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(213) 978-1300

CITY OF LOS ANGELES
CALIFORNIA



ERIC GARCETTI
MAYOR

EXECUTIVE OFFICES
200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801

VINCENT P. BERTONI, AICP
DIRECTOR
(213) 978-1271

KEVIN J. KELLER, AICP
DEPUTY DIRECTOR
(213) 978-1272

LISA M. WEBBER, AICP
DEPUTY DIRECTOR
(213) 978-1274

JAN ZATORSKI
DEPUTY DIRECTOR
(213) 978-1273

<http://planning.lacity.org>

October 21, 2016

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Planning and Land Use Management Committee
Los Angeles City Hall
200 N. Spring Street
Los Angeles, CA 90012

Re: City Planning Case Nos: VTT-72370-CN-2A, CPC-2013-2551-MCUP-DB-SPR-1A
EIR-2013-2552-EIR

Project Address: 8148-8182 West Sunset Boulevard; 1438-1486 North
Havenhurst Drive; 1435-1443 North Crescent Heights Boulevard

At its meeting on July 28, 2016, the City Planning Commission reviewed and considered the information contained in the EIR, confirmed the Deputy Advisory Agency's certification of the EIR, conditionally approved CPC-2013-2551-MCUP-DB-SPR, and granted in part/denied in part the appeal of Vesting Tentative Tract Map No. 72370-CN-1A, associated with the mixed-use development of 249 residential dwelling units and 65,000 square feet of commercial floor area. Appeals of the City Planning Commission's action relative to the first-level appeal of VTT-72370-CN-1A and its actions of CPC-2013-2551-MCUP-DB-SPR, were filed by Susane Manners on August 29 and August 30, 2016, respectively.

APPEAL ANALYSIS
VTT-72370-CN-2A
CPC-2013-2551-MCUP-DB-SPR-1A

Appellant: Susane Manners / Allan Wilion

Appellant statements: Height and Scale

- The project misrepresents the street width of Havenhurst Drive
- The project misrepresents its height as 15 stories, not 22 stories
- The project is incompatible with surrounding low-rise residential properties
- The project would result in indirect historic impacts

Staff Response

The Appellant argues that the applicant has misrepresented the scale of the project, asserting that the project is in fact 22 stories because it would be 234 feet in height. However, the Recirculated Portions of the Draft EIR (RP-DEIR) and VTT Letter of Determination (LOD), including LOD pages 38 and 46-47, and RP-DEIR page 2-1 and page 2-7 fully acknowledge and

disclose the project's maximum height of 234 feet relative to the lowest point of the project site, as measured from grade at the southwest corner along Havenhurst Drive. The analysis in the EIR, and the findings in support of the approval of the Vesting Tentative Tract, fully evaluated potential impacts with respect to this height. The project has 15 stories with each level ranging from 10 to 16 feet in floor-to-ceiling heights.

Further, and contrary to the Appellant's statements, Havenhurst Drive is generally 60 feet in width along the project site frontage (40-foot roadway and 10-foot sidewalks). There is an existing bulb-out on the street within the City of West Hollywood that narrows the roadway width near the southern terminus of the project site.

The Appellant states that historic resources located along Havenhurst Street would be adversely impacted by the project. Indirect impacts to historic resources are evaluated in Section 4.C.2 of the Draft EIR and Section 2.0 Alternative 9: Enhanced View Corridor and Additional Underground Parking Alternative, Subsection B.3.2 of the Recirculated DEIR, and Topical Response 3 of the Final EIR Comments and Responses. As discussed therein, indirect impacts would be less than significant as the project would not reduce the integrity or significance of important historical resources in the project vicinity. The Appellant has not submitted substantial evidence to the contrary.

The Appellant makes general statements that the project is "out of touch with the low level nature of the Community," but does not provide further information to support these assertions. The compatibility of the project with its surroundings in relation to height and scale is discussed in Draft EIR Section 4.A, RP-DEIR Section 2.B.1, and FEIR Topical Response TR-1 (Aesthetics / Visual Resources). Land Use consistency was addressed in the Draft EIR Section 4.F., RP-DEIR Section 2.B.6, and in FEIR Topical Response TR-2, "Land Use and Planning." As discussed in detail therein, impacts would be less than significant. Compatibility with the surrounding area is further discussed in the Site Plan Review findings in CPC LOD pages F-10 through F-18. As discussed therein and based on substantial evidence, although taller than existing adjacent structures, including the low-rise residential areas referenced by the Appellant, the project will be consistent with the General Plan, and with existing and future development on neighboring properties.

Appellant's Statements: Street Vacation and Traffic Island

- Private easement rights would be impaired by closing access to the public street
- The City claims that no easements are known to exist
- Illegal street vacation of dedicated right turn lane
- The project is unlawfully giving away public property to the developer
- The replacement of the traffic island with a standard right turn lane would impair intersection traffic
- The traffic island cannot be incorporate into the project via the tract map approval
- The "B" permit cannot be used to effectuate the conversion of the traffic island to public space
- The removal of the right turn lane was not noticed nor analyzed in the EIR as a discretionary approval
- The tract map is silent on the proposed closure of the right-turn lane

Staff Response

The Appellant has submitted a 1905 plot map showing original subdivision in the project vicinity. In contrast to the Appellant's statements, the 1905 tract map does not grant private property owners a specific easement over the public right-of-way. The Appellant is confusing rights to access the public right of way with a private right over the roadway itself. While the subdivision of land is contingent upon access to a public street being provided, the city owns and controls the public right-of-way, and improvements to the public right-of-way are at the discretion of the City. As noted throughout the LOD and the EIR, the reconfigured traffic island will retain a traditional

right-turn lane, and access to the public roadway for private property owners in the area will not be adversely affected. The 1905 map does not demonstrate private easement rights.

The Appellant claims that the project involves the illegal vacation of a right turn lane, and that the removal of the right turn lane was not noticed or analyzed in the EIR as a discretionary approval. However, no street vacation was requested, and no action involving a street vacation was before the City Planning Commission for their consideration. The City Planning Commission does not act on street vacations, and as such would not have noticed or taken action. Moreover, the Tract Map, stamp-dated April 13, 2016, clearly shows the existing City-owned traffic island as being "not a part" of the proposed subdivision. As such, the tract map is therefore appropriately silent with respect to the reconfigured right-turn lane. In order for the applicant to effectuate the proposed reconfiguration of the traffic island, a Revocable Permit and a B-Permit will be required from the Department of Public Works. The necessary "B" permits and revocable permits are an appropriate way to effectuate the reconfiguration of the traffic island. This process is separate and apart from the subdivision request, is reviewed and processed by another City department, and is not under the jurisdiction of the City Planning Commission. Related approvals were indeed covered in the Draft EIR, as listed under Necessary Approvals on Draft EIR page 2-36, "Approvals and associated permits for the reconfiguration and maintenance of the adjacent City-owned traffic island area at the southwest corner of Sunset and Crescent Heights Boulevards."

Contrary to the Appellant's statements, the project does not involve any gift of public land to a private party. While the conversion and maintenance of the existing traffic island as publicly accessible open space will be paid for by the applicant, the traffic island currently is, and will so remain, as land owned by the City. The landscaped public open space will provide an amenity for the community, and will do so at the expense of the applicant.

The Appellant asserts that the reconfigured traffic island would impair intersection traffic. However, as discussed in Final EIR pages 2.A-36 to 2.A-41 (Topical Response 4, Traffic and Parking), the proposed reconfiguration of the traffic island is supported by LADOT and is expected to improve safety conditions and intersection operations at Sunset and Crescent Heights Boulevards. The reconfigured intersection will provide a standard right-turn lane. RP-DEIR Figure 2-12, in *Corrections and Additions*, illustrates an adequate turning radius for large vehicles. Final intersection design would be subject to review and approval by LADOT.

Appellant's Statements: Haul Route

- The decision approves 136,000 cubic yards of dirt, which would call for 13,600 haul trips of 10 cubic yards each
- Construction truck traffic could cause an earthquake
- Hauling activity would occur on Saturday
- Truck traffic will result in a "de-facto" closing of Havenhurst Drive
- The project would result in traffic, noise, vibration and air quality impacts
- There is no analysis of haul route trips
- The Decision omits that the City of West Hollywood will not install a signal at Fountain and Havenhurst and that West Hollywood will not permit the project to connect to its sewer line
- The noise study incorrectly quantifies the noise level of trucks

Staff Response

The Appellant correctly cites the amount of anticipated cubic yards proposed to be hauled by the project during construction. The City typically prohibits hauling on Sunday, as reflected in VTT LOD Condition of Approval No. 21.b, but permits hauling on Saturdays, as noted by the Appellant. These standard City restrictions and practices do not invalidate the conclusions of the EIR nor the City Planning Commission's approval of the project. The Haul Route was included in the VTT LOD as Condition No. 21. Contrary to the Appellant's statements that the EIR did not analyze haul route trips, haul routes are discussed on Draft EIR pages 4.J-26 through 4.J-30. As further discussed and disclosed in Draft EIR pages 4.J-33 through 4.J-39, and RP-DEIR pages 2-41 through 2-42, construction traffic will be significant and unavoidable during the shoring and

excavation phase. The City Planning Commission accordingly adopted a Statement of Overriding Considerations, recognizing the significant and unavoidable impacts associated with the project.

The Appellant makes various general statements that current traffic conditions on Sunset Boulevard are highly congested, but fails to provide further information to suggest that the analysis in the EIR is inadequate. Traffic impacts were addressed in DEIR Section 4.J, and in Section 2.B.10 of the RP-DEIR. The traffic impact analysis (Appendix H to the Draft EIR, with supplemental analysis for Alternative 9 in Appendix A to the RP-DEIR) evaluated potential intersection impacts consistent with established LADOT traffic study procedures, and was reviewed and approved by LADOT (see LADOT approval letter in Appendix H-5 to the Draft EIR and supplemental LADOT letter submitted to the project file on July 26, 2016). The cumulative traffic analysis did indeed account for the 38 related projects cited by the Appellant. As further discussed in the EIR and the LOD, operational traffic impacts would be less than significant with the exception of the intersection of Fountain Avenue and Havenhurst Drive in the City of West Hollywood, where impacts would be significant and unavoidable if the City of West Hollywood elects to not implement the recommended mitigation. The City of West Hollywood has stated that they do not intend to implement the mitigation measure identified in the EIR. The Letter of Determination fully describes and discloses that impacts to the intersection of Fountain Avenue and Havenhurst Drive would remain significant and unavoidable if the City of West Hollywood does not implement Mitigation Measure TR-1. The Deputy Advisory Agency and City Planning Commission accordingly adopted a Statement of Overriding Considerations with regard to this impact (see CPC LOD pages F-111 through F-113, F-153 through F-157, and VTT LOD pages 145-148, 196-201). The City of West Hollywood's position relative to wastewater impacts is also discussed on CPC LOD pages F-79 through F-82, and on VTT LOD pages 109-111.

The Appellant argues that the project will result in construction noise and air quality impacts. As fully discussed and disclosed in the EIR and in the CPC LOD pages F-107 through F-109, construction vibration (human perception) and on-site construction noise impacts would remain significant and unavoidable, even with the implementation of the recommended Mitigation Measures Noise-1 and Noise-2. Accordingly, the Deputy Advisory Agency and City Planning Commission adopted a Statement of Overriding Considerations with respect to these impacts. As discussed in RP-DEIR pages 35-36 with supporting data in Appendix A, mobile (e.g. truck-related) noise during construction would be below established quantitative thresholds and impacts would be less than significant. The Appellant asserts that construction air quality impacts would remain significant, but has not provided information to support this assertion. As discussed on CPC LOD pages F-86 through F-89 and supported by the quantitative analysis in the EIR conducted according to established thresholds, construction-phase air quality impacts would be reduced to a less than significant level with the implementation of Mitigation Measure AQ-1.

The Appellant asserts that the noise created by a standing truck would be 80-90 dBA, not 58 as stated in the EIR. However, the noise analysis did not assume a noise level of 58 dB for a standing truck. Draft EIR page 4.G-20, Table 4.G-4, indicates typical noise levels of construction equipment at 50 feet from the equipment. As shown therein, noise levels from trucks range from approximately 79-85 dBA at 50 feet. The 58 dB referenced by the Appellant is in regards to mobile source (construction vehicles) noise levels along the construction route, which is measured in Community Noise Equivalent Level (CNEL). The CNEL descriptor is used in land use planning to assess noise levels over a 24-hour period, as discussed on page 4.G-2 of the Draft EIR. CNEL noise levels appropriately do not directly correlate to the noise levels cited in Table 4.G-4, which are used to calculate on-site construction noise. The methodologies to calculate on-site construction noise and off-site roadway noise are discussed on page 4.G-14 to 4.G-15 in the Draft EIR.

Appellant's Statements: Seismic Impacts

- "New" maps show that the fault is under 75% of the project site
- "Refiled" application in 2016 requires that a new fault map be used
- Insufficient boring was conducted

Staff Response

The Appellant states that a “new” map of the Hollywood Fault shows that the fault underlies 75% of the project site. However, as discussed in the Draft EIR Section 4.G and RP-DEIR Section 2.B.4, Final EIR Topical Response 5 (Geology and Soils), the trace of the fault is located approximately 100 feet northwest of, and not within, the project site. The Los Angeles Department of Building and Safety issued a Soils Approval Letter dated October 19, 2015 (Final EIR Appendix B). The Department of Building and Safety and the California Geological Survey have since both confirmed that there is no December 2015 fault map, and the official Alquist-Priolo Earthquake Fault Zone Map, dated November 6, 2014, remains the official document for property on the US Geological Survey Hollywood Quadrangle, as referenced in the Department of Building and Safety Soils Approval Letter. Contrary to the Appellant’s statements that further boring must be conducted, the Department of Building and Safety found the borings to be adequate and consistent with their requirements in consideration of the project’s proposed foundation characteristics and the distance to the fault trace mapped by the State.

Appellant’s Statements: Alcohol permits

- Drunken patrons will negatively impact quality of life in the area
- No new alcohol licenses can be issued in the area

Staff Response

The Appellant states that drunken patrons will negatively impact quality of life in the area, and that no new alcohol licenses can be issued because the subject census tract is currently over-concentrated. The number of alcohol permits allocated per census tract is used as a general guide based upon population that does not take into account area-specific characteristics, and does not prohibit the issuance of new licenses. As further detailed in the Master Conditional Use Permit findings (CPC LOD F-1 through F-5), according to the California State Department of Alcoholic Beverages Control licensing, three on-site and two off-site license are allocated to the subject Census Tract No. 1942, which had a population of 3,588 as of 2010. There are currently seven active on-site licenses, one of which has been surrendered, and one active off-site license within the subject Census Tract. None of these existing licenses have a record of code violations or disciplinary action. Over-concentration can be undue when the addition of a license will negatively impact a neighborhood. Over-concentration is not undue when the approval of a license does not negatively impact an area, but rather such license benefits the public welfare and convenience. Although the census tract is numerically over-concentrated, the project will not adversely affect community welfare. The project is located in a commercially-zoned site that permits restaurant and retail uses. The sale and dispensing of alcohol is a common and expected amenity incidental to such uses. Further, the proposed mixed-use development is located within a commercially active area along Sunset Boulevard with other similar retail, restaurant, and grocery store uses. The project proposes to add additional desirable uses in this commercial thoroughfare in close proximity to existing compatible uses and the Sunset Strip in the City of West Hollywood. The project site currently supports a restaurant use with the sale and dispensing of alcoholic beverages for on-site consumption, demonstrating its compatibility with the surrounding area. Further, the alcohol conditional uses will be subject to the Plan Approval process detailing the number of seats, hours of operation, and other operational characteristics to further tailor any conditions to the specific characteristics of each establishment.

Appellant’s Statements: Shade/shadow

- The project will block sunlight and result in shade/shadow impacts

Staff Response

The Appellant states, without supporting evidence, that the height of the project will block sunlight and create shadows. Under City of L.A. CEQA Thresholds Guide, a project may have a potential impact if it would shade shadow-sensitive uses more than three hours between the hours of 9:00 A.M. and 3:00 P.M., between late October and early April or more than four hours between the hours of 9:00 A.M. and 5:00 P.M. Pacific Daylight Time (PDT) between early April and late October. As shown in the shading diagrams set forth in Chapter 4.A of the Draft EIR as well as Section 2.0 Alternative 9: Enhanced View Corridor and Additional Underground Parking Alternative, Subsection B.1 of the Recirculated DEIR, the project would not result in significant shading effects on any surrounding shade-sensitive uses. The maximum impact on sensitive uses, during the worst-case winter solstice condition as shown on Figure 2-6 of the Recirculated DEIR, would be less than one hour of shading, which is well below the applicable three-hour significance threshold. Therefore, the project's shading impacts are less than significant.

Appellant's Statements: Emergency response times

- The project would delay fire and police response times
- Havenhurst Drive is narrow for fire trucks
- Emergency response times need to be recalculated without the implementation of Mitigation Measure TR-1
- There is no analysis of the impact of the removal of the turn lane on fire trucks
- The building will be 150 feet from the roadway and violates Fire Department rules

Staff Response

The Appellant asserts that impacts to emergency response times would be significant absent the implementation of Mitigation Measure Traffic TR-1, the installation of a traffic signal at Havenhurst Drive and Fountain Avenue within the City of West Hollywood, and more generally asserts that the project would delay fire and police response times.

As described in Section 4.J, Transportation and Circulation, of the Draft EIR, Project-related traffic would significantly impact the intersection of Fountain Avenue / Havenhurst Drive. Accordingly, traffic associated with the project could potentially affect emergency vehicle response times in the area. Impacts on traffic that could cause delays in emergency response times are addressed through Mitigation Measure TR-1, as well as through implementation of the Project's TDM program, which would incorporate the trip-reduction programs and services identified in the City of Los Angeles Transportation Demand Management Ordinance (LAMC Section 12.26-J - amended by Ordinance 168,700). The TDM program would incorporate appropriate trip-reduction programs and services identified in the City's ordinance, including components that would encourage carpooling and ridesharing, telecommuting, and other trip-reducing programs.

As concluded in Section 4.J of the Draft EIR, the Project's operational traffic impacts would be mitigated to a less than significant level with installation of a new traffic signal at the intersection of Havenhurst Drive and Fountain Avenue. However, if the City of West Hollywood elects to not implement Mitigation Measure TR-1, the EIR acknowledges that project-related traffic impacts at the intersection of Havenhurst Drive and Fountain Avenue would remain significant and unavoidable.

Nonetheless, as discussed on pages 4.1.2-13 and 4.1.2-14 in Section 4.1.2, Police Protection, of the Draft EIR with regard to LAPD response times, and on page 4.1.1-14 in Section 4.1.1, Fire Protection and Emergency Medical Services, with regard to LAFD response times, several factors influence emergency response times in addition to traffic, including alarm transfer time, alarm answering and processing time, mobilization time, risk appraisal, geography, distance, traffic signals, and roadway characteristics. In response to issues that have been raised regarding emergency response times and associated reporting, the LAFD has recently been taking a number of steps to improve their related systems, processes and practices. Upgrades underway or pending include: installation of automated vehicle locating systems on all LAFD apparatus;

replacement of fire station alerting systems that control fire station dispatch audio, signal lights, and other fire station alerting hardware and software; development of a new computer aided dispatch system to manage fire and emergency medical service incidents from initial report to conclusion of an incident; and, use of traffic pre-emption systems. A traffic pre-emption system allows the normal operation of traffic lights to be preempted by an emergency vehicle to improve response times by stopping conflicting traffic in advance, providing the emergency vehicle the right-of-way. In addition to these improvements being implemented by the LAFD, emergency response is also routinely facilitated, particularly for high priority calls, through use of sirens to clear a path of travel, driving in the lanes of opposing traffic, use of alternate routes, and multiple station response. Further LAFD conditions have been incorporated as Condition No. 10 in the VTT LOD that states:

Condition 10.k: "Prior to the issuance of any building permit, definitive plans and specifications shall be submitted to the Fire Department, and any requirements for necessary permits shall be satisfied, inclusive of the conditions identified in the Fire Department letter dated May 10, 2016, and included in the case file." (Page 5)

In addition, it is anticipated that emergency vehicles travelling to the project site would utilize major roadways with higher traffic capacity in order to minimize travel time to their destination, which in the immediate vicinity of the project site includes Sunset Boulevard and/or Crescent Heights Boulevard. Furthermore, as shown on Draft EIR Figure 4.I.1-1, Fire Stations in the Vicinity of the Project Site, all fire stations serving the project site are located to the east (Fire Stations Nos. 41 and 27) and north (Fire Station No. 97) of the project site. It is highly unlikely that response times from these locations would be significantly impacted due to a single intersection that is significantly impact to the southeast of the project site, as this intersection is not within a path of travel from these stations to the project site. Impacts to all other intersections, and to all road segments, are less than significant. Similarly, as shown on Draft EIR Figure 4.I.2-1, the police station serving the project is located to the east of the site and as such would similarly not be impacted by the intersection of Fountain Avenue and Havenhurst Drive if the City of West Hollywood elects not to implement the recommended mitigation. As such, despite the potential for a significant traffic impact at the intersection of Havenhurst Drive and Fountain Avenue in the absence of recommended mitigation, it is not expected that traffic impacts at this intersection would have a material effect on emergency vehicle access and travel times to the project site. Thus, even without installation of a new traffic signal as required by Mitigation Measure TR-1, given implementation of the project's TDM program, the other means available to LAFD and LAPD to maintain reasonable response times, impacts on emergency response times were determined to be less than significant.

The Appellant further asserts that a street vacation would make the project inconsistent with LAFD requirements that no building or portion of a building shall be constructed more than 150 feet from the edge of a roadway of an improved street, access road, or designated fire lane. The Appellant also argues that the "free gift" of the traffic island violate this requirement. However, as discussed above, the reconfigured traffic island is, and will remain, under ownership of the City, and is not being "gifted" to the developer. Furthermore, project buildings will not be constructed more than 150 feet from the edge of the roadway, inclusive of areas adjacent to the proposed traffic island reconfiguration.

Further, and contrary to the Appellant's claims, the EIR has analyzed the capability of the intersection reconfiguration to handle emergency response times. The reconfiguration is incorporated into "With-Project" conditions throughout the impact analysis as a component of the project, and as such is captured in the analysis of emergency response times summarized above. See RP-DEIR Corrections and Additions Figure 2-12 for the geometry of a semi-trailer truck's right-turn movement at the reconfigured intersection. Proposed improvements are conceptual and will be subject to LADOT review and approval of detailed construction-level plans.

The Appellant's assertion that Havenhurst Drive is narrow for fire trucks as shown in Appeal Exhibit 1D4 is incorrect. The project proposes no changes to the geometry of Havenhurst Drive,

and would have no impact on the ability of emergency vehicles to navigate it. Moreover, the exhibit provided by the Appellant shows a truck clearing landscaping debris, a condition again that is temporary in nature, unrelated to the proposed project, and does not demonstrate any project-related difficulties of the ability of fire trucks to maneuver on Havenhurst Drive.

Appellant's Statements: Historic Impacts

- The Chase Bank Building will be designated a historical modern building and cannot be torn down

Staff Response

On September 15, 2016 the City of Los Angeles Cultural Heritage Commission recommended that the Bank Building be designated a Historic Cultural Monument. However, The EIR and the findings adopted by the City Planning Commission acknowledged the Bank Building as a significant historic resource. The Commission therefore adopted a Statement of Overriding considerations with respect to this potential environmental impact. The bank building's potential designation as a Historic Cultural Monument does not invalidate or otherwise affect the action taken by the City Planning Commission pursuant to CEQA. Further, the project would be required to comply with all regulations that govern Historic Cultural Monuments in the City of Los Angeles. These regulations, however, do not prohibit the demolition of Historic Cultural Monuments but may delay the demolition to provide time to determine feasible alternatives to demolition.

Appellant's Statements: Noticing of Alternative 9

- Alternative 9 has not been reviewed and is missing from the Determination
- Alternative 9 was not noticed
- The cubic yard removal associated with Alternative 9 was not noticed
- There was no CEQA review of Alternative 9
- There is no analysis of cumulative impacts in the EIR
- There is no analysis of the "added congestion" of Mobility Plan 2035
- There is no analysis of cumulative traffic and the "50 trip" standard was violated

Staff Response

The Appellant mistakenly asserts that Alternative 9 was not part of the EIR. However, the Recirculated Portions of the EIR (RP-DEIR), which was circulated for a 61-day public review from September 10, 2015 through November 9, 2015 was expressly focused on presenting and analyzing Alternative 9, Enhanced View Corridor and Additional Underground Parking Alternative. The Final EIR further included responses to all comments received on both the original project and Alternative 9.

The Hearing Notice for the May 24, 2016 joint Deputy Advisory Agency / Hearing Officer Hearing appropriately described the project as originally proposed in the Draft EIR, inclusive of the 58,500 cubic yards of dirt removal associated with the original project. The action before the Deputy Advisory Agency was the certification of the EIR, inclusive of all nine (9) alternatives described therein. The Staff Report, which also made available to the public, recommended the approval of Alternative 9 (Staff Report pages 5 through 6). The recommended conditions and findings in the Staff Report were therefore reflective of Alternative 9, as opposed to the original project. The noticing was not inappropriate or a bait and switch as suggested by the Appellant, but rather a standard process related to consideration of the various alternatives described in an EIR.

The Appellant incorrectly argues that findings were not included for Alternative 9 in the LOD alternatives analysis. Rather, the VTT LOD page 38 expressly states:

"For purposes of these findings, "the project" evaluated in these CEQA Findings shall refer to Alternative 9 as described in the Recirculated DEIR and not the original project proposed in the Draft EIR, except as expressly noted or as context requires. Unless referring to a specific document, "EIR" shall mean the Final EIR, including the Draft EIR, the Recirculated DEIR, and the Comments and Responses document."

The LOD, and the CEQA Findings of Fact therein inclusive of the alternatives analysis, therefore refer to Alternative 9 as the project. All findings throughout the LOD concerning the project are, as such, in reference to RP-DEIR Alternative 9.

The Appellant argues that the traffic impact analysis, including the cumulative impact analysis, does not take into account the “added congestion” of Mobility Plan 2035. Mobility Plan 2035 includes changes to street designations throughout the City, as well as design standards of some streets (including the addition of new bicycle lanes and/or reductions in the number of vehicular travel lanes). Notwithstanding, the effects of the changes proposed by Mobility Plan 2035 in the project area are expected to be nominal. Mobility Plan 2035 changes the roadway designations of facilities in the project area, including reclassifying Sunset Boulevard and Fairfax Avenue from their earlier Major Highway Class II to Avenue I, and Crescent Heights Boulevard, which was also a Major Highway Class II, to Avenue II. No new bicycle or transit-only lanes are anticipated on any of these facilities, and the number of vehicular travel lanes is not proposed to change relative to current conditions. Therefore no “added congestion” is anticipated along any of the streets within the study area due to implementation of modifications related to the implementation of Mobility Plan 2035. Moreover, most of the streets and intersections evaluated in the EIR are located within the City of West Hollywood, and are unaffected by Mobility Plan 2035. Further, Mobility Plan 2035 was adopted in January, 2016 following the public circulation of both the Draft EIR and the RP-DEIR. The project filed a Vesting Tentative Tract Map and as such is subject to the Transportation Element. Street dedications required of the project by the Bureau of Engineering accordingly reflect the street standards in effect prior to Mobility Plan 2035.

The Appellant argues that there is no cumulative analysis of the 38 related projects in the EIR, without discussing how they reached that conclusion. However, and consistent with CEQA, the related projects list contained in Draft EIR Section 3, “General Description of Environmental Setting,” was compiled based upon known and reasonably foreseeable projects at the time of the Notice of Preparation. The cumulative impacts analysis in each respective impact category throughout the EIR takes into account the 38 related projects when evaluating potential impacts.

The Appellant argues that the project would exceed the “50-trip standard.” As discussed on VTT LOD pages 96-97, the Los Angeles County Congestion Management Program (CMP) has a 50-trip threshold at CMP intersections. The Draft EIR and RP-DEIR addressed traffic impacts in Section 4.J and Section 2.B.10 (see RP-DEIR pages 2-48 through 2-50), respectively. Impacts to CMP intersections do not exceed the 50-trip threshold, contrary to the Appellant’s suggestions. Neither does the Appellant provide evidence to the contrary. Under CEQA, measurement of project traffic impacts is by its very nature a comparison of the net change of with-project trips compared to a baseline without-project scenario. Such a “net theory” is not inappropriate, as suggested by the Appellant. Impacts to CMP intersections would be less than significant and no mitigation is required.

Appellant’s Statements: Environmental Leadership Development Program (ELDP)

- Alternative 9 as upheld by the Commission does not qualify for ELDP status

Staff Response

Contrary to the Appellant’s statements, the project remains eligible for the ELDP program under Alternative 9, as approved by the Advisory Agency. The ELDP designation requires that a project result in an investment in California of over \$100 million, achieve a 10 percent greater transportation efficiency than a comparable project, be located on an infill site, create high-wage, highly-skilled jobs, result in zero net additional emissions of greenhouse gases, as determined by the California Air Resources Board (CARB), and achieve at least LEED Silver certification. On April 8, 2014 Governor Brown certified that the project meets the criteria set forth in the statute and on May 1, 2014 the Joint Legislative Budget Committee concurred in the certification.

The project as proposed is still within the scope of the original criteria. The project remains on an infill site and will achieve LEED Silver certification. The project results in an investment of over

\$100 million, and will exceed by at least 10 percent transportation efficiency for comparable projects.

The Appellant claims that the project does not qualify for ELDP status due to the reduction of commercial square feet compared to the original project. The reduction in commercial space will have a corresponding reduction in greenhouse gas emissions compared to the original project, as documented in the RP-DEIR, improving the project's performance relative to this ELDP criteria. As far as job creation, the proposed project will create a comparable amount of construction-phase jobs which, as noted in the ELDP certification, will pay prevailing and living wages. AB900 is silent on what constitutes the creation of permanent jobs, and the State legislative analyst has noted that permanent job creation is "not clearly defined in the statute." Moreover, the ELDP certification requires the creation of construction and operational jobs, but does not specify a minimum number of jobs. In applying for the ELDP certification, and the basis upon which such designation was approved, it was anticipated that on-site employment generated by the 111,339 square feet of retail space will result in 339 employment positions. Additionally, the project multiplier effect of direct, indirect and induced project employment will result in employment for 511 persons, while the project multiplier effect of direct, indirect and induced construction employment will result in employment for 1,375 persons. The reduction of commercial space can be expected to result in a proportional reduction of operational-phase jobs.

Appellant's Statements: Brown Act

- The Commissioners held ex-parte meetings that violate the Brown Act

Staff Response

The Commissioners who voted on the project and had ex-parte communications with the project applicant, disclosed on the record at the July 28, 2016 public hearing the nature and extent of their ex parte communications, that they had not pre-committed to approval of the project, and that they would base their vote on the evidence submitted into the record.

Appellant's Statements: Plan Consistency

- The traffic island conversion requires a General Plan Amendment for consistency with Mobility Plan 2035
- The project involves a height district change from "1-1 to 3-1"
- The project requires a height district change
- The project does not qualify for off-menu density bonus incentives because there are unavoidable impacts
- The Off-Menu incentive for using land set aside for street purposes to calculate FAR should not be granted and the traffic island should not be removed

The Appellant argues that the project is inconsistent with the General Plan due to street closing. As noted above, the project is not requesting a street vacation, and has not requested nor does it require a General Plan Amendment related to changes in the circulation system.

The Appellant's statements concerning the Off-Menu Density Bonus Incentives and the City's application of the State density bonus law are not relevant to this appeal, as the City Planning Commission's determination relative to the Off-Menu Density Bonus is not further appealable, pursuant to LAMC 12.22-A,25(g)(3)(i)(b). Notwithstanding, the following clarifications are made to the Appellant's points for the record.

Contrary to the Appellant's assertions, the Off-Menu Density Bonus Incentive for "land to be set aside for street purposes" concerns how floor area ratio is calculated before or after on-site street dedications pursuant to Bureau of Engineering requirements, and is not related to street vacations nor the existing traffic island and its proposed reconfiguration.

Contrary to the Appellant's suggestion that a height district change must be effectuated to effectuate the increase in FAR to 3:1, this floor area ratio was appropriately granted as an Off-

Menu Density Bonus Incentive, consistent with the provisions of LAMC 12.22-A,25(g) and with the waiver of a development standard pursuant State density bonus law to incentivize the production of affordable housing. The project does not involve nor does it require a height district change.

The Appellant is mistaken that the project cannot qualify for an Off-Menu Density Bonus because there are significant environmental impacts and a Statement of Overriding Considerations. The existence of adverse impacts resulting from the project does not disqualify the project from utilizing the State Density Bonus law, which is in place to incentivize the provision of affordable housing.

Appellant's Statements: Density Bonus

- It is illegal to grant addition off-menu requests since there are other discretionary actions
- The project's 3:1 FAR is illegal
- The project's 3:1 FAR cannot be granted because the project is in height district 1D and because the project is more than 1,500 feet from a transit stop
- The project's 3:1 FAR includes half of public streets which is improper
- A CUP is needed under LAMC 12.24-U,26 for an off-menu FAR incentive

Staff Response

The Appellant is incorrect in stating that the traffic island has been used to calculate the project's floor area ratio. The lot size of 111,339 square feet was used to calculate the project's maximum FAR, which does not include the traffic island nor half of the public street. The cited Off-Menu Density Bonus Incentive to allow "land to be set aside for street purposes" refers to the 2-foot street dedications that are required along Sunset Boulevard and Crescent Heights Boulevard pursuant to Bureau of Engineering requirements, and is unrelated to the traffic island or to "half of the public street," as the Appellant incorrectly asserts.

Contrary to the Appellant's statements, the granting of a 3:1 FAR does not constitute an illegal action. The granting of a 3:1 FAR is an appropriate waiver of a development standard pursuant to State Density Bonus law, and does not involve nor require a zone change or height district change. Off Menu Incentives are established in LAMC 12.22-A,25(g)(3) wherein an applicant may request the waiver of any development standard that is not on the pre-established menu of incentives listed in the LAMC. As further explained in the Density Bonus and Site Plan Review findings (CPC LOD pages F-5 through F-18), the project misses, by a matter of 60 feet, the qualifications for On-Menu Density Bonus Incentive for projects within 1,500 feet of a Transit Stop in Height District 1. Notwithstanding the "D" limitation, the project is in Height District 1. The fact that the request is substantially similar to an available on-menu incentive does not indicate an inappropriate use of the City's density bonus provisions, but rather reflects that the request is not a considerable deviation from what otherwise would have been Director-level decision involving a less stringent review than is required for Off-Menu incentives.

The Appellant is incorrect in asserting that the project requires a conditional use permit pursuant to LAMC 12.24-U,26 for a Density Bonus project that exceeds the maximum permitted under LAMC 12.22-A,25. The project is proposing 249 residential units in a zone that permits 278 units by-right. The project would need to request a density in excess of 375 units (a maximum 35% density bonus over the base number of 278 units) in order to require the cited Conditional Use Permit. With respect to statements that the density bonus is invalidated when other discretionary permits are requested, the Appellant has misinterpreted LAMC 12.22-A,25(g)(3), which notes that Off-Menu Incentives may be requested for projects that are "not subject to other discretionary applications." This LAMC language is to ensure that density bonus incentives are not duplicative of Zoning Administrator requests, and does not preclude a project from requesting an Off-Menu Incentive simply because it involves further discretionary approvals.

Appellant's Statements: Traffic Island Housing

- The traffic island is designated for affordable housing

Staff Response

The Appellant argues that the traffic island at Crescent Heights Boulevard and Sunset Boulevard is "zoned" for affordable housing, and therefore should not be incorporated into the project as a publicly accessible landscaped open space. The traffic island is zoned C4-1, a commercial zone in height district 1. This commercial zoning designation is unrelated to affordable housing. The traffic island is indeed identified as a potential site for housing in the Housing Element of the General Plan. Pursuant to Housing Element law, the City must show that it has adequate land zoned to accommodate the entirety of its 2013-2021 Regional Housing Needs Assessment (RHNA) allocation of housing units. The site is identified on page H-13 of the Housing Element as a potential site for housing, as its zoning designation permits housing and the site is an adequate size to support housing. The Housing Element identifies the site as being capable of supporting 1 unit. (Housing Element Appendix H) Further, the Housing Element explicitly states that "Identified sites indicate residential capacity under current zoning... Sites should not be interpreted as locations in which the City of Los Angeles encourages development." (H-13) The identification of sites for the RHNA housing inventory was done at a high level that did not account for site-specific characteristics, and does not constitute an endorsement by the City for housing on this or any other site. The traffic island is surrounded on all sides by arterial vehicular travel lanes that carry heavy amounts of traffic on a daily basis, and is currently under the ownership of the City of Los Angeles General Services Division. The specific characteristics of the traffic island are not conducive to the provision of housing. Rather, incorporating the traffic island to provide landscaped public space and an improved pedestrian environment as part of a project that provides 249 new residential units, including Very Low Income housing and Work Force Income housing units on a site that currently provides no housing whatsoever, will aid the City in meeting its RHNA allocation (see DEIR Section 4.H Population, Housing and Employment and RP-DEIR page 2-37 for further discussion of the project's consistency with SCAG and RHNA housing allocations and projections).

Appellant statements: Spot zoning

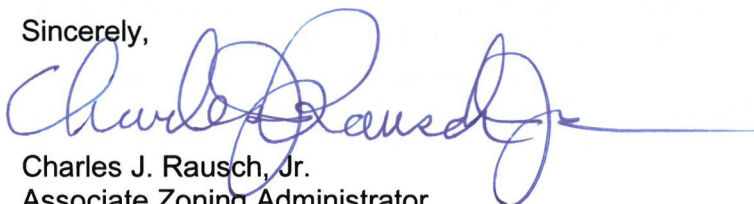
- The project is illegal spot zoning

Staff Response

The Appellant suggests that the project is spot-zoning. The requested project entitlements include a Site Plan Review, Conditional Use for alcohol, and Density Bonus for the provision of affordable housing units. The project is not proposing a Zone Change, Height District Change, or other legislative action to modify the zoning on the project site. As such, the claim that the project is "spot zoning" is incorrect. The 3:1 FAR is not a change in zoning, but rather was appropriately granted as an Off-Menu Density Bonus Incentive pursuant to the provisions of LAMC 12.22-A,25(g), consistent with the waiver of a development standard pursuant State density bonus law to incentivize the production of affordable housing.

As the appellant has failed to adequately disclose how the City erred in its actions relative to the EIR and the associated entitlements, Planning staff respectfully recommends that the appeals, VTT-72370-CN-2A and CPC-2013-2551-MCUP-DB-SPR-1A, be denied.

Sincerely,



Charles J. Rausch, Jr.
Associate Zoning Administrator
Department of City Planning