



Windsor Village  
Association

**To: CENTRAL AREA PLANNING COMMISSION**

**APPEAL FROM:**

5/29/14 DETERMINATION OF DIRECTOR OF CITY  
PLANNING: Issuing Certificate of Compatibility/  
Findings/Conditions of Approval

Reasons for Appeal; Irreparable and Irreversible Harm to  
Appellant; Errors Committed by Decision Maker and Facts  
Showing Abuse of Discretion

**APPELLANT:**

Windsor Village Association, a 501(c) 4 entity.

**Project Address:**

**849 to 859 South Lucerne Blvd., Los Angeles, CA.  
Located in "Windsor Village" [HPOZ]**

**Case #s:**

DIR-2013-3495-CCMP; TT-63468-CC; ENV-2005-8131-  
MND-REC1

## EXHIBIT LIST

<u>EXHIBIT</u>	<u>Identification of EXHIBIT</u>
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|------|--|
| 1.   | Director of City Planning May 29, 2014<br>Determination/Conditions of Approval/ Findings and Issuance of<br>Certificate of Compatibility re Lucerne Blvd. Morumbila Condo Project                                    |
| 2.   | Deputy Advisory Agency Staff Report (modified post 7/3/13 hearing)<br>Recommendations  |
| 3.   | 3.a. Windsor Village Association Opposition to Project<br>3.b. Petition Signatures in Opposition to Project  |
| 4.   | Original Morumbila Lucerne Blvd. Condo Project Plans and Renderings<br>(including revised 10/29/13 Tract Map)  |
| 4.a. | Morumbila Condo Project Plans and Renderings submitted on 11/19/13 to HPOZ Board   |
| 5.   | February, 2014 Final Revised Morumbila Lucerne Blvd. Condo Project Plans and<br>Renderings Attached as Exhibit "A" to May 29, 2014 Determination Letter and<br>Approved for Issuance of Certificate of Compatibility |
| 6.   | Photocopies of Windsor Village Contributor Multi-Residential Structures<br>[Original Source: Windsor Village HPOZ Survey Book]   |
| 7.   | Photocopies of Windsor Village Contributor Single and Multi-Residential<br>Structures on Lucerne Blvd.<br>[Original Source: Windsor Village HPOZ Survey Book]  |
| 8.   | Photocopies of Color Display Boards Utilized by HPOZ Board Member<br>Suzanne Wilton at May 7, 2013 HPOZ Consult Hearing re Morumbila Lucerne<br>Blvd. Condo Project  |
| 9.   | Landscape Design Concept Plans Approved on May 29, 2014 by the<br>Director of City Planning  |
| 10.  | Photographs Presented by Morumbila Applicant   |
| 11.  | a. Declaration of Suzanne Wilton dated June 12, 2014<br>b. 6/4/14 Electronic Correspondence from Windsor Village Association Board Member<br>Allison Sapunor to Nora Dresser re Suzanne Wilton Recusal               |

## EXHIBIT LIST

<u>EXHIBIT</u>	<u>Identification of EXHIBIT</u>
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11	c. 6/5/14 Electronic Correspondence from Windsor Village Association Board Member Allison Sapunor to Lambert Geissing, Ken Bernstein, Michelle Levy and Nora Dresser re recusal
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11.	d. 6/5/14 Electronic Correspondence from Michelle Levy to Allison Sapunor
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12.	October 1, 2010 City Planning Determination and Findings re Windsor Village HPOZ.
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13.	LAMC Section 12.20.3 HPOZ Ordinance
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14	Windsor Village Preservation Plan – excerpted portions
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15.	Windsor Village HPOZ Survey Book: public document available online: <a href="https://www.dropbox.com/sh/gop5sgokvs3zuic/AADpMrpYZWvAFmub_xrV3jwAa">https://www.dropbox.com/sh/gop5sgokvs3zuic/AADpMrpYZWvAFmub_xrV3jwAa</a>
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16.	Audio Recordings of HPOZ Board Sessions re Bronson Condo Project and the Morumbila Condo Project
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April 2-2013 HPOZ meeting - Bronson discussion:

<https://www.dropbox.com/s/55v2d72hf4dyxzm/April%202-2013%20HPOZ%20meeting%20-%20Bronson%20discussion.mp3>

Nov 19-2013 HPOZ meeting - Bronson discussion

<https://www.dropbox.com/s/ppnflrwx8v8fnx/Nov%2019-2013%20HPOZ%20meeting-Bronson%20discussion.mp3>

April 2-2013 HPOZ meeting - Morumbila discussion:

<https://www.dropbox.com/s/55v2d72hf4dyxzm/April%202-2013%20HPOZ%20meeting%20-%20Bronson%20discussion.mp3>

May 7-2013 HPOZ meeting - Morumbila discussion

<https://www.dropbox.com/s/2u5l3isczltl1pk/May%207-2013%20HPOZ%20meeting%20-%20Morumbila%20discussion.mp3>

Nov 19-2013 HPOZ meeting - Morumbila discussion

<https://www.dropbox.com/s/95gqt09h5ck0ocf/Nov%2019-2013%20HPOZ%20meeting%20-%20Morumbila%20discussion.mp3>

## I.

### BASES FOR APPEAL

Appellant/Windsor Village Association opposes the decision of the Director of City Planning to issue a Certificate of Compatibility to a proposed new condo development project (hereinafter also referred to as the “Morumbila Condo Project”), sought to be built in a Historic Preservation Zone (HPOZ) neighborhood known as WINDSOR VILLAGE. The contested portion of the proposed project consists of the construction of a 14 unit condominium on one vacant lot. The Director’s decision determines that the proposed project is compatible with the Windsor Village Preservation Plan.

Appellant contests the findings of the Director and appeals his decision as being contrary to the requirements of the Preservation Plan, arbitrary, capricious, and irreparably harmful to Appellant.

Appellant/Windsor Village Association states that the following comprises the bases for its Appeal:

1. The May 29, 2014 Determination of the Director of Planning, Findings, Conditions of Approval, and Issuance of Certificate of Compatibility violate the Windsor Village Preservation Plan in that the determination, findings, conditions, and issuance approve a project which fails to comply with the size, height, scale, bulk, massing and design mandates of the Windsor Village HPOZ Preservation Plan.

a. The determination, findings, conditions, and issuance create and will continue to create a dangerous precedent allowing future projects to disregard the Preservation Plan, causing irreparable and irreversible harm to Appellant.

2. The City Planning Commission (through its designated Planning Assistant, Nora Dresser, designated to preside over HPOZ Board meetings involving Windsor Village, Wilshire Park, Country Club Park—known as the HPOZ “Triplets”) has allowed and actively promoted the selective and discriminatory enforcement of Appellant’s Preservation Plan (which is the same Preservation Plan for Wilshire Park and Country Club Park):

(a) Enforcement of the Preservation Plan's regulations regarding size, height, scale, bulk, massing and design for infill structures (new construction on vacant lots) has been intentionally disregarded against the interests of Appellant and in favor of the Morumbila Condo Project.

(b) Enforcement of the Preservation Plan's regulations regarding size, height, scale, bulk, massing and design for infill construction has been promoted regarding a condo project (the "Bronson Condo Project"), in a neighboring community known as Country Club Park.

a. The Director of Planning has actively approved this selective/discriminatory enforcement, by relaxing and ignoring the Preservation Plan mandates with regard to Windsor Village.

3. The City Planning Commission (through its Manager of the Office of Historic Resources, Ken Bernstein; City Planner, Michelle Levy; and Planning Assistant, Nora Dresser) actively caused a prejudicial irregularity in the HPOZ hearing and voting process, whereby a member of the HPOZ Board was forced to recuse herself, thereby denying Appellant a fair and impartial forum before the HPOZ Board regarding the condo project.

a. The forced recusal resulted in a tie vote at the final HPOZ hearing on the subject condo project (regarding issuance of a Certificate of Compatibility); thus, no "community based" HPOZ Board recommendation could be made by the HPOZ Board to the Director of City Planning. **EXHIBIT 13.**

b. Without the community based recommendation by the HPOZ Board, the Director was left with unfettered discretion which resulted in arbitrary and capricious findings, and conditions and the ultimate issuance of an unwarranted Certificate of Compatibility to a condo project which defies the Appellant's Preservation Plan.

## II.

### **PRELIMINARY STATEMENT: History and Background**

This opposition is submitted by WINDSOR VILLAGE ASSOCIATION, a 501 (c) (4) entity. It is an association of individuals who reside in a community known as WINDSOR VILLAGE, consisting of renters, lessees, apartment owners, condominium owners, and single family homeowners.

The community of Windsor Village is bounded on the north by Wilshire Blvd., on the south by Olympic Blvd., on the east by Crenshaw Blvd. and on the west by Lucerne Blvd. The subject Morumbila project property is located in Windsor Village.

On October 26, 2007 an Interim Control Ordinance (“ICO”) (Ordinance # 179 286) took effect prohibiting the alteration, demolition and re-development of the historically important resources of Windsor Village. On October 20, 2010, the Los Angeles City Council established by Ordinance (#181373), the Windsor Village Historic Preservation Overlay Zone. City Council adopted the FINDINGS of the Los Angeles City Planning Commission’s that the establishment of the Windsor Village HPOZ and Preservation Plan is in substantial conformance with the purposes, intent, and provisions of the General Plan, and in conformity with public necessity, convenience, general welfare and good zoning practice by implementing the objectives of the Wilshire Community Plan (adopted September 2001) and land use element of the General Plan. **Exhibit 12.**

In or about 2010 a Preservation Plan was adopted for Windsor Village (**EXHIBIT 14**) and the historic communities of Windsor Village, Wilshire Park and Country Club Park (known as the “Triplets”) were combined for the purpose of sharing one single HPOZ Board for hearing matters related to issues involving construction in these historic communities. The Triplets each have a Preservation Plan; however, the Preservation Plan requirements for each is identical in content and substance.

The subject property is located in Windsor Village. 849/ 853 Lucerne is an existing 18 unit apartment building. The existing apartment building was constructed in 1961 and has been designated as a non-contributor. In approximately 2006 (and before the ICO) the prior owner/developer (Lucerne Ebell LLC) had all tenants vacate the apartment and this property has been vacant for approximately eight years, save for some residents who have moved into some of the units in the recent year. 859 Lucerne was at one time the location of a historic home which was demolished (the demolition permit was obtained prior to the ICO) by the prior owner/developer (Lucerne/Ebell LLC.). 849/859 Lucerne has been a vacant lot for eight years.

On June 30, 2006 the Deputy Advisory Agency conditionally approved a tract map for a one-lot subdivision to permit 32 condominium units, with 14 units in a proposed new building (vacant lot at 859 Lucerne) and 18 units in the existing three-story apartment building (849/853 Lucerne) to be converted to condominiums on a 26,599 square foot site in the R3-1 zone. On June 10, 2010, the tentative tract map expiration date was extended to June 30, 2018.

On May 31, 2011, Lucerne Ebell, LLC sold and transferred title to 849 to 859 Lucerne to Morumbila, LLC for \$5,300,000. Prior to May 31, 2011 no design plans or architectural drawings were submitted by Lucerne Ebell LLC for the development of either the existing apartment building nor the vacant lot.

At the time of the real property purchase, the Morumbila owners/developers were aware that whatever development they contemplated on the property (specifically the vacant lot at 859 Lucerne) would be subject to the Windsor Village Preservation Plan (**Exhibit 14**) and they were aware that their plans would have to comply with all existing regulations of the City HPOZ Ordinance. **Exhibit 13**. As a consequence of the establishment of the HPOZ in Windsor Village effective in 2010, the property purchased by the Morumbila owners was rezoned from R3-1 to R3-1-HPOZ.

The Morumbila owners submitted their project (hereinafter also referred to as the "Morumbila Condo Project" or "Morumbila Lucerne Blvd. Condo Project") to the HPOZ Board for consultations, pursuant to the requirements of the HPOZ Ordinance, commencing in February, 2013. Between February, 2013 and November, 2013, several consultation meetings were held. **EXHIBIT 16**.

Over the course of time, the Morumbila applicant made insignificant changes to the project plans. **EXHIBIT 4**, . Prior to the November 19, 2013 final hearing before the HPOZ Board, the Morumbila applicant made other changes to the project plans, which were considered by the HPOZ Board at the final hearing. **EXHIBIT 4.a**.

On November 19, 2013, the Morumbila Condo Project was submitted to the HPOZ Board for a final public hearing and the HPOZ Board vote and recommendation regarding the application made by the Morumbila applicant for the issuance of a Certificate of Compatibility. As will be more fully explained below, City Planning, through the actions of certain of its planners, forced one member of the HPOZ Board to recuse herself, thus causing a "tie vote" as to whether the HPOZ Board should recommend to the Director of City Planning that the Morumbila applicant be issued a Certificate of Compatibility, allowing the construction of the Morumbila Condo Development Project in Windsor Village.

As a consequence of the "tie vote" the HPOZ Board could not and did not make any recommendation to the Director of City Planning whether a Certificate of Compatibility should be issued to the condo development project. In effect, a recommendation that a Certificate of Compatibility should be issued is a finding that the project meets the requirements of the Preservation Plan, and a recommendation against issuance is a finding that the project does not comply with the Preservation Plan. The matter was then transferred to the Director of City Planning for his sole consideration, without public participation and input.

On May 29, 2014 the Director issued his Determination and Certificate of Compatibility to the Morumbila applicant. **EXHIBIT 1**. In February, 2014, while the project was being reviewed by the Director, the Morumbila applicant revised the project plans once again. **EXHIBIT 5; EXHIBIT 9**. It was on these revised project plans that the Director based his decision.

Alarming, the project approved by the Director is larger in square footage than the original proposed project, and the setbacks in the approved project ( located between the new condo building and the historic duplex which is south of the new construction) are narrower than the setbacks proposed in the original plans.

### III.

#### FACTUAL INFORMATION

##### About Windsor Village

Immediately south of the new condo structure exists a historic two-story duplex which has a 33.5 front yard setback.

There are ten historic/contributor structures on the same block where the Morumbila condo project is contemplated (Lucerne Boulevard) which are either single family dwellings or multi-family dwellings (**EXHIBIT 7; EXHIBIT 15**):

801 S Lucerne  
828 S Lucerne  
834 S Lucerne  
841 S Lucerne  
848 S Lucerne  
852 S Lucerne  
865 S Lucerne  
885 S Lucerne  
870 S Lucerne  
893 S Lucerne

There are 145 historic single family homes in Windsor Village, 40 of which are one story, 105 of which are two story. There are 50 historic two story multi-residential structures in Windsor Village; there are 2 historic three-story multi-residential structures; and there are 2 historic three-story multi-residential structures. **EXHIBIT 8. EXHIBIT 15.**

There are no historic four-story multi-residential structures in Windsor Village. **EXHIBIT 6, 7, 8. EXHIBIT 15.**

##### About the Morumbila Project Plans

The November 19, 2013 Morumbila project plans (**EXHIBIT 4.a.**) provided greater ground level side yard setbacks from the historic duplex than the February, 2014 project plans approved by the Director (**EXHIBIT 1**):



November, 2013 :south side

February, 2014:south side

13' setback for the front quarter of new structure

11' setback (incl.planter) for front quarter of new structure

9' setback for the middle section of new structure

9' setback for middle of new structure

11' setback for the back quarter of new structure

7' from midpoint to back of new structure

The November 19, 2013 Morumbila project plans (**EXHIBIT 4.a.**) provided a less dense condo project (new building and existing building) than the February, 2014 project plans approved by the Director (**EXHIBIT 1**):

November, 2013

February, 2014

46,516 square feet

47,945 square feet

#### IV.

#### **WINDSOR VILLAGE PRESERVATION PLAN & SECTION 12.20.3 OF THE LAMC** **("HISTORIC PRESERVATION OVERLAY ZONE ORDINANCE")**

LAMC Section 12.20.3 (**EXHIBIT 13**) establishes the regulations for HPOZ communities. This ordinance states:

"A. PURPOSE. It is hereby declared as a matter of public policy that the recognition, preservation, enhancement, and use of buildings, structures, landscaping, natural features, and areas within the City of Los Angeles having historic, architectural, cultural or aesthetic significance are required in the interest of the health, economic prosperity, cultural enrichment and general welfare of the people." LAMC §12.20.3 A.

LAMC Section 12.20.3 E. states that a Preservation Plan "clarifies and elaborates upon these regulations as they apply to individual Preservation Zones. A Preservation Plan is used by the Director, Board, property owners and the residents in the application of preservation principles within a Preservation Zone."

LAMC Section 12.20.3 C. provides that "when it appears that there is a conflict [with other provisions of the LAMC], the most restrictive requirements of this Code shall apply..." *Thus, the provisions and regulations of the HPOZ Ordinance along with the pertinent provisions of the applicable Preservation Plan over-ride and take precedence over any and all "by rights" arguments which can be made by any developer or property owner in an HPOZ neighborhood.*

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**General Goals & Objectives of the Windsor Village Preservation Plan**

The Windsor Village Preservation Plan (EXHIBIT 14) states in pertinent part as follows:

**Chapter 1: Mission Statement**

**“The principal purpose of the Preservation Plan is to maintain, enhance and preserve the historic integrity, sense of place and aesthetic appearance... and [the] Preservation Plan shall accomplish these by: ...**

**Ensuring that the height, bulk, massing, lot coverage and architectural designs of both additions and infill development are compatible with the historic fabric of the neighborhood... Encouraging residents to participate in the preservation process...”**

**Chapter 2: Goals & Objectives**

**“Objective 1.3: Ensure rehabilitation and new construction within the district complements the historic fabric.**

**Objective 1.4: Recognize that the preservation of the character of the district as a whole takes precedence over the treatment of individual structures or sites.**

**Objective 1.5: Encourage new construction and design that is differentiated from the historic elements that is responsive and sympathetic to its historic context and is compatible with historic materials, design features, size, scale, proportion and massing.”**

**Goal 3: Achieve Widespread Public Awareness and Involvement in Historic Preservation Throughout the HPOZ.**

**“Objective 4.1: Keep local residents, the preservation community, the general public and decision makers informed about historic preservation issues and initiatives, and facilitate public access to this information...”**

**Goal 5: Assist in the Effective Implementation of the HPOZ Ordinance.**

**“Objective 5.1:Facilitate fair, impartial and appropriate decisions regarding proposed projects with this Plan.**

**Objective 5.4: Work with the City of Los Angeles Planning Department, the Department of Building and Safety... to improve enforcement of the HPOZ ordinance.”**

V.

**WINDSOR VILLAGE PRESERVATION PLAN:**

**Infill Construction**

Chapter 9 of the Preservation Plan concerning new construction on vacant lots of the Windsor Village Preservation Plan (EXHIBIT 14) states in pertinent part as follows:

**Chapter 9: Residential Infill**

**9.1 Introduction**

“ ‘Infill’ is the process of building a new structure on a vacant site within an existing neighborhood. These infill guidelines are also applicable to the review of alterations to structures or sites within the HPOZ that are “non-contributing’ as identified in the Historic Resource Survey... The Residential Infill guidelines should be used in the planning and review of most projects involving new structures in residential areas.”

...

**9.4 Massing and Orientation**

“The purpose... is to ensure that the scale, height, bulk, and massing of new construction visible from the street is compatible with the existing context of historic structures and the neighborhood as a whole.”

**GUIDELINES**

**“1. New residential structures should harmonize in scale and massing with the existing historic structures in surrounding blocks...”**

As will be more fully argued herein below, the Morbumbila Project does not comply with the Windsor Village Preservation Plan, and the Director’s Determination and issuance of a Certificate of Compatibility violates the Preservation Plan.

## VI.

### **THE DIRECTOR'S DETERMINATION AND ISSUANCE OF A CERTIFICATE OF COMPATIBILITY TO THE MORUMBILA APPLICANT VIOLATE THE MANDATES OF THE WINDSOR VILLAGE PRESERVATION PLAN**

The Director declares in his Determination: "The project ... is found to be in compliance with the provisions and intent of the Windsor Village Preservation Plan as indicated in the attached Findings." Page 1. **EXHIBIT 1.** However, the project is in fact a "monster" which in no fashion complies with the Preservation Plan: the project is over-sized, and not compatible in design, height, scale, massing and bulk as required by the Preservation Plan.

#### **A. The Director's CONDITIONS OF APPROVAL: Harmful to Appellant**

The Director cites "conditions of approval" for the issuance of the Certificate of Compatibility by stating that:

"1. Any changes to the project or changes to these plans [EXHIBIT 5] shall be approved by the Director of Planning and may require additional review by the HPOZ Board." Page 4. **EXHIBIT 1. Any additional review requires a review by the HPOZ Board; otherwise the community's participation in the process would be eliminated and yet another opportunity will be given to the Director to over-ride and bypass the requirements of the Preservation Plan.**

As an additional "condition of approval" the Director states:

"2. Final drawings shall substantially resemble the Approved Exhibit (or any subsequent Modified Exhibits) and shall substantially resemble the Approved Exhibit (or any subsequent Modified Exhibits)...." Page 4. **EXHIBIT 1. The use of term "substantially" is vague and ambiguous and endangers compliance and encourages non-compliance with the Preservation Plan.**

As an additional "condition of approval" the Director states:

"5. The granting of this determination by the Director of Planning does not in any way indicate compliance with.... [Building Code]. Any corrections and/or modifications to plans made subsequent to this determination by a Department of Building and Safety Plan Check Engineer that affect any part of the exterior design or appearance of the project as approved by the Director, and which are deemed necessary by the Department of Building and Safety for Building Code compliance, shall require a referral of the revised plans back to the Department of City Planning for additional review and sign-off prior to the issuance of any permit in connection with those plans." Page 4. **EXHIBIT 1. Any modifications to the plans which affect any part of the exterior design or appearance of the project which are deemed necessary by DBS for**

*building code compliance should also require referral to the HPOZ Board for public hearing. Public participation is necessary per the spirit of the Preservation Plan.*

**B. The Director's FINDINGS: Erroneous and Contrary to the Preservation Plan**

In his Determination, the Director further continued making erroneous FINDINGS, as follows:

**(1) Erroneous Finding #1.**

*"A. ...Subsequent meetings with staff resulted in further changes to the Plan including the removal of the application for the 15th unit in the new building ... and additional setbacks at the southwest corner. Planning staff has taken into consideration the concerns and recommendations of the HPOZ Board and the community members and who spoke at the hearing and provided written communications. Approval of the subject application is therefore consistent with 12.20.3.1 of the LAMC." Page 6 EXHIBIT 1. This is an inaccurate statement. The only slightly significant setbacks in the new plans exist to the west of the project—and these setbacks provide no benefit to Appellant Windsor Village since they are to the rear of the project. There is a set back solely for the 4th floor on the south (adjacent to the historic duplex). This 4<sup>th</sup> level setback gives no benefit whatsoever to the historic duplex to the south since the project's 4<sup>th</sup> level towers over and is above the adjacent historic duplex: thus, this 4<sup>th</sup> level setback is of no consequence. Setbacks on the first, second and third floors remain unchanged. The November 19, 2013 Morumbila project plans (EXHIBIT 4.a.) provided greater ground level side yard setbacks from the historic duplex to the south of the project than the February, 2014 project plans approved by the Director (EXHIBIT 1). No consideration was given to the concerns of the community: the project still does not conform to the provisions or spirit of the Preservation Plan.*

**(2) Erroneous Finding #2.**

*"B. The proposed project, as conditioned in this Determination, substantially complies with LAMC Section 12.20.3.L.4 because the proposed project complies with and is consistent with the adopted Preservation Plan." Page 6 EXHIBIT 1. This is a false conclusion without any evidentiary support. The "conditions of approval" do nothing to promote the requirements of the Preservation Plan. Not even minimal compliance has been achieved.*

**(3) Erroneous Finding #3.**

In his Finding, the Director quotes the Preservation Plan as follows:

“9.3 Setting, Location and Site Design

1. *New residential structures should be placed on their lots to harmonize with the existing historic setbacks of the block on which they are located. The depth of the front ...yards should be preserved, consistent with other structures on the same block face.* [Quote from Preservation Plan]  
Page 6 EXHIBIT 1.

The Director then makes the following finding:

"There is a diversity of front ... yard setbacks among both Contributing and Non-Contributing structures on the same block face, with the Contributing structures having the most variability...The new proposed building provides a transition from the deeper setback of the Contributing apartment [duplex] building on the south (33.5) feet and shallower setback of the project's existing building to the north (21 feet). The proposed new building's front yard setbacks range from 24 to 17.6 feet from the front property line at the ground level... Finally, to reduce its visibility from the street view, the fourth story is set back at a total of 44 feet from the front property line." Page 6 EXHIBIT 1. *The Director mis-applies the Preservation Plan which has been quoted. The "harmonizing" of the new construction must be made in reference to the "existing historic setbacks of the block" on which the new construction is located--*

*therefore, the Determination Letter's reference to existing non-contributors is erroneous and the existing setbacks of non-contributors are irrelevant. The larger historic setbacks on the block range from 33.5 feet (referring to the historic duplex immediately south of the new project-- 835 Lucerne) to 40 feet (historic residence at 841 Lucerne). The fact that the existing Morumbila building to the north of the Morumbila vacant lot is 21 feet from the front property line at ground level is totally irrelevant and should have no impact or consequence on the desired front setback of the infill structure. The size of the Morumbila infill structure is monstrous, so, logically its front yard setback should also be monstrous. The larger the new construction, the more significant should be the front yard setback.*

*Even using the Director's logic that the two adjoining properties (one a contributor to the south and the other not a contributor to the north) with setbacks 33.5 feet and 21 feet, the front yard setback for the new construction should be at least one-half the difference which would be 12.5 divided by 2 which would be 6.25'+21'= 27.25' (minimum) and not 17' to 24'; and still this calculation does not comply with the Preservation Plan because the Preservation Plan requires "harmonization" with historic setbacks and not setbacks of non-contributors.*

**(4) Erroneous Finding #4.**

Continuing his Finding regarding the Morumbila project setbacks, the Director declares

that: "...at the southwest corner, the south side yard setback increases with each successive story from 11 feet at the ground floor to approximately 15 feet on the fourth to story to add further distance from the neighboring Contributor [duplex] as per Exhibit A Plans." Page 7 **EXHIBIT 1**. *The 15 foot distance of the fourth level from the historic duplex on the south of the project is greatly exaggerated. The distance is closer to 11 to 13 feet. Moreover, the fourth level towers over the two story historic duplex such that any distance between the 4th level of the project and the historic two story duplex cannot be appreciated or perceived in any fashion. Moreover, the November 19, 2013 Morumbila project plans (EXHIBIT 4.a.) provided greater ground level side yard setbacks from the historic duplex than the February, 2014 project plans approved by the Director (EXHIBIT 1):*

<i>November, 2013 :south side</i>	<i>February, 2014:south side</i>
<i>13' setback for the front quarter of new structure</i>	<i>11' setback (incl.planter) for front quarter of new structure</i>
<i>9' setback for the middle section of new structure</i>	<i>9' setback for middle of new structure</i>
<i>11' setback for the back quarter of new structure</i>	<i>7' from midpoint to back of new structure</i>

**(5) Erroneous Finding #5.**

In his Finding, the Director quotes the Preservation Plan as follows:

*"6. Front and side yard areas should be largely dedicated to planting areas. Large expanses of concrete and parking areas are inappropriate." [Quote from Preservation .Plan] Page 7 EXHIBIT 1.*

The Director then makes the following finding:

*"Other than walkways, stairways, and ramps, all proposed available areas in the front, sides and rear of the project are to be landscaped....." Page 7 EXHIBIT 1. The plans submitted by the Morumbila applicant do not give any indication that there has been compliance with the Preservation Plan. The front and side yards are not "largely dedicated to planting areas." Landscaping is minimal. There is far too much concrete on the south side, and the front. The Morumbila applicant has not provided a complete or accurate landscape plan. In fact, the Morumbila applicant used the "old plan" (November, 2013) that had wider setbacks on the south and east, thus falsely showing that there is more space for planting areas. The landscape plan does not match the Exhibit A to the Determination (the February, 2014 Morumbila Plans—EXHIBIT 5). Also, no direction is given regarding the type of landscaping. The directive lacks specificity and gives too much leeway and discretion to the applicant which will adversely affect Appellant. There is a total failure to meet the requirements of the Preservation Plan.*

**(6) Erroneous Finding #6.**

In his Finding, the Director quotes the Preservation Plan as follows:

*"7. The lot coverage proposed for an in-fill projects should be substantially consistent with the lot coverage of nearby Contributor properties." [Quote from Preservation Plan] Page 7*  
**EXHIBIT 1.**

The Director then makes the following finding:

"Along Lucerne Boulevard, there is a variety of lot coverage ratios among the 12 Contributing multi-family developments, ranging from 27 % to 73%. The average lot coverage is approximately 53% whereas the subject project is 57%, which is substantially consistent with the nearby Contributor properties." Page 7 **EXHIBIT 1.**

*The Preservation Plan requires that the new project be substantially consistent with nearby historic properties-- not solely historic multi-residential contributors and not solely historic multi- residential properties on the Lucerne block. Substantial consistency must be with all nearby historic properties: meaning substantial consistency with historic single family residences in the neighborhood, historic duplex/fourplex structures, and other historic residential properties in the neighborhood. Therefore, the calculation that this project has a 57% lot coverage is erroneous. It is unknown how lot coverage has been calculated. It is uncertain whether the Director's calculations took account of solely the new project's anticipated lot coverage or whether it also included the existing Morumbila apartment building lot coverage.*

*Without the identification by the Director of the actual properties that he used to devise his lot coverage calculations, his FINDING is faulty and not validly supported by evidence.*

**(7) Erroneous Finding #7.**

In his Finding, the Director quotes the Preservation Plan as follows:

*"9.4 1. New residential structures should harmonize in scale and massing with the existing historic structures in surrounding blocks. For instance, a 2.5 story structure should not be built in a block largely occupied by single-story bungalows." [Quote from Preservation Plan] Page 7*  
**EXHIBIT 1.**

The Director then makes the following finding:



"The multi-family buildings in the area have primarily two and three stories with a few one and four story structures. Perceived scale and massing may fluctuate due to the sloping lots of the Contributor buildings along Lucerne Boulevard. The proposed project is a total of four stories, articulated, and stepped back on the front, south side... with the greatest step back proposed at the southeast corner... The fourth story of the new building is set back in the front by 44 feet from the front property line... thus creating a minimal profile from the street ...."

*The Preservation Plan requires the new construction to "harmonize in scale and massing with the historic structures in surrounding blocks"; it does not refer to harmonizing with historic and non-historic multi-family buildings, nor does it refer to harmonizing solely with historic buildings along Lucerne Boulevard. Windsor Village has a total of:*

- \*\*145 historic single family homes, 40 of which are one story, and 105 of which are two story*
- \*\* 50 historic two story multi-residential structures*
- \*\* 2 historic three-story multi-residential structures*
- \*\* 0 historic four story multi-residential structures.*

*Compliance with the Preservation Plan requires that this project be no more than two to three stories in order to harmonize in scale and massing with the historic structures in the surrounding blocks. The new project does not (in any fashion) create a "minimal profile from the street" since it is a massive and overpowering structure which does not harmonize in design, scale, height, bulk and massing with Windsor Village. Examination of the new project should not be gauged from solely street level, since its presence is perceived from various levels, including from one and two buildings away, as well as from one-half block to one block or more away.*

*Any "by rights" arguments that the Morumbila applicant can make fail in light of the Preservation Plan and Section 12.20.3 of the LAMC subsection C which provides that the HPOZ ordinance and any pertinent Preservation Plan prevail over any "by right" claims. Thus, constructing the largest possible multi-residential structure pursuant to applicable LAMC sections in a non-HPOZ environment will not work in an HPOZ community.*

**(8) Erroneous Finding #8.**

In his Finding, the Director quotes the Preservation Plan as follows:

*" 2. When found to be appropriate, new structures that will be larger than their neighbors should be designed in modules, with the greater part of the mass located away from the main façade to minimize the perceived bulk of the structure." [Quote from Preservation Plan concerning Massing and Orientation] Page 7 EXHIBIT 1.*

The Director then makes the following finding:

15

"Given that the proposed building is larger than the neighboring building to the south [historic duplex], it has a modulated design to reduce the overall massing and appearance of upper stories....The cumulative building setback at the fourth story is 44 feet in the front... property line. The project's south side yard setback is 7 feet from the property line towards the rear and 11 feet towards the front, scaling back incrementally each story to approximately 15 feet on the fourth story, where the neighboring apartment building [historic duplex on the southside] is located, as illustrated on the Exhibit A floor plans and elevations." Page 7 EXHIBIT 1. ***No FINDING OF APPROPRIATENESS has been made that this new structure should be larger than neighboring properties. 9.4.1. of the Preservation Plan requires that new residential structures should harmonize in scale and massing with the existing historic structures in surrounding blocks.***

***The setbacks and "articulations" with indentations and visible "breaks" do not "minimize the perceived bulk of the structure."***

***This is a monstrous four story structure which in no way harmonizes with the historic structures on Lucerne, neighboring historic structures, or the historic structures in the neighborhood. It totally and irrefutably defies the provisions of the Preservation Plan.***

***The setbacks on the south of the proposed new structure (adjacent to the historic two story duplex) are minimal, and in fact less wide than the setbacks proposed in prior Morumbila plans. The scaling back of the 4<sup>th</sup> story on the south is inconsequential, since the structure still overwhelms and dwarfs the historic duplex.***

### **C. Erroneous Project Descriptions Are Referenced in the Determination Letter:**

The Determination Letter states that this project "will have elements of Streamline Moderne style." Page 1 EXHIBIT 1. ***Windsor Village has two historic structures which are examples of a true Streamline Moderne: 844 Plymouth and 829 Crenshaw. The Morumbila project does not go far enough to adequately emulate Streamline Moderne and the style/design needs to be further developed.***

The Determination Letter states that the project will have:

"j. Permanent planters, located on the fourth floor rooftop decks shall be planted with screening vegetation, such as the proposed Dietes vegeta, and maintained to provide privacy and buffer between the neighbors and occupants." Page 3 EXHIBIT 1.

***The quality, density, height of this type of vegetation is questionable: it will not provide any sufficient privacy and buffer between the new project and the historic duplex to the south, nor the east (which faces Lucerne Boulevard).***

The Determination Letter states that :

"1. Trees shall be planted as follows: ... 2 in the front yard, 4 in the parkway, and maintain an existing tree in the front yard of the existing building, as per the Landscape Concept Plan. All trees shall be a minimum 24" box size." Page 3 **EXHIBIT 1.**

***In order to minimize the enormity of this new project, trees which are fast growing, dense, and achieving a maximum height of at least 30 feet are mandatory. Therefore, a minimum of 48 inch box size is necessary for the front yard as well as the parkway.***

The Director accepted the "design" of the new Morumbila condo project which contains 20 foot deep front decks on the 4<sup>th</sup> story level for the full width of the building facade. No other historic structure in Windsor Village contains any such design feature. This feature is not compatible with the Preservation Plan and should not be allowed.

***D. Allowing the Director's Determination and Issuance of the Certificate of Compatibility To Become Effective and Remain Unchallenged Will Not Only Set a Harmful Precedent But Will Also Result in Decades of Irreparable Adverse Impacts on Appellant***

It is clear that the Director's Determination violates the Windsor Village Preservation Plan. To allow the Determination to become effective would result in the continuing erosion of the Preservation Plan by other developers who seek to destroy Windsor Village. If the Morumbila applicant is allowed to disregard the Preservation Plan, then other developers will attempt to stake their claims to property in Windsor Village clamoring to build even more over-sized and monstrous buildings which dishonor the historic nature of the neighborhood.

**VII.**

**CITY PLANNING HAS ALLOWED AND ACTIVELY PROMOTED THE SELECTIVE AND DISCRIMINATORY ENFORCEMENT OF THE PRESERVATION PLAN CAUSING HARM TO APPELLANT**

The May 29, 2014 Determination by the Director of City Planning is evidence that certain personnel charged with enforcing the City's rules and regulations regarding Historic Preservation Zones have engaged in the selective and discriminatory enforcement of those rules and regulations: encouraging enforcement in certain neighborhoods and discouraging enforcement in other neighborhoods.

***A. During the Same Time that the Morumbila Condo Project in Windsor Village was Being Evaluated and Considered by the Triplet's HPOZ Board, an Almost Identical Condo Project in Country Club Park (the "Bronson Condo Project") was Being Evaluated and Considered by the Same Board : CERTAIN MEMBERS OF THE HPOZ BOARD, WITH THE IMPLIED CONSENT OF CITY PLANNING EMPLOYEE NORA DRESSER,***

**ARGUED FOR AND ENCOURAGED ENFORCEMENT OF THE PRESERVATION PLAN REGARDING THE COUNTRY CLUB PARK PROJECT BUT DISCOURAGED THE APPLICATION OF THE PRESERVATION PLAN REGARDING THE WINDSOR VILLAGE PROJECT**

The Morumbila Condo Project in Windsor Village is almost identical to a vacant two lot Condo project in Country Club Park. As stated above, both Windsor Village and Country Club Park share the same HPOZ Board and the Preservation Plans for both have the same substance and content regarding HPOZ rules.

Both projects were discussed by the same HPOZ Board on the same consult meeting days, and also on different consult meeting days. Two HPOZ Board members who are residents of Country Club Park strictly applied the mandates of the Preservation Plan to the Bronson Condo Project in their neighborhood, but intentionally disregarded the Preservation Plan mandates with regard to the Morumbila Condo Project in Windsor Village. The City Planning Assistant designated to preside over the Triplet's HPOZ Board (Nora Dresser) impliedly sanctioned and condoned this selective and discriminatory enforcement of the Preservation Plan.

Attached hereto as **EXHIBIT 16** are internet locations where the audio recordings of the HPOZ Board sessions can be heard for the Bronson condo project and the Morumbila project.

The two Country Club Park HPOZ Board members stated that the Bronson Condo Project did not fit in with their historic neighborhood, gave a monster presence on the street since the Bronson Condo contemplated 17 units, was too big next to the smaller Contributor dwellings, the project should be reduced to two stories, and the project should look like the contributor structures. **EXHIBIT 16.** In evaluating the Morumbila Project in Windsor Village, these two Country Club Park HPOZ Board members stated that the project fit well.

**B. This Discriminatory and Selective Enforcement of the Preservation Plan Resulted In Prejudice and Harm to Appellant**

On November 19, 2013 when the HPOZ Board voted on the Morumbila Project the two Country Club Park HPOZ Board members who refused to apply and enforce the Preservation Plan in Windsor Village voted in favor of the Morumbila Project recommending that a Certificate of Compatibility be issued. The City Planning Assistant presiding over the HPOZ Board at no time attempted to correct these two HPOZ Board members nor to urge them to re-consider their conduct. **EXHIBIT 16.**

## VIII.

### **THE CITY PLANNING COMMISSION ACTIVELY CAUSED A PREJUDICIAL IRREGULARITY IN THE HPOZ VOTE REGARDING THE ISSUANCE OF A COMPATIBILITY CERTIFICATE, BY FORCING A MEMBER OF THE HPOZ BOARD TO RECUSE HERSELF , WITHOUT JUSTIFICATION, THEREBY CAUSING HARM TO APPELLANT**

On November 19, 2013 the Triplet's HPOZ Board argued the merits of recommending the issuance of a Certificate of Compatibility to the Morumbila applicant, and also considered the suitability of the Morumbila condo project in the Windsor Village community. **EXHIBIT 16.**

HPOZ Board member Suzanne Wilton (a Windsor Village resident) was forced by various personnel of City Planning to recuse herself from the November 19, 2013 discussion and vote. **EXHIBIT 11.a.** She was not permitted to participate in the November 19, 2014 HPOZ Board discussion of the merits of the project and she was not permitted to vote on the project. The claimed reason for her recusal was Planning Assistant Nora Dresser's perception that Ms. Wilton had advocated for Windsor Village by previously participating in consultation hearings on the project and by using display boards which depict historic structures in Windsor Village and the type of structure that the Preservation Plan seeks to emulate. **EXHIBIT 11.b., c., d.**

As a result of the forced recusal, the HPOZ Board members who were permitted to vote and who in fact voted in favor of the Morumbila project, were deprived of the opportunity to consider Ms. Wilton's opinions and arguments, and her interpretation of the Windsor Village Preservation Plan as it applies to the project. Without Ms. Wilton's participation, the Board was not allowed to engage in a full and fair opportunity to weigh all aspects of the Morumbila project. It is important to note that had Ms. Wilton been allowed to vote, she would have voted against the project and against recommending that the project applicant be issued a Certificate of Compatibility. **EXHIBIT 11.a.**

This forced recusal severely prejudiced Appellant since the HPOZ Board was deprived of the opportunity to hear well reasoned arguments against the project.

### **The Use by Ms. Wilton of Display Boards Demonstrates a Desire to Educate the Applicant and Her Fellow HPOZ Board Members of the Nature of the Historic Fabric of Windsor Village and the Requirements of the Preservation Plan**

The City's HPOZ Ordinance [LAMC Section 12.20.3(8) (f), (g)] imposes an obligation on HPOZ Board members to "tour" the pertinent historic zones regularly, to become familiar

with the historic neighborhoods and their historic structures, and to render guidance and advice to owners and applicants in the HPOZ Board hearing setting regarding the procedures and guidelines of the Preservation Plan.

By participating in the discussion process in consult meetings before the HPOZ Board regarding the Morumbila project and in presenting display boards (**EXHIBITS 6, 7, 8**) depicting representative Windsor Village historic structures, Ms. Wilton was executing her duties as a participating HPOZ Board member. She was advocating for the Preservation Plan, which is her duty. **EXHIBIT 11.a.**

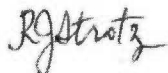
As a result of her forced recusal, the November 19, 2013 HPOZ Board vote was tied, and Windsor Village was deprived of a “community based” HPOZ Board recommendation that no certificate of compatibility should be issued to the Morumbila applicant. Without this community based recommendation, the Director was given free rein to mis-interpret and mis-construe the Windsor Village Preservation Plan.

## **IX.** **CONCLUSION**

The cumulative negative effects of the actions and omissions of City Planning in allowing the selective and discriminatory enforcement of the Preservation Plan against the interests of Windsor Village, the forced recusal of an HPOZ Board member (who is a long time resident of Windsor Village) without justification, and the Director’s Determination and issuance of a Certificate of Compatibility to a project which dishonors and violates the Windsor Village Preservation Plan has caused and will continue to cause irreparable and irreversible harm to Appellant, which harm will last for decades. Moreover, the Director’s determination will serve as a dangerous precedent which will erode the substance and spirit of the Windsor Village Preservation Plan.

Allowing any aspect of the Morumbila development project to be approved would be dangerous to the Appellant since any “approvals” granted will be used as “windows of opportunity” to usurp the mandates of the Preservation Plan.

Respectfully submitted,



By \_\_\_\_\_

R.J. STROTZ, Attorney at Law  
Law Office of R.J. STROTZ  
Counsel for Appellant, Windsor Village Association



Windsor Village  
Association

## **SUPPLEMENT TO APPEAL**

**To: CENTRAL AREA PLANNING COMMISSION**

### **APPEAL FROM:**

5/29/14 DETERMINATION OF DIRECTOR OF CITY  
PLANNING: Issuing Certificate of Compatibility/  
Findings/Conditions of Approval

Reasons for Appeal; Irreparable and Irreversible Harm to  
Appellant; Errors Committed by Decision Maker and Facts  
Showing Abuse of Discretion

### **APPELLANT:**

Windsor Village Association, a 501(c) 4 entity.

### **Project Address:**

**849 to 859 South Lucerne Blvd., Los Angeles, CA.  
Located in "Windsor Village" [HPOZ]**

### **Case #s:**

DIR-2013-3495-CCMP; TT-63468-CC; ENV-2005-8131-  
MND-REC1

**HEARING DATE: 8/26/14 4:30 PM (CAPC)**





## **SUPPLEMENT TO APPEAL**

### **Introduction:**

Appellant, Windsor Village Association, presents the following Supplement to Appeal (including the attached Supplement to Exhibit List) which adds references to HPOZ meeting audio recordings which further evidence that City Planning has allowed and actively promoted the selective and discriminatory enforcement of the Preservation Plan, resulting in irreparable and irreversible harm to Appellant.

**1. During the Same Time that The Morumbila Condo Project in Windsor Village was Being Evaluated and Considered by the Director of City Planning, an Almost Identical Condo Project in Country Club Park (the "Bronson Condo Project") was Being Evaluated and Considered by the HPOZ BOARD, and also by Lambert Giessinger (City Planning's Preservation Architect of the Office of Historic Resources), Who Aided and Assisted the HPOZ BOARD In its Evaluation of the "Bronson Condo Project." Ultimately Deciding that the Bronson Project was Too Massive and Incompatible with the Country Club Park Preservation Plan**

On January 7, 2014 and again on April 1, 2014 (when the Morumbila Condo Project was being evaluated by the Director of City Planning, for the purpose of deciding whether a Certificate of Compatibility should be issued to the Morumbila applicant and whether changes should be made to the project), City Planning agents heard and considered (in HPOZ consultation meetings) whether a condo project (the "Bronson Condo Project" in Country Club Park, (one of the HPOZ TRIPLETS) which was very similar to the Morumbila Project, should be approved by the HPOZ Board for the issuance of a Certificate of Compatibility.

The Bronson Condo Project was located at 1054-1060 South Bronson, on two adjacent vacant lots. The project initially envisioned 17 units and was later reduced to 14 units by April, 2014. The project also envisioned a three story structure, with ground level parking (thus, making it a 4 story structure).

On January 7, 2014, two members of the HPOZ Board (residents of Country Club Park), argued that the project was not compatible with the historic fabric of the Country Club neighborhood, was too large and did not follow the Preservation Plan. Nora Dresser, from City Planning, agreed. See **Supplemental Exhibit 17**.

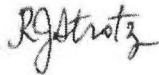
At the April 1, 2014 HPOZ consult hearing on the Bronson Condo Project, City Planning's preservation architect, Lambert Giessinger, appeared to publicly provide his expert opinions regarding the Bronson Condo Project. He stated that the project was not compatible with the historic nature of Country Club Park and that the project had to be scaled back considerably since it was massive. See **Supplemental Exhibit 18**.

If the Bronson Condo Project which comprised two vacant lots with 14 condo units, with a ground level garage and three stories was "too massive" for the historic neighborhood of Country Club Park and not compatible with the Preservation Plan, then how could it be possible that the Morumbila Condo Project in Windsor Village, with 14 condo units and four stories above underground parking on one vacant lot be compatible with the historic neighborhood of Windsor Village and the Preservation Plan?

There can be no doubt that City Planning has allowed and actively promoted the selective and discriminatory enforcement of Appellant's Preservation Plan (which is the same preservation plan for Country Club Park). If the Bronson Condo Project is too massive for Country Club Park, then the Morumbila Condo Project is too massive for Windsor Village and both projects do not follow the Preservation Plan.

Dated: 8/15/14

Respectfully submitted:



R.J. STROTZ, Attorney at Law, Counsel for Appellant  
816 South Windsor Blvd.  
Los Angeles, CA. 90005  
(323) 939-2591



Windsor Village  
Association

**SECOND SUPPLEMENT TO APPEAL:** submitted 8/26/14

**To: CENTRAL AREA PLANNING COMMISSION**

**APPEAL FROM:**

5/29/14 DETERMINATION OF DIRECTOR OF CITY  
PLANNING: Issuing Certificate of Compatibility/  
Findings/Conditions of Approval

Reasons for Appeal; Irreparable and Irreversible Harm to  
Appellant; Errors Committed by Decision Maker and Facts  
Showing Abuse of Discretion

**APPELLANT:**

Windsor Village Association, a 501(c) 4 entity.

**Project Address:**

**849 to 859 South Lucerne Blvd., Los Angeles, CA.  
Located in "Windsor Village" [HPOZ]**

**Case #s:**

DIR-2013-3495-CCMP; TT-63468-CC; ENV-2005-8131-  
MND-REC1

**HEARING DATE: 8/26/14 4:30 PM (CAPC)**

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## SECOND SUPPLEMENT TO APPEAL

Appellant, Windsor Village Association, presents the following Second Supplement to Appeal for the commissioners' consideration.

### I.

#### City Planning Has Continuously Violated CEQA

On July 3, 2013 a public hearing was held wherein applicant sought to amend the tentative tract map previously approved in June 2006 by adding a fifteenth condo unit to the Morumbila condo development project.

The most recent valid EIR and Mitigated Negative Declaration [ENV-2002-8131-MND] were issued in 2005. No environmental impact studies were done since then. The Planning Department issued a June 25, 2013 "modified Staff Report) [**Exhibit 2** to the Appeal] , wherein City Planning stated:

**"The Advisory Agency adopted Mitigated Negative Declaration (ENV- 2005-8131-MND) .... The proposed tract modification will not generate any impact that has not been already identified and addressed in the Mitigated Negative Declaration ENV-2005-8131-MND. All proposed modifications fall within the scope of the analyses, mitigations, and findings of less than significance in the MND. The Department of City Planning considers this modification request to be technical changes to the original MND for the project. The tract modification with proposed project revisions do not create any new substantial impacts beyond what has been previously analyzed in the original environmental clearance- ENV-2002-8131-MND and does not represent any increase to the originally proposed project, as defined by California Environmental Quality Act (CEQA Guidelines). Therefore, pursuant to Section 15164(b) &(c) of the CEQA Guidelines, recirculation of the EIR is not required."** Page 5 **EXHIBIT 2.**

City Planning ignored the fact that over the course of seven years, the originally proposed project (14 units) and newly proposed project (15 units) would have significant increased negative impacts on Windsor Village:

- inducing substantial population growth in an already over burdened neighborhood
- increasing parking demands

-- increasing traffic and noise to a significant level, among other substantial and significant negative impacts.

Moreover, City Planning failed to consider the size, bulk, height, massing and scale requirements of the Windsor Village HPOZ preservation plan: all of which, if considered, used and followed by City Planning, would have necessarily mitigated the negative impact of the applicant's condo project.

After the July 3, 2013 Deputy Advisory Agency hearing, the project was sent to the local HPOZ board for consideration; however, at this local level, City Planning again wrenched the HPOZ process from the neighborhood level, by forcing one of the HPOZ board members to recuse herself, again depriving appellant of a fair opportunity to be heard and depriving appellant of the opportunity to insist that its preservation plan be honored by City Planning. [This is more fully argued in the original appeal brief. [Page 19 Original Appeal Brief filed June 13, 2014.]

## II.

### State Law, The City Charter and the 2001 Wilshire Community Plan Update Prohibit this New Construction

The 2001 WCPU prohibits the proposed project.

**Page III-1 of the WCPU states:**

**“Residential: The quality of life and stability of neighborhoods throughout the Wilshire Community Plan Area critically depend on the adequate provision of infrastructure resources...commensurate with the needs of the population. If population growth occurs faster than projected, and without needed infrastructure improvements to keep pace with that growth, the quality of life within the Wilshire Community would be adversely affected...**

**Accordingly, with regard to residential land use planning, the proposed Wilshire Community Plan has.... fundamental premises:**

**(1) a general limitation of residential densities in various neighborhoods to the prevailing existing density of development within these neighborhoods...”**

Goal #17 of the Plan states:

**“ Preserve and restore cultural resources, neighborhoods and landmarks which have historical and/or cultural significance...”**

**OBJECTIVE 17-1: Ensure that the Wilshire Community’s historically significant resources are protected, preserved and/or enhanced.**

**POLICIES: 17.1.1: Encourage the preservation, maintenance, enhancement and reuse of existing historic buildings, and the restoration of original facades...**

**OBJECTIVE 17-2: Preserve and enhance neighborhoods having a distinctive and significant historical character.”**

**Further objectives in the Plan include reduction of traffic congesting in residential areas/and resolution of inadequate street parking and the inclusion of sufficient and attractive urban landscaping.**

The proposed project would run contrary to the objectives of the WCPU as it currently exists:

--it would increase street traffic congestion;

-- it would destroy the historical character of the existing neighborhood;

- it would dramatically decrease street parking for residents who live in the Windsor Village area (and specifically on Lucerne);
- it would dramatically adversely impact infrastructure facilities; and
- it would substantially decrease the availability of public space for street landscaping.

On May 17, 1976 the Los Angeles City Council adopted the existing Wilshire Community Plan. In subsequent years the Plan underwent changes through the General Plan/Zoning Consistency Program, the Open Space/Public Facilities Program and other amendments adopted by the City Council. The City's Planning Department sought to revise the Wilshire Community Plan in 2001. The stated intention of the Wilshire Community Plan Update was to "guide development through the year 2010." [Hereinafter the updated Plan will also be referred to as 'WCPU.'] The proposed project is in the Wilshire Community Plan.

California Government Code Section 65300 and the Los Angeles City Charter Section 96.5 require that the City prepare and adopt a comprehensive, long term General Plan which must contain seven elements including, Land Use, Circulation, Housing, Conservation, Open Space, and Noise and Safety protective measures. California State law requires that the Land Use Element be prepared as part of the City's GENERAL PLAN and that it correlate with the Circulation Element.

**The purpose for the most recent Wilshire Community Plan update (2001) was to formulate a comprehensive and all-encompassing response to changes that have taken place in the Wilshire Community since the Plan's initial adoption and to anticipate the area's future by updating the Plan text to revise the plan map through amendments which contribute to the welfare and convenience of the community.**

The City Planning Department Staff Report Dated May 10, 2001 specifically stated that some of the purposes of the WCPU were to examine:

- “need to maintain low density character of single family neighborhoods, avoiding encroachments from other uses, commercial off-street parking, and spillover traffic from adjacent development;
- need to preserve the existing character of residential neighborhoods;
- need to preserve and enhance historic structures; improve land use transitions in scale, density and character are needed between multiple family and adjacent single family neighborhoods...”

Since zoning regulates the use of land, the WCPU was supposed to study and examine land use and propose land use and zoning changes, as well as to set guidelines for how land is to be used and developed. **Further, the WCPU was supposed to study and examine traffic and parking issues. Community Plans are supposed to be scheduled for revision every five years, pursuant to the State General Plan Guidelines. The WCPU has failed to study/survey the specific area where the proposed project of construction is contemplated, and therefore, the State Guidelines have been violated.**

**MOREOVER, THE COMMUNITY PLAN HAS NOT BE UPDATED, CORRECTED OR REVISED FOR OVER TEN YEARS.**

This “failure” necessarily causes the Planning Department to be without jurisdiction and without authority to approve the contemplated project—otherwise this “slip through the cracks” will irreparably harm Windsor Village, and more specifically, those persons residing on the 800-900 blocks of Lucerne, by causing increased density, increased traffic and decreased access to street parking and decreased access to the emergency services of the fire department and law enforcement authorities.

**The “ build now and worry later” mentality has no place in the proper planning of a community. Proper community planning requires insight and foresight.**



### **III.**

#### **A Tentative Tract Map Bestows No Vested Rights in the Applicant**

In City Planning's August 26, 2014 Recommendation Report to the CAPC to "deny" the two pending appeals, it makes a vague reference to the fact that since applicant was granted a tentative tract map in 2006, that applicant is entitled to proceed with building the 14 unit condo project. This argument is invalid.

A developer who expends funds during the approval process incurs the risk that the investment will be lost if zoning changes occur after his acquisition of the property or if the local agency ultimately rejects the development permit or imposes onerous conditions that make development economically not feasible. Prior to the establishment of a developer's vested right to complete the development, the local agency retains complete authority to control, modify, condition or disapprove a proposed development. Hock Investment Co. v. City and County of San Francisco, 215 Cal.App. 3d 438,447 (1989). The local agency has the right to change zoning, modify building standards, or create new laws that impose new standards and requirements.

The in instant case, in 2006 Lucerne Ebell, LLC purchased the subject property and obtained a tentative tract map. On May 31, 2011, Lucerne Ebell, LLC sold and transferred title to 853/859 Lucerne to Morumbila LLC (the applicant herein) for \$5,300,000. Prior to May 31, 2011 no design plans or architectural drawings were submitted nor were any permits issued by the city; likewise for the time period after May 2011.

Therefore, no concessions can be made to the applicant whereby the requirements of the preservation plan can be waived or skewed in favor of the applicant.

**IV.**

**CONCLUSION**

Appellant requests that the commissioners find the Director's Findings to be erroneous and find that a Certificate of Compatibility should not issue to the applicant.

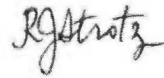
The most equitable fashion to remedy the errors and irregularities committed by City Planning is to remand the matter to the local HPOZ Board level. However, before the remand to the local HPOZ Board, City Planning shall be instructed to fully comply with CEQA requirements commencing with the preparation of a new draft EIR.

Thereafter, following the necessary public hearings on the EIR, the matter shall be sent directly to the local HPOZ board with the following instructions:

- (a) the HPOZ board shall again consult with applicant on the Morumbila project for the purpose of revising the plans so that they are compatible with the Windsor Village Preservation Plan;
- (b) thereafter, after the final hearing on this matter before the local HPOZ board, the full board (including Suzanne Wilton) shall vote whether to recommend to the Director that a Certificate of Compatibility be issued;
- (c) during the consultations and final hearing by the local HPOZ board on this matter, the City Planning representative presiding over the consultations and final hearing shall ensure that the HPOZ board members are not engaged in the discriminatory or selective enforcement of the local preservation plan so that all provisions of the preservation plans are enforced equally in the relevant HPOZ neighborhood.
- (d) thereafter, when the matter is before the Director of City Planning for a determination whether a Certificate of Compatibility should issue, City Planning is directed to make all findings/recommendations/conditions consistent with the mandates of the City's HPOZ ordinance and the local preservation plan.

Dated: 8/26/14

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "R.J. Strotz".

R.J. STROTZ, Attorney at Law

Counsel for Appellant

816 South Windsor Blvd.

Los Angeles, Ca. 90005




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## GWNC Motion of Support for the Windsor Village Appeal of Case #s DIR-2013-3495-CCMP, TT-63468-CC, ENV-2005-8131-MND-REC1

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Elizabeth Fuller <admin@greaterwilshire.org>

Thu. Aug 14. 2014 at 12:46 PM

To: rhonda.ketay@lacity.org

Cc: Julie C Stromberg <jcstromberg007@gmail.com>. Joe Hoffman <joe@joehoffman.com>. RJ STROTZ <rjstrotz@yahoo.com>. "Savage. Barbara" <barbara@icheer4la.com>. "Wolf. James" <JCWolfAIA@aol.com>. Benjamin Seinfeld <ben.seinfeld@lacity.org>. "Weitzer. Renee" <renee.weitzer@lacity.org>

**RE:**

**Appellant: Windsor Village Association**

**Applicant/Respondent: Morumbila, LLC (CD4)**

**Project Address: 849 to 859 South Lucerne Blvd., Los Angeles, CA. (CD4)**

**Hearing Date for Appeal : August 26, 2014**

**Case #s: DIR-2013-3495-CCMP; TT-63468-CC; ENV-2005-8131-MND-REC1**

**Appeal Filed: June 13, 2014**

Dear Ms. Ketay –

At its July 9 board meeting, the Greater Wilshire Neighborhood Council passed the following resolution in support of the appeal filed by the Windsor Village Association, regarding the proposed Morumbila, LLC condominium development at 849-859 S. Lucerne Blvd. (case numbers noted above). Please forward this to the planner handling the case, and please make sure a copy of the motion is included with the official case file, and in the agenda packet for the August 26 hearing on the case.

**The GWNC supports the Windsor Village neighborhood's appeal of the city's Certificate of Appropriateness for the Morumbila condo project at 853-859 S. Lucerne, based on the Director's Decision, Findings and Certificate of Compatibility dated May 29, 2013. This appeal, and the GWNC's support, is based on the belief that the Project violates the Windsor Village Preservation Plan because the size, height, bulk, massing, scale and design of the project are not compatible with the historic fabric and character of the neighborhood, as the Plan requires.**

**In addition, we support the position of the Appeal that "The City Planning Commission actively caused a prejudicial irregularity in the HPOZ vote regarding the issuance of a Compatibility Certificate, by forcing a member of the HPOZ Board to recuse herself, without justification...", which resulted in a tied vote on the Board, and left the board without an official position on the project.**

**Finally, we agree with the Appeal that "The cumulative negative effects of the actions and omissions of City Planning in allowing the selective and discriminatory enforcement of the Preservation Plan against the interests of Windsor Village, the forced recusal of an HPOZ Board member (who is a long-time resident of Windsor Village) without justification, and the Director's Determination and issuance of a certificate of Compatibility to a project which dishonors and violates the Windsor Village Preservation Plan has caused and will continue to cause irreparable and irreversible harm" to the neighborhood. And we concur that "the Director's determination will serve as a dangerous precedent which will erode the substance and spirit of the Windsor Village Preservation Plan."**

If you have any questions about the resolution, please feel free to contact me, or our Land Use Committee Secretary, Barbara Savage, at landuse@greaterwilshire.org

Thank you.