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December 6, 2016

VIA HAND DELIVERY

City Clerk
Room 395, City Hall
200 North Spring Street
Los Angeles, CA 90012

Re: Mitigated Negative Declaration (ENV-2013-4029 MND: Opposition to Appeal of Fisch for Reversal of Fisch Properties Applications for Discretionary Permits: General Plan Amendment, Zone Change, Site Plan Review, and Zoning Administrator's Adjustment (CPC-20133-4028-GPA-ZC-SPR-ZAA; and ENV 2013-4029-MND; 411-439 Hamel Road, Wilshire Community Plan Area

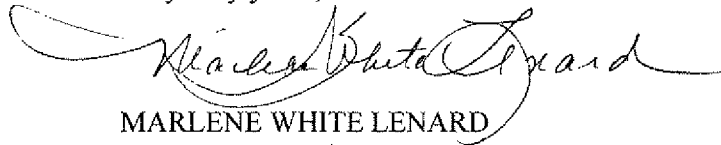
Dear Honorable Planning Commissioners,

In conjunction with my appearance on behalf of the Homeowners Association of Arnaz Villas, which 6-unit, privately-owned townhouse complex faces on Colgate Avenue and is directly adjacent to and primarily affected by the above-referenced project, I am enclosing herewith a copy of our attorney's original letter stating our Opposition and Comments on the distinct Insufficiencies of the Fisch Properties project.

Please note that this letter is being hand delivered to you today to represent Arnaz Villas' continuing opposition to the project as you deal with the Fisch Appeal to reverse your original and most astute position to deny their request.

Thank you for reviewing the enclosed letter. Our position and comment remain the same. We sincerely hope that the distinguished members of the Planning and Land Use Management Committee reaffirm your original regulations for this area of Los Angeles, as well as your most learned and unanimous decision of last summer denying this Fisch project plan.

Very truly yours,



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On behalf of
Arnaz Villas Home Owners Association

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OUR FILE NUMBER:

July 13, 2015

VIA HAND DELIVERY

Los Angeles City Planning Commission
200 N. Spring Street, Room 272 (Second Floor)
Los Angeles, CA 90012

RE: Opposition and Comments on the Insufficiencies of the Mitigated Negative Declaration and the Record Regarding the Application for Discretionary Permits: General Plan Amendment, Zone Change, Site Plan Review, and Zoning Administrator's Adjustment (CPC-2013-4028-GPA-ZC-SPR-ZAA; and ENV 2013-4029-MND; 411-439-Hamel Road, Wilshire Community Plan Area.

Dear Honorable Planning Commissioners:

This office represents the residents of adjacent properties, including in particular Ms. Stephanie Levine. My clients have many concerns about the proposed project which are stated herein – focused mostly on the request for a zone change and general plan amendment. Of greatest concern is the precedent that would be set by re-zoning an entire block within an R-3 buffer zone that is located within a several-block R-3 buffer zone neighborhood adjacent to a very stable and upscale R-1 zone without fully examining all of the environmental consequences before considering the wisdom of this fundamental change in policy.

The environmental consequences of the proposed change directly caused by the Project and indirectly caused by the densification for the R-3 zone in which it lies will be quite significant because this particular neighborhood lacks any of the elements necessary to allow the requested increased density while not conflicting with the City's many sustainability goals. The area is not transit-rich; there are few if any bicycling opportunities; and little or no neighborhood commercial or mixed use development. Therefore additional density within this wholly auto-dependent neighborhood will exacerbate Air Quality impacts including house Green House Gases; increase vehicle trips, miles, and congestion and therefore time spent in cars within in an already impacted area; and mock the City's many important housing goals of increasing density only within transit oriented corridors.

The many environmental statements regarding walkability, bicycling, and other alternatives to the use of the automobile are not just empty rhetoric, lacking any evidentiary support; they are patently and demonstrably false and must be rejected along with the project that cannot justify increasing density at this location at the present time. We raise these issues here and request the recirculation of the environmental documents based on the objections stated herein.

INTRODUCTION

The proposed project ("Project") consists of 88 apartments replacing 29 residential units with buildings ranging from three to five stories with a maximum height of 60.4 feet (including parapet) in a zone for a large block that currently allows only three stories, and which zone serves as a transition between adjacent R-4 and R-1 zones. The proposal would create an R-4 zone peninsula or bridge to the R-1 zone which inevitably will cause adjacent property owners to ask for the same development rights destroying the zoning buffer. In this was, the request represents the classic forbidden spot zoning. If the zoning for the entire R-3 area should be revised, then this would be the correct approach instead of granting this piecemeal change.

SURROUNDING CIRCUMSTANCES

The area in which the Project lies is geographically unfavorable for the proposed densification requested in the General Plan Amendment and Zone Change. The Santa Monica Mountains north of the Project severely limit travel northward. This has the unfortunate effect of focusing the travel into three directions only thereby intensifying it. The single-family residential neighborhoods of Beverly Hills and West Hollywood, which partially surround the Project, are upscale and therefore are not transit generators. Likewise neither are the two upscale regional shopping centers – the Beverly Connection and Beverly Center transit generators. Very high-end retail and restaurant uses on nearby Robertson Boulevard also do not generate transit use. Indeed, the City built a significant parking structure to accommodate the automobile traffic on Robertson.

One measure of the auto-dependence in this area is the number of large parking lots and the huge parking capacities at both Cedars Sinai Medical Center (nine lots are depicted on the parking web site for the hospital) and the two regional malls. Another measure of auto-dependence in this area is the lack of any rapid Metro lines that access the area. Perhaps the most important factor in evaluating the requested densification is the fact that the Subject Property is **not** within 1500 feet of a Rail or Rapid Bus Stop and therefore does not qualify for the many material misrepresentations in the environmental documentation as a transit oriented development.

Because of the intense flow of traffic into the area, involving in part the hospital and medical center, Robertson and La Cienega Boulevards are regularly congested causing drivers to use the narrow "local" streets that run between them. Ambulance drivers know this truth as well and it is no longer a well-kept secret. As a result, the intensity of traffic use of the 40-foot wide local streets all day long, including by emergency vehicles with sirens blaring, is significant. Needless to say given the intensity of traffic, there is no road capacity for safe bicycle use nor are there designated bike lanes on any of the major boulevards in this area.

SUMMARY OF UNSUPPORTED AND/OR FALSE STATEMENTS

There are very important distortions of the record involving the achievement of the City's many and required sustainability goals. The actual facts regarding whether densification is

appropriate at this location are either not directly stated or are masked behind incorrect assumptions and/or statements as follows:

1. The Subject Property is located within a discrete residential pocket defined by Burton Way on the north, San Vicente/La Cienega on the east, Robertson on the west and on the north is one of the City's most intense regional commercial zones comprised of Cedars Sinai Medical Center, the Beverly Connection and the Beverly Center. There is none or very limited neighborhood commercial use within walking distance of the Subject Property. Robertson to the south within Beverly Hills is primarily medical office buildings. Robertson to the north offers extremely high end boutiques and restaurants. San Vicente/La Cienega are not pedestrian friendly, they are auto-centric thoroughfares.

a. If a measure of walking neighborhood is the distance to the closest Starbucks, then there are none nearby. The closest Starbucks or other coffee shop is approximately one-half mile from the Project. Nor are there many other uses that people require access to that are within walking distance. While the neighborhood is beautiful and pleasant, without nearby neighborhood commercial uses there is nothing to walk to. Thus as a factor in considering a policy change regarding the density of the neighborhood, the representation in the environmental document that the area is walkable, is simply false. Pedestrian access to the regional commercial center is nearly non-existent. ***Therefore, the statements in the record that the Project meets sustainability goals because it will provide pedestrian trips as an alternative to the use of the automobile are not supported by the facts.***

b. Given the intensity of the defining major auto corridors: La Cienega Boulevard, San Vicente Boulevard, Beverly Boulevard, Wilshire Boulevard and Third Street lack any bike lane. Empirically, there is little use of the bicycle in this area as an alternative to the automobile trip. Bicycle sightings are infrequent throughout the area. ***Therefore, the statements in the record that the bicycle is an alternative to automobile trips for residents of this project are not supported by the facts.***

2. The Subject Property is not located in a transit rich area which might otherwise encourage transit ridership among project residents. Proof of this is contained within the MND's own assumptions, i.e., applicant's expert gave only a 5% transit credit (4 trips in the a.m. peak hour and 3 trips in the p.m. peak hour) for the project. This means the residents will use virtually no transit. ***Therefore, the statements in the record that the project would encourage transit ridership are not supported by the facts.***

3. The Subject Property is one of 11-parallel north-south blocks zoned R-3 located between Robertson and San Vicente. The land use directly to the south

of this 11-block-uniformly-zoned R-3 area is at least on-half mile of very nice single-family homes. To the north of the R-3 zoned area, along Burton Way, is a thin corridor, one building deep, zoned R-4. The proposal to raise the density for one of these uniform 11 blocks will create a peninsula intruding into the solid block of R-3 zoning, bridging R-4 use all the way to the single-family zone. It will break the 11-block R-3 area into two.

There is nothing about the single block that distinguishes it from the others regarding the proposed densification. Thus, how long will it take for the adjacent properties to ask for the exact same thing? The request to rezone the whole block (from the alley to Colgate) represents a significant alteration in land use and therefore the proposal breaks the current integrity of this R-3 zoned area into 2 – dividing R-3 one neighborhood from another, without any factual justification to support the request to do so. The requested change serves as a beachhead into the R-3 zone that will cause all of the other owners of those properties within this pocket to ask for the same land use designations. Because there are no conditions that are unique to this property, and none are proffered by applicant, how then could the City prevent this entire R-3 zoned area from becoming R-4? The foreseeable consequence of granting this request is to effectively begin a zone change and general plan amendment for the entire R-3 area within this 11-block pocket without ever considering the full consequences of this substantial change in land use density for a well-defined neighborhood. This represents poor planning practice ***The record contains no factual support for the requested increase in density to high medium density and given the severely limited transportation infrastructure it is bad policy and the request should be denied.***

It is not allowed under the California Environmental Quality Act, which requires consideration of: the indirect impacts, those that are reasonably foreseeable, and those that are growth inducing. ***All of these potential impacts must be explored in an environmental impact report for this Project.***

Based on these 3 facts, amply demonstrated in the record, the MND throughout erroneously minimizes the full environmental impact of the Project, especially regarding issues involving sustainability. As shown above, the MND is based on patently incorrect assumptions regarding walkability, transit access, alternatives to the automobile and other principles fundamental to achieving the goal of sustainability. Therefore the MND must be corrected regarding its analysis of Air Quality, Greenhouse Gas, and Land Use impacts. Had the MND been properly based on an accurate depiction of the facts and an analysis based on those facts relevant to this location, the conclusions of the MND would not justify the requested zone change and general plan amendment. In addition, this analysis presents a fair argument that there will be significant environmental impacts as would require an environmental impact report as a condition of granting the requested zone change and general plan amendment.

LAND USE

No Evidence of Achievement of Sustainability Goals

When regional and local planning documents contain policies that promote “livability” or “sustainability” or focused development within “urban centers” or along “transportation corridors” these are code words for encouraging land use intensification in coordination with development of transit as an alternative to the automobile. It is well understood that this is the only way to achieve required reduction in greenhouse gases and to develop a city that is environmentally sustainable. Such projects often are entitled to transit credits up to 40% as there is a factual basis and real incentive for residents to take transit – it can be a viable alternative to the automobile.

The Legislature has taken steps in enacting law such as SB 375, and SB 743, in connection with AB 32 to encourage greater densities in areas where the automobile is not required to live and work. The region is currently investing billions of dollars to build alternatives to reliance on the automobile to achieve “sustainability.” The many goals, objectives and standards stated in local and regional plans using the terms set forth above are achieved only when increased density is paired with transportation other than the use of the car. This is the City’s committed policy.

Densification where there is appropriate infrastructure will occur to address the current and future housing needs of the City. True transit oriented development in nearby communities, especially those located along present and future rail corridors such as the Purple Line along Wilshire Boulevard or Red Line along Hollywood Boulevard will achieve an increase in housing opportunities without creating the necessity of using the automobile for every life activity as will be the case for this Project and thereby assist the City achieve its sustainability requirements.

As briefly illustrated above, these key concepts do not apply to the Project. The evidence in the record unequivocally demonstrates that residents of this project will be forced to rely on their car for every life necessity: work, play, groceries, dry cleaning, meeting friends, literally everything. Therefore all of the many instances where in its tables the MND justifies the project as consistent with one or another goal, objective or standard stated in a local and regional plan based on policies that advancement of these concepts, they simply cannot be supported by the evidence. The MND must be reworked to reflect the facts on the ground. It cannot be based on fanciful planner speak for which there is no evidence that it is likely to occur.

No Evidence of Likely Use of Transportation Alternatives to the Automobile

Perhaps the most salient fact relevant to impacts involving inconsistency with goals and policies regarding Air Quality, Greenhouse Gas, and Traffic and Circulation not raised in the MND is the absence of any data regarding any prospects of alternatives to the use of the automobile which for this project will be the only means of transportation for commuting, shopping for necessities such as groceries, and other trips such as to the gym, to get a cup of coffee, etc. The Beverly Center and Beverly Connection are regional shopping centers that do not cater to the needs of nearby residents. For example, the Beverly Connection is anchored by CVS, TJ Maxx, Marshalls, Nordstrom Rack, Old Navy, Ross Dress for Less and Target – there are no living necessities or neighborhood commercial uses provided there. The Beverly Center is occupied by 160 specialty stores and restaurants and likewise fails to provide nearby necessities for residents.

development. Planners know that inherent in these plans are many competing and inconsistent goals, such as economic development and jobs. Non-environmental goals play no part of a CEQA analysis. In other words, the identification of non-environmental goals and policies as support for the so-called consistency between the Project and the applicable plans, does not advance the required discussion about all of the environmental impacts caused by a project.

The MND repeatedly utilized the incorrect standard for analyzing and determining the environmental impacts when it uses the standard for determining “consistency” between the Project and these plans. CEQA requires analysis that identifies the inconsistencies between the project and the applicable environmental goals and policies that have the potential to cause a significant environmental impact.

In order to be legally adequate, the MND must identify and discuss as a part of its substantive disclosure requirements any inconsistencies between the proposed Project and applicable general plans and regional plans including “relevant environmental policies in other applicable plans.”¹ (See, Guidelines Section 15125(d) (a mandatory part of the Environmental Setting section of an MND).)² A revised MND must completely re-write its land use impacts analysis in order to conform to the requirements of CEQA without reliance on the misapplied “consistency doctrine” mistakenly taken from the Government Code.

Also, it is not enough to simply state that once the requested land use designations have been changed, then they will then be consistent. This is patently an obfuscation of all that CEQA requires. The question that must always be answered is what the change to the present environment is. The Land Use analysis is not subject to a different standard. The MND glosses over this change as though the issue does not exist. CEQA requires that the impacts of this proposed change be fully exposed and considered so that it may fully inform the public and the decision makers whether or not it is a good choice. Here the proposed changes to the land use designations will apply equally to 11 blocks between San Vicente and Robertson and the alley and Colgate Avenue. This change would totally eliminate the “buffer” between the R-4 at Burton Way and the R-1 zone south of Colgate Avenue. This is not consistent with sound planning principles and should be denied.

To compound this deficiency, the MND erroneously fails to state that it is the well-established policy of the City, SCAG, the MTA and other agencies responsible for improving the

¹ The City’s CEQA Threshold Guide with respect to a determination of significance of the possible land use impacts regarding “land use consistency” states: The determination of significance shall be made on a case-by-case basis, considering the following factors: • Whether the proposal is **inconsistent** with the adopted land use/density designation in the Community Plan, **redevelopment plan** or specific plan for the site; and whether the proposal is inconsistent with the General Plan **or adopted environmental goals or policies contained in other applicable plans**. (Emphasis added.) Also under subheading D. Evaluation of Screening Criteria: “**Potential areas of inconsistency** include but are not limited to: land use type. . . and other plan policies that relate to the physical environment.” (See Chapter H.1.) The evaluation of the possible significance of: “land use compatibility” under the City’s CEQA Threshold Guide is strikingly similar. (See Chapter H.2.)

² CEQA Appendix G provides that a project normally will have a significant effect on the environment if it will **conflict** with adopted environmental plans and goals of the community. Again, nothing in CEQA limits this discussion to land use plans or as City had done, to a simple finding of consistency under the consistency doctrine set forth in the Government Code.

transit alternatives, and related air quality in order to meet the stated goals of green house gas reduction within the City to only allow densification in close proximity to established transit corridors. The MND for this project states as though it is a justification for the increase density that it is located "in close proximity of a major transportation corridor (i.e., La Cienega Boulevard) and would not interfere with SCAG's ability to implement the Regional Strategies outline in the 2012-2035 RTP/SCS." For this reason, it is misleading at best to find that the Project is consistent with the various assumptions regarding regional growth and projections for the City. In essence, the increased density here consumes the allotment that could be built near real transit alternatives. In this way the Project does materially interfere, albeit indirectly with these strategies and the AQMP. CEQA does not distinguish between direct and indirect impact, all must be identified and discussed.

Project is Inharmonious with the Existing Neighborhood and Zoning

The MND materially distorts the consideration of the Project's impacts by claiming that the Project would result in further infill of an already developed community with its proposal to add "similar" and "compatible" land uses. Both of these statements are patently false. The neighborhood is built more or less harmoniously now. Therefore, the project is not an infill project, it is a densification, which is different from infill. Second, the proposed densification is not "similar." The obvious fact contained within the record that exposes the falsity of that claim is that the proposed project will replace 29 units with 88 apartments, a nearly three-fold increase in density. It is clearly a stretch of the words "similar" and "compatible" if one is to conclude that a threefold densification is similar.

The MND erroneously overlooks the obvious, that the re-designation of the entire block to a denser land use will divide a well established community by the drastic change in scale. This fact is amply demonstrated by the simple drawing of the proposed R-4 zone boundaries attached hereto. Therefore the MND must be corrected to accurately state that the proposal will have the significant environmental impact of dividing an existing and harmonious neighborhood.

Granting the Land Use Densification Will Lead to a Wholesale Change to the R-3 Land Use Designation That First Must Be Examined Prior to Considering This One Project

There is nothing in the Project Description or MND that considers the fact that the zoning for nearby Burton Drive allows the requested height and density of development and that the R-3 transition preserves the lower height and density for a very stable single-family neighborhood to the south. Therefore, this zone change and general plan amendment, if approved, would provide a beachhead south from Burton Drive allowing this form of more intense and higher development to encroach into the existing R-3 zoned area. This would then inevitably lead to change to the character of the entire neighborhood, or at a minimum, the entire area between the alleyway and Colgate Avenue. If upzoning the entire neighborhood is warranted both environmentally and as good land use planning to achieve the many goals intended in SB 375 and SB 743, then the appropriate action by the City as a precondition to considering this request is to rezone the entire area and as a part of that proposed action consider all of the environmental consequences for that rezoning instead of simply one block.

However, the facts do not demonstrate that this location is appropriate for such a policy change. Indeed, since the regional goals regarding air quality and greenhouse gas reductions make

assumptions about certain levels of growth, allowing growth in places where principals of sustainability are not maximized frustrates and interferes with achievement of the goal of sustainability. Therefore, only a finding of inconsistency may be made regarding the regional (SCAG) goals and policies of the Congestion Management Plan, the Regional Transportation Plan/Sustainable Communities Strategy, Compass Growth Vision Report, SCAG Planning Goals, and Regional Comprehensive Plan.

CEQA requires consideration of the indirect impacts of any project. Here the project includes a major change to the land use designations within a well defined boundary of development. The MND pretends that there will be no indirect consequence consisting of future applications by adjacent property owners seeking the same land use entitlements to allow for R-4 development. Experience informs this will inevitably be one of the consequences of approval of these two requests. The MND fails to consider the indirect impacts of approval of these two aspects of the application.

HOUSING IMPACTS

There is nothing in the MND about whether any of the proposed units will be devoted to low-income tenants and therefore it can safely be presumed there are none. We are not told whether any attributes regarding the tenants in the apartments proposed to be demolished including whether any are low-income, disabled, and elderly, on fixed income or other factors relevant to the full scope of the housing impacts of the project. As there is a well-established scarcity of housing for these groups, re-location assistance does not address the community's interest in ensuring adequate housing for these groups.

It is certain that the new housing will cost more than the existing housing. Increasing the cost of housing is not a goal of the City and indeed is antithetical to many goals and policies of the City, none of which were identified in the MND. We are expected to believe that with minimal relocation assistance, the displaced people will be housed elsewhere. The known facts are that rents are very steep and finding alternate housing for these people will be very difficult. While this is not an environmental impact, it is an issue regarding inconsistency with the Housing Element of the General Plan that was not identified.

The City's General Plan, guided by its Framework Element, directs anticipated growth to high density, mixed use centers and into the neighborhoods around its 80 rail stations. As part of this Plan, the City has recently embarked on an ambitious program to create Transit Neighborhood Plans for 24 current and proposed light-rail station areas across the City. Up-zoning is anticipated to occur in many of these areas located near this light-rail and rapid bus transit, thereby creating additional capacity for housing growth.

City's Housing Policy dictates that housing be placed strategically, not dispersed throughout the city or simply where a developer states a desire to do so. Many of the programs identified in the Housing Element encourage housing capacity but only in the strategic and desirable locations throughout the City consistent with the many Programs in the General Plan. Such programs include Program 70: Targeting Growth in Community Plan Areas, Program 89: Planning for Neighborhood Character, Program 68: Reduced 'Trips' for Housing near Transit and/or with Affordable Housing, and Program 73: Jobs/Housing Balance Incentives: Residential Exemptions in Transportation Specific Plans both provide incentives for transit-oriented development. Program 69: Transit Oriented District Studies calls for conducting studies to

identify housing opportunities and market potential for the neighborhoods around rail and bus rapid transit stops in the City.

Not many years ago, City decided to downzone this area. That was a good policy decision dictated by the very scarce transportation infra-structure in the area. These same limitations apply equally today and thus the policy should not be changed. What has changes it the City's now clear commitment to increasing density only where it is justifiable in real transit alternatives – not the lip service that was provided without factual support in the MND for the Project.

WATER IMPACTS

Water scarcity is hardly news. The MND states that the water table is shallow at this location and that the project proposes two levels of subterranean parking, thus significant excavation. Work on the nearby Cedars Sinai Medical Center has always involved significant dewatering, which represents a drawdown of the water table while construction occurs. The water drawn out of the table is sent down the storm drain and ultimately out to sea and thus provides no usefulness in a time of great water scarcity. On its face this is significant environmental impact that should be conditioned to prevent this waste of a scarce and valuable resource. At a time when the City is looking into means of grey water recapture and use, certainly there are ways to utilize this water without simply throwing it away. Furthermore, as policies encouraging groundwater recharge as a part of retaining more rainfall within the basin for future use instead of simple outfall into the Pacific Ocean become more important, the allowance of the opposite process - “dewatering” into the storm drain system, is an anachronism, it conflicts with current efforts and policies and it should not be allowed to occur as a condition of this Project. At a minimum, this water should be recaptured and provided to the City's meet it current expansion goals of recycled water to 6 million gallons per day by 2017 consistent with its Ground Water Replenishment Master Plan.

INFRASTRUCTURE

One of the known unsustainable qualities of this area is the intensity of the north-south traffic, much of which is related to the Regional Commercial uses to the north of the Subject Property. The traffic problems occur not just on Robertson and La Cienega, which are very slow in the p.m. rush hour, but on the very narrow residential streets for examples: Willaman, Sherbourne, and Holt. There, throughout the day but especially during the prolonged afternoon rush hour, probably in large part caused largely by the Cedars Sinai Medical Center, cars jockey for access on severely broken streets too narrow for easy passing in opposite directions. Increasing numbers of people will use driving shortcut applications such as the Waze which in turn dumps more traffic into the neighborhood. The simple fact is that densification at this location is not supported by the current roadway infrastructure. None of this well-known information is contained or considered in the MND.

CONCLUSION

For all of these reasons, the MND is an inadequate and inaccurate consideration of this land use application. Based on the record presented, it cannot be approved. Indeed, the MND contains ample evidence demonstrating a fair argument of the potential for significant environmental impacts that require the preparation of an Environmental Impact Report (EIR). Therefore the applicant presently has two choices: modify the project to eliminate all of the identified significant

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environmental impacts or revise the record with an EIR which fully and accurately addresses all of the knowable environmental impacts.

Respectfully,

CORIN L. KAHN