the project will continue to provide substantial public and pedestrian-oriented amenities that promote the objectives of the Downtown Design Guide in a currently blighted and underutilized area.

B. The project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, that is or will be compatible with existing and future development on adjacent properties and neighboring properties.

The Appellant disagrees with the Determination Letter's finding that the project does not consist of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, that is or will be compatible with existing and future development on adjacent properties and neighboring properties. Specifically the Appellant disagrees with the statement in the Determination Letter that the project does not satisfy this finding because "the proposed

pedestrian bridge will not advance the goals of the Downtown Design Guide; it will not contribute to the pedestrian-scaled design of the two approved buildings and will hamper the development's pedestrian orientation." (Determination Letter p. 5.)

As explained in the project's existing Site Plan Review approval, the Director found that the project would "consist of an arrangement of buildings and structures that is compatible with existing and future development on neighboring properties." (DIR-2012-61-SPR Determination p. 19.) The approval stated that the project "will bring residential and retail uses to a portion of the Civic Center that currently is dominated by office uses" and that the "ground floor commercial uses will conveniently locate services and retail closer to office workers and will provide amenities to the residents of the project and bring active uses on the ground floor that will enhance the pedestrian environment." (DIR-2012-61-SPR Determination p. 19.) In addition, the approval found that the "publicly accessible plaza open space incorporated into the design of the Fremont Avenue frontage . . . helps create interest and articulation" and that "a corner public plaza, located on the southeast corner of Temple Street and Figueroa Street, provides an appropriate residentially scaled public open space with direct access to the project and connection to the street." (DIR-2012-61-SPR Determination p. 19-20.) This plaza will be "programmed with specific uses (i.e. provide outdoor dining for adjacent restaurant cafe, or small neighborhood gathering place featuring a public amenity), incorporate amenities that facilitate outdoor activities (i.e. standing, sitting, strolling, conversing, window-shopping and dining) including seating for comfort and landscaping for shade and aesthetics." (DIR-2012-61-SPR Determination pp. 19 - 20.)

Contrary to the statements in the Determination Letter, the addition of a pedestrian bridge for project residents does not change the previous determination that the project consists of an arrangement of buildings and structures that is compatible with existing and future development on neighboring properties. Further, and as discussed above in Section, II.A, the project with the incorporation of the pedestrian bridge will continue to promote the overall pedestrian-orientation policies of the Central City Community Plan and the Downtown Design Guide.

C. The residential project provides recreational and service amenities to improve habitability for its residents and minimize impacts on neighboring properties.

As explained in the project's existing Site Plan Review approval, the project provides recreational and service amenities to improve habitability for its residents and minimize impacts on neighboring properties. For instance, the project "includes ground-floor commercial uses that will provide pedestrian-oriented opportunities for residents as well as occupants of neighboring properties." (DIR-2012-61-SPR Determination p. 20.) In addition, the project exceeds the open space requirements by providing "one 50 square-foot balcony . . . for each of its 526 residential units", "a series of common area courtyards", and "[i]ndoor amenities, such as a gym, cycling studio and library." (DIR-2012-61-SPR Determination p. 20.) The modification of the existing Site Plan to include a pedestrian bridge would improve habitability for residents by ensuring that residents have a safe, alternative way to access these recreational and service amenities during the evening hours when they may be traveling alone. In the absence of a pedestrian bridge, some project residents may not fully utilize the project's amenities during the evening hours, thereby reducing the project's habitability.

III. THE DETERMINATION LETTER'S FINDINGS REGARDING PEDESTRIAN BRIDGES ARE INCOMPATIBLE WITH FUTURE PROJECTS PLANNED FOR THE CENTRAL CITY COMMUNITY PLAN AREA

The Determination Letter's findings that the proposed pedestrian bridge is inconsistent with promoting a pedestrian streetscape as provided for in the Central City Community Plan and the Downtown Design Guide would create an untenable precedent for any future pedestrian bridges in the Central City Community Plan area. Most notably, a pedestrian bridge is being considered as part of the Regional Connector transit station at 2nd Place and Hope Street, which would connect the station to Upper Grand Avenue with a pedestrian bridge across Hope Street. (See Donna Evans, *Regional Connector Station Could Get Pedestrian Bridge*, Los Angeles Downtown News, Nov. 18, 2013.) Similar to the project's pedestrian bridge, the pedestrian bridge at the proposed transit station would serve a unique need informed by the location of the station and surrounding uses. The Determination Letter's findings would make it difficult for the City to ever find that a pedestrian bridge is consistent with the pedestrian streetscape provided for in the Central City Community Plan and the Downtown Design Guide. Making such a determination overlooks that each project has a unique set of challenges and surroundings, and under certain circumstances pedestrian bridges can appropriately address those issues without impeding City planning policies. Here, the project includes numerous benefits to the pedestrian streetscape to ensure that it enhances the overall pedestrian environment and is consistent with the Central City Community Plan and the Downtown Design Guide. However, the unique challenge of being located in an isolated area of the Civic Center surrounded on two sides by Freeways and adjacent to existing homeless encampments requires the addition of a pedestrian bridge to the project to ensure that an alternative way of safe travel between the project's two buildings is available to residents at all times.

IV. ENVIRONMENTAL CLEARANCE

The third addendum (ENV-2006-8108-MND-REC3) to the previously adopted Mitigated Negative Declaration ENV-2006-8108-MND adequately serves as the Environmental Clearance for the project with the addition of the pedestrian bridge pursuant to the California Environmental Quality Act (Public Resources Code section 21000 *et seq.*) and section 15164 of the California Code of Regulations Title 14, Chapter 3 (the "CEQA Guidelines"). Pursuant to Public Resources Code section 21166 and CEQA Guidelines section 15162, no additional environmental analysis is needed for the project because the addition of the pedestrian bridge will not result in (1) any new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or (2) substantial changes to the project or to the circumstances under which the project is being undertaken. Further, the addition of the pedestrian bridge does not constitute new information under Public Resources Code section 21166 and CEQA Guidelines section 15162.

V. CONCLUSION

The Appellant's health and safety concerns in the immediate area of the project site are valid. Providing an alternative means of safe and defensible pedestrian access across Temple Street for project residents is an appropriate response.

The proposed pedestrian bridge is narrowly tailored to respond to the Appellant's concerns, without impacting the City's goal of creating a pedestrian-focused community. Providing a private bridge connecting a single residential level of the project, and excluding connections to other neighborhood uses, is an appropriate way to address the safety concerns in the area while continuing to promote the pedestrian-oriented policies provided in the Central City Community Plan and the Downtown Design Guide. The project with the inclusion of a pedestrian bridge substantially complies with those policies, and satisfies all of the City's required Site Plan Review findings.

Therefore, the Appellant respectfully requests that the Central Area Planning Commission overturn the Director's determination and approve the Site Plan proposed by the Applicant.