

January 11, 2016

Los Angeles City Council
Planning and Land Use Management
Committee
200 North Spring Street
Los Angeles, California 90012

Re: **L.A. CITY COUNCIL FILE NO.:** 15-1320
CASE NO. CPC-2014-3706-VZC-HD-ZAA-SPR
ENV-2011-3707-MND
APPLICANT: 1541 Wilcox Hotel, LLC
APPELLANT: Sunset Landmark Investment, LLC

PROJECT ADDRESS: 1523-1541 North Wilcox Ave
Supplement to Appellant Sunset Landmark Investment, LLC's Appeal

To the Honorable Members of the Planning and Land Use Management Committee:

This office represents Appellant Sunset Landmark Investment, LLC (“Appellant”) in its appeal of the above project. On October 19, 2015, the City Planning Commission (“CPC”) mailed its determination letter granting certain approvals to allow Applicant Wilcox Hotel, LLC (“Applicant”) to demolish a 14,000 ft² warehouse and to build an 113,000 ft², 11-story, 200-room hotel with a ground floor restaurant and a subterranean garage with 144 parking spaces.

BACKGROUND

As part of the discretionary approvals, Appellant received the following: (1) a Vesting Zone and Height District Change from C4-2D to (T)(Q)C4-2D with a “D” Limitation to allow a maximum FAR of up to 5.5:1¹ instead of 2:1; (2) a zoning adjustment to permit a zero foot side yard instead of a 14-foot side yard; and (3) site plan approval. The CPC did not require the preparation of an Environmental Impact Report.

The CPC erred in its granting / recommending of approvals with respect to Applicant’s project (the “Project”). Appellant should not have received a Zone and Height Change District because it did not satisfy the requirements of the Municipal Code and the applicable General, Specific, and Community Plans. Likewise, Applicant has not

¹ The conditions of approval limited this particular project to an FAR of 5.4:1.

demonstrated good cause to allow the side yard adjustment.

Further, the CPC should have required preparation of an Environmental Impact Report (“EIR”). The Project will have significant effects on the environment because of its size, nature, and location. The Initial Study // Mitigated Negative Declaration (“MND”) does not adequately address these impacts. The CPC erred by adopting the MND in lieu of a full EIR.

THE PROJECT’S GENERAL NONCONFORMITY WITH GENERAL/SPECIFIC/COMMUNITY PLANS

I. The Project With Its Discretionary Approvals Does Not Conform to the Purposes, Intent, or Provisions of the General Plan, the Hollywood Redevelopment Plan, or the Hollywood Community Plan

(A) Does Not Conform to General Plan

The Project particularly fails with respect to the Mobility Element of the General Plan (Mobility Plan 2035), which the CPC relied upon in making its findings. It frustrates the General Plan’s scope with respect to encouraging pedestrian traffic.² The Hotel includes a large underground parking structure (144 spaces) that will induce more vehicle traffic and compromise congestion, especially given the narrow street on the building’s frontage. Also, the Project does not allow enough room for pedestrians because of insufficient right of ways allocated on Wilcox. The Project’s considerable hotel space, coupled with dining (and future) drinking facilities open to the public will increase the risk to persons walking by increasing chances of accident. The Project is not pedestrian-friendly.³

The Project adds a use that will draw a great deal of traffic to an already traffic-intensive area. The relatively high FAR, its location on a Secondary Highway, and the Project’s restaurant uses and substantial underground parking will result in high vehicular traffic, congestion, and will compromise safety of pedestrians and bicycle users.

² *General Plan, Objective 3.10.3*: “Promote the development of high-activity areas that are designed to induce pedestrian activity, in accordance with Pedestrian-Oriented District Policies 3.16. through 3.16.3, and provide adequate transitions with adjacent residential uses at the edges of the centers.”

³ *Mobility Plan 2035, Policy 2.3*: “Recognize walking as a component of every trip and ensure high-quality pedestrian access in all site planning and public right-of-way modifications to provide a safe and comfortable walking environment”; *See also Policies 3.1* [requiring recognition of pedestrian, bicycle, transit, and vehicular as “integral components” of the City’s transportation system], *3.3* [promoting decisions resulting in fewer through proximity and access to jobs, destinations, etc.], *and 3.8* [emphasizing safety and convenience for bicyclists].

(B) *Does Not Conform to Hollywood Community Plan*

The Project works against the primary goals of the Hollywood Community Plan. In its statement of purpose, the Plan “is intended to promote an arrangement of land use, circulation, and services which will encourage and contribute to the economic, social and physical health, safety, welfare, and convenience of the community.”⁴ The development will create an oversized, overly intensive use on the site.

(C) *Does Not Conform to Hollywood Redevelopment Plan*

Likewise, the Project does not comply with the Hollywood Redevelopment Plan (“HRP”).

- Section 300-3: “Promote a balanced community meeting the needs of the residential, commercial, industrial, arts and entertainment sectors.” – the Project does not add balance to the community because of its size and uses. The location will likely attract many visitors to an already busy location. Numerous restaurant and hotel facilities exist in the area. Development elsewhere would add balance; this does not.
- Section 300-5: “Improve the quality of the environment, promote a positive image for Hollywood and provide a safe environment through mechanisms such as: a) adopting land use standards; b) promoting architectural and urban design standards including: standards for height, building setback, continuity of street facade, building materials, and compatibility of new construction with existing structures and concealment of mechanical appurtenances; c) promoting landscape criteria and planting programs to ensure additional green space; d) encouraging maintenance of the built environment; e) promoting sign and billboard standards” – the Project uses a unique, limited side setback. It decreases open base as a high density (5.4:1 FAR) development. The increase in vehicular traffic and congestion decreases the safety for pedestrians and riders.
- Section 300-6: “Support and promote Hollywood as the center of the entertainment industry and a tourist destination through the retention, development and expansion of all sectors of the entertainment industry and the preservation of landmarks related to the entertainment industry” – Project threatens shade of iconic buildings with ties/legacy involving entertainment industry (*e.g.* Hollywood Athletic club founded by Charlie Chaplin, Rudolph Valentino, and Cecil B. Demille).
- Section 300-10: “Promote the development of sound residential neighborhoods through mechanisms such as land use, density and design standards, public

⁴ *Hollywood Community Plan*, Purpose, Use of the Plan.

improvements, property rehabilitation, sensitive in-fill housing, *traffic and circulation programming, development of open spaces* and other support services necessary to enable residents to live and work in Hollywood” [emphasis added] – the Project does adversely affects traffic and circulation. It also decreases open space.

- Section 300-11: “Recognize, promote and support the retention, restoration and appropriate reuse of existing buildings, groupings of buildings and other physical features especially those having significant historic and/or architectural value and ensure that new development is sensitive to these features through land use and development criteria.” – the Project is new, massive building adjacent to historic building and near other historic buildings. Project has not shown significant architectural value and has no historic value.

Accordingly, the Project cuts against many goals of the HRP.

ERRORS IN APPROVING VESTING ZONE AND HEIGHT DISTRICT CHANGE

II. The City Council Should Reject the CPC's Findings and Recommendation to Approve the Zone Change Because It is Not in Conformity with Public Necessity, Convenience, General Welfare, or Good Zoning Practice⁵

(A) Public Necessity

The hotel is a large project that adds additional dining facilities (approximately 9,000 ft²) and would eclipse similar uses on the same block. No evidence suggests that the size of this project is warranted by community need, particularly given the emergence/existence of other hotels and restaurants in the immediate vicinity. The Project will be an immense, towering facility that funnels noise throughout the community, creates traffic bottlenecks, visually obstructs and shades cultural resources, accommodates a large number of local and nonlocal visits for late hours, and generates significant externalities based on the size and scope of the construction.

(B) Convenience

While the project provides restaurant and hotel uses, numerous such facilities already exist in the area. The reports that claim that Hollywood has insufficient hotel rooms to meet its need do not take into account pending projects or population changes since the time of the study. Also, the study errs by only considering hotels in the Hollywood vicinity as conducive to visitors to Hollywood, particularly based on transit options.

⁵ LAMC § 12.32-C,2

(C) *General Welfare*

For the reasons expressed above, the Project will decrease the general welfare of occupants and visitors.

(D) *Good Zoning Practice*

For the reasons expressed above, the Project will greatly contribute to unwanted noise, traffic, and will decrease safety. The Project's density will overburden its location.

III. The City Council Should Reject the Vesting Zone Change Because the Project Will Not Comply with the Mobility Plan in Effect at the Time of Completeness

The City Council voted on August 11, 2015 to adopt the 2035 Mobility Plan. Applicant's application was deemed complete before that, so the development must conform to the older mobility plan.⁶ That plan required a 90-foot right of way based on the Project's location on a secondary highway as well as a 15-foot width (for pedestrian priority segments).⁷ The conditions attached to the approval do not meet these standards.

IV. The City Council Should Reject the FAR Change to 5.5:1 Because the Applicant Did not Comply with Ordinance No. 165,660 or § 502.3.6 of the Hollywood Redevelopment Plan

The property in question contains a "D" development limitations that restrict the ability to seek an FAR *in excess of 2:1*⁸:

The total floor area contained in all buildings on a lot shall not exceed two (2) times the buildable area of the lot. A project may exceed the 2:1 floor area ration provided that:

- a. Community Redevelopment Agency Board finds that the project conforms to: (1) the Hollywood Redevelopment Plan, (2) a Transportation Program adopted by the Community Redevelopment Agency Board pursuant to Section 5.18 of the Redevelopment Plan and, if applicable, (3) any Designs for

⁶ LAMC § 12.32-Q,2: **Development Rights.** (a) *The approval of a vesting application shall confer a vested right to proceed with a development in substantial compliance with the rules, regulations, ordinances, zones and officially adopted policies of the City of Los Angeles in force on the date the application is deemed complete, and with the conditions of approval imposed and specifically enumerated by the decision maker in its action on the vesting application case.*" (emphasis added).

⁷ 1999 Transportation Element of LA General Plan, Sec. 2

⁸ Ordinance No. 165660, Section 3.

Development adopted pursuant to Section 503 of the Redevelopment Plan; and

b. The project complies with the following two requirements:

A Disposition and Development Agreement or Owner Participation Agreement has been executed by the Community Redevelopment Agency Board; and the Project is approved by the City Planning Commission or the City Council on appeal, pursuant to the procedures set forth in Municipal Code Section 12.24-B.3

In addition to the above, § 506.2.3 of the Hollywood Redevelopment Plan (“HRP”) does not allow the average floor area ratio to *exceed 4.5:1* unless the Community Redevelopment Agency expressly finds that:

1. The proposed development conforms with the provisions and goals of the Redevelopment Plan and any applicable Design(s) for Development or requirements of the Hollywood Boulevard District or Hollywood Core Transition District.
2. Permitting the proposed development serves a public purpose objective such as: the provision of additional open space, cultural facilities, public parking, or the rehabilitation of an architecturally or historically significant building.
3. Any adverse environmental effects especially impacts upon the transportation and circulation system of the area caused by proposed development shall be mitigated or are overridden by other social, economic or physical considerations, and statements of findings are made.

-and-

(2) No development in excess of 4.5:1 shall be permitted without a binding written agreement with the Agency which ensures that the proposed development will occur in conformity to the Redevelopment Plan and this Section by providing for, among other things, Agency review and approval of all plans and specifications, the compliance with all conditions applicable to development in excess of a 4.5:1 site F.A.R. and the provision of adequate assurances and considerations for the purpose of effectuating the objectives of this Plan;

The Applicant incorrectly asserts a total exemption from the requirements of this section involving the Community Redevelopment Agency’s Findings and the requirement to prepare a written agreement with the appropriate agency because (1) the State Legislature dissolved the Community Redevelopment Agency; and (2) Applicant argues that the

CRA/LA lacks authority with respect to any redevelopment approvals or agreements.⁹ Applicant claims that it can obtain the requested adjustments without any written agreement as prescribed by § 506.2.3. Applicant is wrong.

First, the statute does not specify the scope of prohibited participation in redevelopment activities. The approval of an operating agreement is an ancillary function to a redevelopment activity, not a decision on the Applicant's ability to redevelop the property in question. As such, the CRA/LA rightly continues to approve and execute owner participation agreements with respect to redevelopment projects in Hollywood.¹⁰

Second, even if the CRA/LA cannot execute owner participation agreements, the provisions requiring Community Redevelopment Agency approval are not void as contrary to the law *because the ordinance dissolving such agencies provides a procedure for succession by the City to the responsibilities of the agency without rewriting redevelopment plans.*¹¹ The requirements of a written agreement and oversight by the Community Redevelopment Agency or its authorized successor to provide oversight are key components of the Hollywood Plan. Otherwise, Applicant would effectively gut the Hollywood Redevelopment Plan.¹² The correct interpretation, assuming CRA/LA cannot

⁹ The Community Redevelopment Agency was dissolved by law. (Cal. Health & Safety §34161 et seq.); (*Cal. Redevelopment Assn. v. Matosantos* (2011) 53 Cal.4th 231) (upholding dissolution of redevelopment agencies). The CRA/LA is the statutory-mandated successor agency, since the City of Los Angeles has not designated itself as a successor. Health & Safety § 34173(g) expressly prohibits the CRA/LA from having "any legal authority to participate in redevelopment activities, except to complete any work related to an approved enforceable obligation." Nonetheless, the City of Los Angeles could have chosen to either update the Hollywood Redevelopment Act or could legally designate a successor that would have authority to carry out the specified duties of the Community Redevelopment Agency per HRD Sec. § 506.2.3.

¹⁰ CRA/LA Memorandum dated September 3, 2015 from Steve Valenzuela to Governing Board (available at http://www.crala.org/internet-site/Meetings/Board_Agenda_2015/upload/Sep_3_2015_Item_3.pdf)

¹¹ 34173(c)(4) ("A city, county, or city and county, or the entities forming the joint powers authority that authorized the creation of a redevelopment agency and that elected not to serve as the successor agency under this part, *may subsequently reverse this decision and agree to serve as the successor agency pursuant to this section.* Any reversal of this decision shall not become effective for 60 days after notice has been given to the current successor agency and the oversight board and shall not invalidate any action of the successor agency or oversight board taken prior to the effective date of the transfer of responsibility.") (emphasis added); Cal. Health & Safety § 33200(a) ("...the legislative body may, at the time of the adoption of an ordinance pursuant to Section 33101 or 33140 of this part, or at any time thereafter by adoption of an ordinance, declare itself to be the agency; in which case, all the rights, powers, duties, privileges and immunities, vested by this part in an agency, except as otherwise provided in this article, shall be vested in the legislative body of the community.").

¹² "While Ab1x26 dissolved redevelopment agencies and thereby eliminated redevelopment's economic and financing tools, it did not abolish the City's existing Redevelopment Project Areas or eliminate the Redevelopment Plans." (DCP Recommendation Report for Case No. CPC-2013-3169-CA, p. 4).

enter into redevelopment agreements, would be to preserve the restrictions until the City follows the procedures to succeed to all of the agency's responsibilities.

Further, the appropriate action in order to remove the limitation requiring the Owner Participation Agreement or otherwise divest the CRA/LA of its nominal responsibility to enter into Owner Participation Agreements would be to either (i) transfer the powers of the former Community Redevelopment Agency to the City; OR (ii) amend the Hollywood Redevelopment Plan. Neither action has taken place yet.

The Plan specifically imposed limitations on any development needing to achieve an FAR in excess of 2:1 and 4.5:1. If the CRA/LA does not have the authority to enter into an agreement pursuant to the above provisions, then Applicant does not have the right to develop in excess of the FAR contemplated by the HRP until a successor agency with authorization is appointed. The City is in the process of considering an ordinance to take control from the former Community Redevelopment Agency's responsibilities under the HRP.¹³ Once the City transfers authority, then it will have the ability to assume the role of the former redevelopment agency as provided in the ordinance as originally written.

Approval and review by an agency committed specifically to redevelopment is the aim of the HRP. Nonetheless, even if the CRA/LA does not have legal authority to execute an agreement, Applicant cannot cherry-pick portions of the redevelopment ordinance that suit it and exclude others. The responsibilities of the authority with the Community Redevelopment Agency's powers is critical to Applicant's ability to seek redevelopment approvals and / or modifications from designated FAR for areas. In the [temporary] absence of a successor agency that can administer redevelopment activities, Applicant cannot claim a right to the modified FAR.

Finally, Applicant's arguments regarding the City's intentions to take control of the Agency's jurisdiction are unsupported. The City expressly chose not to assume the authority of the Agency when it had an opportunity. Currently, the City has a proposed ordinance, recommended by the Planning Commission that *would* allow it to assume the role of the Agency under the HRP.¹⁴

Until the City assumes control and responsibility for former the redevelopment agency or revises the HRP, Applicant cannot meet the requirements for the increased FAR.¹⁵ Applicant cannot pick and choose parts of the HRP to follow. If Applicant gets a special

¹³ DCP Recommendation Report for Case No. CPC-2013-3169-CA ("A proposed resolution requesting the transfer of land use authority of redevelopment plans to the City of Los Angeles").

¹⁴ DCP Recommendation Report for Case No. CPC-2013-3169-CA ("A proposed resolution requesting the transfer of land use authority of redevelopment plans to the City of Los Angeles").

¹⁵ See Cal. Health & Safety § 33200(a) (authorizing legislative bodies of cities to assume role/responsibility of redevelopment agencies).

exemption, that would expose the redevelopment area to substantially lower standards by allowing overdeveloped properties without the intended scrutiny / owner accountability.

ERRORS IN APPROVING ADJUSTMENT TO SIDE YARD SETBACK

V. The City Council Should Reject The CPC's Approval of the Zoning Administrator's an Adjustment to Permit a Zero-Foot Side Yard Setback in Lieu of the Required 14 ft Setback

Applicant received an adjustment from the Zoning Administrator to allow a zero-foot side yard setback instead of the required 14 ft.¹⁶

LAMC § 12.28-A,4 only allows the Zoning Administrator to grant an application for an adjustment if he or she finds as follows:

(a) that while site characteristics or existing improvements make strict adherence to the zoning regulations impractical or infeasible, the project nonetheless conforms with the intent of those regulations;

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

(c) that the project is in substantial conformance with the purpose, intent and provisions of the General Plan, the applicable community plan and any applicable specific plan.

With respect to subsection (a) of the above, the Project site's characteristics do not make strict adherence to the zoning regulations impractical or feasible. Applicant simply seeks to avoid a setback to gain additional space for a very large multiuse project. The façade of the existing structures does not present any issues. Applicant could easily construct a hotel/restaurant that meets the setback restrictions. No shape or protruding structures on any lot makes the setback impractical. The Zoning Administrator abused his discretion in making this finding.

Also, the Zoning Administrator did not correctly identify the Project's adverse affects or further degrade the surrounding neighborhood or the issues with respect to safety. The Project will draw substantial vehicle traffic, making the corridor less pedestrian-friendly.

Regarding subsection (c), the Project does not substantially conform to the applicable

¹⁶ See LAMC § 12.11-C,2.

plans for the reasons stated above in subsection I(a)&(b) of this letter.

ERRORS IN APPROVING SITE PLAN REVIEW

VI. The Council Should Reject Site Plan Review

- (A) *Because the Project is Not in Substantial Conformance with the Applicable Plans;*

See Section I of this letter, *supra*.

- (B) *Because The Project Consists Of an Arrangement of Buildings and Structures (Including Height, Bulk And Setbacks), that are Incompatible with Existing and Future Development in Adjacent Properties and Neighboring Properties.*¹⁷

As stated above, the Project is an 11-story building with a zero-foot side yard setback. It adds to the traffic and would occupy a block with lower height, historic buildings (*i.e.* Hollywood Athletic Club, Hollywood Citizen News Building, and 1540 Schrader Blvd.). The 110 ft hotel and restaurant will provide a raucous contrast to the more modestly sized and quieter buildings on the block. The Project will also enjoy a unique setback, which other properties do not (the setback only provides the Project more room to operate but does not make for consistent development). Thus, the Project is not compatible with its surroundings.

- (C) *Because the Hotel Does Not Provide Recreational and Service Amenities to Improve Habitability for its residents While Minimize Impacts on Neighboring Properties*

The Project will provide entertainment and spacious facilities for its patrons, but it will wreak havoc on its neighbors. The externalities from noise, traffic, shade, and view blockage, among other things, will severely impact the Project's neighbors.

ERRORS IN FAILURE TO PREPARE ENVIRONMENTAL IMPACT REPORT

VII. The City Council Should Require the Preparation of an Environmental Impact Report Because the Project Will Have Significant Impacts Despite the Preparation of the MND

The threshold for a project to require preparation of an EIR is low.

¹⁷ LAMC § 16.05F(2).

“[T]he overriding purpose of CEQA is to ensure that agencies regulating activities that may affect the quality of the environment give primary consideration to preventing environmental damage.”¹⁸ Where CEQA applies, the appropriate agency must conduct an initial study to determine whether the project “may have a significant effect on the environment.”¹⁹ The phrase [s]ignificant effect on the environment means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.”²⁰

An EIR must be prepared on any project a local agency intends to approve or carry out that may have a significant effect on the environment.²¹

A “determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved.”²² “[I]n marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.”²³

If the initial study uncovers “substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment,” it must prepare an EIR.²⁴ An EIR is required whenever “substantial evidence in the record supports a ‘fair argument’ significant impacts or effects may occur.”²⁵ If, on the other hand, there is “no substantial evidence that the project or any of its aspects may cause a significant effect on the environment,” the agency prepares a negative declaration.²⁶

Returning to the Project at hand, certain categories of environmental concern may have substantial effects on the environment, and the proposed mitigation methods would not eliminate those effects:

¹⁸ *Save Our Carmel River v. Monterey Peninsula Water Management Dist.* (2006) 141 Cal.App.4th 677, 687.

¹⁹ *Id.* at 688; CEQA Guidelines, § 15063(a).

²⁰ CEQA Guidelines, § 15382.

²¹ Pub Res. Code §§ 21100, 21151; CEQA Guidelines, § 15002(f)(1).

²² CEQA Guidelines, § 15064(b).

²³ CEQA Guidelines, § 15064(b).

²⁴ Guidelines, § 15063(b)(1)).

²⁵ *City of Arcadia v. State Water Resources Control Bd.* (2006) 135 Cal.App.4th 1392, 1421.

²⁶ Guidelines, § 15063(b)(2).

(A) *Noise*

(i) Construction-related

The measures in the MND will not prevent the construction-related noise from causing significant impacts on the surrounding community, particularly residences in the vicinity. Such residences will experience highly unpleasant, disruptive noise levels during the substantial time required for construction of the facilities. The March 2015 letter submitted by Acentech describes the improper level of the noise that will occur. Even if the Project does comply with applicable noise levels, the impacts could generate substantial adverse impacts of the nearby workers, residents, and visitors.²⁷

A fair argument exists that the construction-related noises will generate a significant effect on the environment.

(ii) Operational

The Project will also generate a significant amount of noise after it opens to the public. The size and elevation of the sources of noise will permeate the neighborhood. The hotel will be open 24/hrs a day, it will have numerous visitors (both from within and without the community), and it will have eating and drinking facilities with music.

The City Council should consider the impacts of a 24-hr hotel with a restaurant open at the proposed hours on the surrounding residential and other sensitive uses. The comments raised at the March 18, 2015 hearing regarding noise and the report prepared by Aaron Bétit of Acentech raise concerns over significant operational impacts, including those from afterhours music that could arise from the anticipated use of the Project or from hotel guests.

Further, the MND does not account for cumulative noise impacts based on nearby hotels and other uses under construction.

Thus, a fair argument exists that the noise (during construction and also during operation of the completed project) will have significant impacts on surrounding residents and businesses.

(B) *Transportation / Traffic / Parking / Mobility*

Issues concerning mobility, transportation, etc. raise serious questions best

²⁷ In *Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, comments from neighbors that provided substantial evidence of potential impacts from noise generation, which required an EIR, *despite the fact that noise would not exceed that required by ordinances*. Thus, even if Applicant can demonstrate with absolute certainty that it could keep the noise below “nuisance” level, the lead agency should still fully investigate the potential effects through an Environmental Impact Report.

answered in a full Environmental Impact Analysis. Effects can range from compromised traffic/pedestrian safety to slowing down transit corridors to simply emitting more vehicular pollution than necessary.

In addition, parking deficiencies can result in environmental impacts [such as when idling or congestion would result in increased emissions]:

[T]here is no statutory or case authority requiring an EIR to identify specific measures to provide additional parking spaces in order to meet an anticipated shortfall in parking availability. The social inconvenience of having to hunt for scarce parking spaces is not an environmental impact; the secondary effect of scarce parking on traffic and air quality is. Under CEQA, a project's social impacts need not be treated as significant impacts on the environment. An EIR need only address the secondary physical impacts that could be triggered by a social impact.²⁸

The personal observations and opinions of local residents on the issue of parking in the area may constitute substantial evidence that a project may have a significant impact on parking and thus the environment.²⁹

The project will cater to the public through its substantial restaurant and drinking facilities, and it includes a 144-space garage. This will encourage more vehicular traffic and less foot traffic.

The CPC did not take into account the effects of the proposed Project on existing parking. The CPC has no reason to assume that the Project will not have an impact on parking, which will attract more visitors to the area and will also cater to local traffic with dining/drinking facilities open to the public.

CPC also overlooks the environmental analysis based on the traffic from non-guests of the hotel who visit the hotel simply for its restaurant/bar.

Moreover, the Project is located in an area with dense traffic. The size of the Project, and its location on narrow Wilcox Boulevard (a Secondary Highway with variable width ranging 60-70 ft) will cause a significant increase in traffic, particularly when coupled with nearby developments.

²⁸ *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656, 697 citing Guidelines § 15131(a).

²⁹ *Architectural Heritage* (2004) 122 Cal.App.4th 1095, 1117-1118; *Arviv Enterprises, Inc. v. South Valley Area Planning Com.* (2002) 101 Cal.App.4th 1333, 1347.

Stagnant traffic effects would contribute to Green House Gas emissions and would make Wilcox more difficult to traverse during busy traffic times, thereby failing to maximize the relationship between land use and transportation planning. Moreover, the hotel would likely depend on guests who do not take public transportation.

(C) *Utilities, Energy, and Service Systems // Sewage*

Based on the size of the development, as well as the various uses taking place on the site, the CPC should have evaluated effects on the City's water facilities and its disposal facilities.

Further, the October 19 Determination Letter (p. F-5) suggests that existing facilities may not meet the sewerage requirements of the operational project without the construction of additional sewer lines ("While the sewer system might be able to accommodate the total flows for the proposed project, further detailed gauging and evaluation may be needed as part of the permit process to identify a specific sewer connection point."). This constitutes a deferred impact analysis, which does not meet the requirements of CEQA.³⁰

The MND suggests that the storm water runoff, potential increase in water consumption, and potential increases in wastewater generation could cause significant environmental impacts.³¹ Further excavation and building of piping could contribute to environmental degradation; and no party seems to have any understanding of how much piping would have to be laid, and whether that might exacerbate any environmental hazards. Therefore an EIR is required.

(D) *Cultural Resources // Aesthetics and Visual Resource Impacts*

Projects that interfere with scenic views have adverse effects on the environment under CEQA.³²

Developments that cause substantial shading may be deemed to have significant effects on the environment.³³ The operative question is whether the Project would affect persons in general (substantial impact) or particular persons (not so).³⁴

³⁰ *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 307 ("By deferring environmental assessment to a future date, the conditions run counter to that policy of ^{HN6}CEQA which requires environmental review at the earliest feasible stage in the planning process.").

³¹ Initial Study, p. 4-149, 150.

³² *Ocean View Estates Homeowners Assn., Inc. v. Montecito Water Dist.* (2004) 116 Cal.App.4th 396, 401

³³ *e.g. A Local and Regional Monitor v. City of Los Angeles* (1993) 16 Cal.App.4th 630 (EIR for 40-story office building failed to properly evaluate shadows from resulting skyscrapers).

³⁴ (*Association for Protection etc. Values v. City of Ukiah* (1991) 2 Cal.App.4th 720, 734).

A project with an effect that may cause a substantial adverse change in the significance of an historical resource consequently may have a significant effect on the environment.³⁵

“Substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired.”³⁶

The proposed project will visually diverge from properties based on its height and late hours of operation.

The MND does not properly account for the effects of any increased obstruction of views from public ways and streets that the Project will create. The Project’s proposed height [110-120 feet, reduced from 124 feet, 6 inches], particularly given its height relative to surrounding structures, will diminish the ability of visitors to enjoy views of the Hollywood Sign. If anything, it may increase traffic by encouraging would-be viewers of the sign to travel to unobstructed viewing points. In addition, the MND does not properly account for the cumulative effects of already-approved projects under construction with respect to increasingly limiting the public’s view of the Hollywood Sign.

The MND relied upon by CPC has an inadequate analysis of shade/shadow caused by the building. Nonetheless, a review of other properties potentially impacted (particularly those that are “shadow-sensitive” uses or even those that rely upon solar energy) could a stronger basis for challenge.

Finally, the particular nature of Client’s building (the Hollywood Athletic Club) or other historic buildings in the vicinity (like the Hollywood Citizen News) does not directly imply a potential significant effect. Nonetheless, given the proximity of the Project to the Hollywood Fault (.5 miles, according to p. 4-44 et seq of the MND), the demolition and extensive construction could potentially cause effects that could compromise the integrity of the HCN and other historic buildings in the vicinity. The lead agency should prepare an EIR to fully examine and address these impacts.

(E) *Cumulative Impacts*

Under CEQA, “cumulative impacts” refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.³⁷ The CEQA Guidelines define “the cumulative impact from several projects” as the change in the environment which results from the incremental

³⁵ Cal. Code Regs. Tit. 14, §§ 15162(3)(a), 16054.5(b).

³⁶ *Id.* at 15064.5(a)(4)(1).

³⁷ Cal. Code Regs., tit. 14, § 15355.

impact of the Project when added to other closely related past, present, and reasonably foreseeable probable future projects. (§ 15355(b)).

Among other effects improperly considered, an application has been submitted for a conditional use permit to supply liquor at the nearby 6421-6427 Selma Avenue property for a 20,624 ft², 333-seat restaurant bar. In addition, several projects within 1,000 ft of the Project are underway.³⁸ The initial study does not adequately compute the combined traffic, noise, parking, and cultural impacts of these combined projects.

(F) *Economic Impacts*

The MND does not properly account for significant economic impacts that may arise from the construction of this very large hotel. The size of the hotel will give it a huge competitive advantage, even before considering the restaurant. The hotel's guests, who might otherwise venture out to dine in the community, would likely patronize the hotel's facilities first. The Project could threaten to take away substantial business from surrounding hotels and eateries.³⁹

A review of pending projects (at least at the time of the MND) show numerous large developments in the vicinity.⁴⁰ The Project is the second largest of the six proposed projects, two of which are hotels under construction or renovation. Pending/possible developments within 1,000 feet of the Project demonstrate overdevelopment.⁴¹

(G) *Irreversible Environmental Impacts*

The building of such a large project, which incorporates activities such as eating and short-term occupancy, would irreversibly increase local demand for non-renewable energy resources such as petroleum and natural gas.⁴² The lead agency should prepare an EIR based on the potentially significant impacts from the vehicle trips attributable to the operational Project, the potential strain on the water system in California by hotel guests as well as the necessary cleaning services hotels provide, and other uses of water and energy.

³⁸ Determination Letter, p. F-13.

³⁹ See *Citizens Association for Sensible Development of Bishop Area v. Inyo* (1985) 172 Cal.App.3d 151 (finding that EIR for a large shopping center obligated to discuss potential economic and social consequences of its potential to draw business away from existing businesses, which could lead to closures and deterioration of an area).

⁴⁰ Determination Letter, p. F-13

⁴¹ *Ibid.*

⁴² See CEQA Guidelines § 15126.2(c).

Notably, smaller hotel projects have warranted a full environmental review.⁴³ This project should adhere to the same standard.

APPLICANT OTHERWISE FAILS TO COMPLY WITH ZONING CODE

VIII. Applicant Should Be Required to Resubmit Its Application and Request Approvals for the Ground Floor Dining Area and the Liquor License

The Outdoor Ground Floor Dining Area in the Site Plan is Not Permitted By Right or even pursuant to LAMC 12.24 (Conditional Uses) in the C4 Zone.⁴⁴ The Site Plans (and earlier documents) refer to a ground floor, outdoor dining area. While such use is permitted in C2, it is not permitted in the C4 zone. Such a use would require a variance under LAMC 12.27.

Applicant does not explicitly seek the necessary permission for the outdoor dining area. Applicant does so in an attempt to present a "piecemeal" application and thereby avoid further environmental scrutiny.⁴⁵ The MND also does not consider environmental effects of the outdoor eating area. Thus, the City Council should order the consideration of the dining area as part of the environmental impact report, and Applicant should seek a variance to permit the use or amend the site plan to remove the dining area and reconfigure as necessary.

In addition, Applicant should resubmit the applications so as to comply with the Multiple Approvals Ordinance.⁴⁶ It requires that Applicants "file applications at the same time for all approvals reasonably related and necessary to complete the project."⁴⁷ Thus, Applicant should resubmit a more complete application so as to include the request for a conditional use permit for on-site alcohol sales as well as the variance for the outdoor dining area.

⁴³ EIR prepared for 1554 5th Street & 501 Colorado Avenue Hotel Projects (available at <http://www.smgov.net/uploadedFiles/Departments/PCD/Environmental-Reports/5th-and-Colorado-Hotel-Project-Final-EIR.pdf>) (78,750 ft² of floor area // 75 ft height // 143 guest rooms, two-level subterranean garage with 110 parking spaces).

⁴⁴ (LA Zoning Code: Manual and Commentary, 4th ed., p. 37-38).

⁴⁵ *Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1222 ("[A]n EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects.") quoting *Laurel Heights Improvement Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 396.

⁴⁶ LAMC § 12.36.

⁴⁷ LAMC § 12.36(B).

CONCLUSION

Applicant can achieve a return on its investment without building an overdeveloped, 11-story, hotel/restaurant situated on a 40-foot street. The Project will likely create traffic congestion, have far-ranging, substantial noise impacts in both the short and long term. Appellant asks the City Council to reject the findings of the CPC and reverse the discretionary approvals. Appellant respectfully requests the Council otherwise require the preparation of an Environmental Impact Report in order to comply with the California Environmental Quality Act.

Sincerely,



Stephen Weaver, Esq.

cc: Councilmember José Huizar (CD 14, Chair, PLUM Comm.)
Councilmember Marqueece Harris-Dawson (CD 8, Vice Chair, PLUM Comm.)
Councilmember Gil Cedillo (CD 1, Member, PLUM Comm.)
Councilmember Felipe Fuentes (CD 7, Member, PLUM Comm.)
Councilmember Mitchell Englander (CD 12, Member, PLUM Comm.)

Sharon Dickinson (*via e-mail*)