6245 Gentry Ave.
North Hollywood, CA 91606

December 13, 2016

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

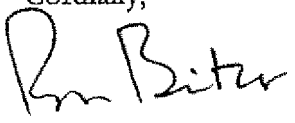
Dear Sir or Madam,

Please add this communication to the public record concerning today's agenda item for File 16-1280, the NoHo West Project.

City Planning staff inaccurately concludes that evidence "... demonstrates that traffic impacts were adequately addressed in the Environmental Impact Report and Traffic Studies for the project" page 3, December 9, 2016, Staff Response to Appeal of City Planning Commission Action.

See attachment.

Cordially,



Ron Bitzer
(310) 415-2796

."... bigger development is the push, because you go through the same broken planning process whether you are doing small or large development, so every opportunity gets pushed for more development than it can handle ..." Dana Cuff, L A architect, May 2016, Ziman Center Forum on City of Los Angeles Planning

It's City Planning Policy to Exploit Lead Agency Role
2016 Documents & Statement of Ron Bitzer
6245 Gentry Ave., North Hollywood
October 22, 2016

The City of Los Angeles is the Lead Agency for the proposed 1.27 million sf mega-development at Laurel Plaza and is obliged under State law to implement mitigation measures or project alternatives to mitigate significant adverse environmental effects created by a proposed project.

Freeway 170 and on and off ramps at Burbank Blvd., Oxnard Street and Victory Blvd. will be adversely affected by this mega-development. City Planning was informed on October 5, 2016, "...traffic congestion in the City of Los Angeles for the State (freeway) system is worsening year after year as development grows," District 7 Caltrans letter to Luciralia Ibarra, Department of City Planning, October 5, 2016.

City Planning Blames Another Governmental Agency for Inaction on Freeway Mitigation

City Planning stated in a September 20, 2016 letter, "To date, Caltrans District 7 has not provided the City with any enforceable plan or program for the construction of improvements to the state highway system that meets this requirement," City Planning letter to DiAnna Watson, Department of Transportation District 7, September 20, 2016.

"This requirement" is "... CEQA does not require the City to impose as a mitigation requirement the construction of improvements outside of the City's jurisdiction" if Caltrans has no plans or program to construct such improvements, City Planning letter to DiAnna Watson, Department of Transportation District 7, September 20, 2016.

City Planning Denies Caltrans Requests for Additional Analysis of Current Freeway Traffic

Caltrans repeatedly requested more comprehensive freeway traffic studies based on current data in letters to City Planning dated **May 1, 2015, February 11, 2016, July 25, 2016 and October 5, 2016.**

Most Off -Ramps Ignored in EIR ---The failure to analyze freeway off ramp activity of the 170 freeway at Burbank Blvd., Oxnard Street and Victory Blvd. in the Environmental Impact Report was pointed to as a major deficiency in the City's use of the County's Congestion Management Program guide, District 7 Caltrans letter to Luciralia Ibarra, Department of City Planning, October 5, 2016.

Cumulative Impact with 9 Other Projects (Valley Plaza too): Don't Bother City Planning --- The Congestion Management Program guide "... incorrectly analyzes cumulative traffic impacts," District 7 Caltrans letter to Luciralia Ibarra, Department of City Planning, October 5, 2016. This letter further states, "As a reminder, under CEQA section 15130 Discussion of Cumulative Impacts, the Lead Agency (City Planning) must provide an adequate cumulative traffic impact analysis."

The Northbound Freeway 170 Off-Ramp (a Single Lane for Most of this Ramp) at Oxnard Street Poses an Obvious Issue for Further Analysis

Under pre-December 2015 agreements between the City and Caltrans this off-ramp did not meet the 1,500 vehicles per lane and per hour to trigger additional studies.

This conclusion is specious because of the following:

1. The existence of a stop light for this off-ramp reduces the capacity of the off-ramp to less than 1,500 vehicles per lane and per hour. See page 3, District 7 Caltrans letter to Luciralia Ibarra, Department of City Planning, October 5, 2016.
2. The project applicant's own January 19, 2016 traffic study (released to the public only after the February 12, 2016 deadline for comments) admits that northbound off-ramp vehicular volume at Oxnard Street (as measured in 2014) was sufficient to trigger required follow-up study under a December 2015 agreement between Caltrans and the City.

Northbound Off-Ramp of the 170 Freeway at Oxnard Street (leading to major driveways for the project)

One lane serves as both an on-ramp from the Burbank Blvd. northbound entrance and off-ramp to the Oxnard St. northbound exit --- for 2/10 of a mile.

2 (continued)

The November 2014 traffic count during PM peak reported Oxnard Street northbound off-ramp volume of **974** vehicles per hour, Table E-3, The Mobility Group, January 19, 2016. Post December 2015 projects would be required to conduct further traffic studies for off-ramp volume at this level.

A City Agency Even Agrees: Oxnard Street Will Be Significantly Impacted

City Department of Transportation traffic assessment for the proposed project had concluded a "significant and unavoidable impact" of the proposed project at peak hour traffic at the intersections of Oxnard St. and Laurel Canyon Blvd. and Oxnard and Lankershim Blvd., *Traffic Study Assessment for the Proposed NoHo West Mixed Use Project*, Los Angeles Department of Transportation, November 19, 2015.

Project applicant secured a revised January 19, 2016 traffic study -- apparently based on an 11% reduction in the number of apartments --- and used this revised study with the City Department of Transportation to secure a revised and more favorable (to the applicant) traffic assessment letter. The February 12, 2016 deadline for public comment expired without public access to this January 19th document.

Will Sources of Funding for Freeway Improvements Be Compromised by a Self-Serving Study?

The smokescreen created by City Planning to avoid studies of the adverse impact of a 1.27 million sf project on freeway traffic could comprise any progress in securing non-developer funding for mitigation measures ---defined by Caltrans as "... restriping, striping with additional lane, signal upgrade, signal timing adjustment, right-of-way acquisition, additional deceleration/acceleration lane, interchange improvements, off-ramp expansion, freeway widening and etc., District 7 Caltrans letter to Luciralia Ibarra, Department of City Planning, October 5, 2016.

Meanwhile, LAMetro may serve as a source of funding for mitigation measures, if City Planning does not poison the well with traffic assessments based on incomplete and flawed assumptions.

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Serious drought
Help save water!

October 5, 2016

Ms. Luciralia Ibarra
Department of City Planning
City of Los Angeles
6262 Van Nuys Boulevard, Suite 651
Los Angeles, CA 91401

RE: NoHo West
Vic. LA-170/ PM R16.623
SCH # 2015041001
Ref. IGR/CEQA No. 150418AL-NOP
Ref. IGR/CEQA No. 151218AL-DEIR
IGR/CEQA No. 160656AL-FEIR/FEIR2

Dear Ms. Ibarra:

This letter serves as follow-up to Caltrans comment letter dated July 25, 2016. After review of the Response to Comment prepared on September 20, 2016, Caltrans would like to use this opportunity to provide consultation to assist the Lead Agency in the environmental process. We hope to enhance your understanding and bring to your attention the potential cumulative traffic impacts and mitigations in the City of Los Angeles.

California Environmental Quality Act, CEQA, imposes a Lead Agency's obligation to implement mitigation measures or project alternatives to mitigate significant adverse environmental effects, if these measures or alternatives are feasible. Thus, CEQA establishes both a procedural obligation to analyze and make public adverse physical environmental effects, and a substantive obligation to mitigate significant impacts.

From the previous letter, we would like to reiterate that CEQA requires a Lead Agency to determine the significance of all environmental impacts (California Public Resources Code [PRC] Section 21082.2; State CEQA Guidelines Section 15064). However, Lead Agencies may not arbitrarily establish thresholds to either create or avoid significant impacts. Thresholds must be backed by substantial evidence, which is defined in the CEQA statute to mean "facts, reasonable assumptions predicated on facts, and expert opinion supported by facts" (CEQA Guidelines Section 15384). With existing City's methodology and thresholds, rarely a project would qualify to mitigate today's traffic impact on the State facilities in the City of Los Angeles.

Currently, the City of Los Angeles uses Los Angeles County 2010 Congestion Management Program (CMP) as threshold of significance when preparing traffic analysis on the State facilities. "The City of Los Angeles has historically used the adopted CMP that contains a detailed analysis of the traffic impacts to the freeway system as required by CEQA." quoted by your response to comment. Caltrans has historically informed the City that CMP is not suitable to analyze the freeway system.

Unfortunately, the CMP does not capture the same data for analysis that the Highway Capacity Manual (HCM) uses. For example, the CMP (1) fails to analyze off-ramps, (2) fails to analyze freeway impacts, including where existing LOS is F, if the Project trip assignments is less than 150 cars, (3) uses a flawed percentage ratio to determine the significance of impacts, and (4) incorrectly analyzes cumulative traffic impacts. For the above reasons, Caltrans does not concur with the City, that CMP alone provides enough substantial evidence to meet the requirements by CEQA.

Although Caltrans has no thresholds of significance, per CEQA section 15064.7 Thresholds of Significance, it is the Lead Agency's responsibility to set adequate thresholds of significance that can be supported by substantial evidence. However, Caltrans does have a Guide for the Preparation of Traffic Impact Studies. With Caltrans' consultation, the Lead Agency may use Caltrans' guide to set the thresholds of significance in the near future. Caltrans is available to assist the City in setting the thresholds of significance on the State freeway system.

In addition, please note that the 2013 MOU (Freeway Analysis Agreement) was signed and renewed in December 2015. A State facility screening criteria is required before a complete freeway analysis is prepared. The City's letter dated September 20, 2016 states, "The MOU makes clear it was intended to address all impacts that may be caused by a project, including cumulative impacts." It is not Caltrans' intent to mislead the City nor to include cumulative impacts in the Freeway Analysis Agreement. The MOU clearly does not mention or indicate "cumulative impact" as part of the agreement. As a reminder, under CEQA section 15130 Discussion of Cumulative Impacts, the Lead Agency must to provide an adequate cumulative traffic impact analysis.

CEQA section 15355 Cumulative Impacts, "cumulative impact" refers to two or more individual effects, which when considered together, are considerable or which compound or increase other environmental impacts. Per CEQA section 15065(a) (3) Mandatory Finding of Significance, the project has possible environmental effects that are individually limited but cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

To achieve this is to find the significant cumulative traffic impact as a whole, then determine if the subject project's impact is considerable or not. Although an individual project may not contribute a significant direct traffic impact, it could potentially have a significant cumulative impact when combined with other projects in the vicinity.

Your response to comment regards to the Appendix E, Table E-1 and Table E-2 does not address Caltrans' concerns about the accuracy of the LOS on the freeway. A reference with actual date and month should be disclosed in the footnotes for verification. Caltrans is unable to verify traffic data from the table footnotes provided. Freeway screening cannot be validated if the existing LOS cannot be verified.

With regards to Table E-1 and Table E-2, High-Occupancy-Vehicle (HOV) lanes cannot be used to calculate general freeway mainline capacity. Otherwise, the freeway LOS calculation would not be accurate. There should be a separate LOS for the HOV because HOV has a lower freeway capacity. In addition, auxiliary lanes are generally used to reduce the traffic turbulence created by merging and diverging movements. Given that these lanes are used primarily by vehicles either entering or existing the freeway, it is uncommon for the lanes to reach capacity values similar to those of a regular lane on a basic freeway segment. The City may obtain rare exception in advance from Caltrans. For any future project, no capacity can be used on the auxiliary lane and HOV lane.

Regarding response to comment, "This directive is specific and makes no reference to the use of a 'speed' method." If the City is calculating LOS based on capacity and when the actual LOS reaches E or F, then lower actual traffic volume could be expected. In this case, another method such as "speed" should be used *and* would yield an accurate LOS reflecting the reality of a driver's experience.

The off-ramp screening criteria, referenced in Table E-3 of the agreement between Caltrans and the City of Los Angeles, of 1,500 vehicles per hour/per lane is based on free-flow speed without traffic controls, per the Highway Capacity Manual (HCM). However, the capacity for interrupted flow such as signal or stop controlled ramps is reduced. An analysis is needed to determine appropriate ramp capacity since the level of service (LOS) is based on the ramp capacity. Once the actual ramp capacity is determined, screening criteria as per the agreement will be applied. The existing LOS should also match the reality in the field as a reality check. If the City insists to use 1,500 vehicles per hour/per lane to calculate capacity, the analysis would not provide as an accurate analysis as substantial evidence per CEQA.

The City provided the following statement in the response to comments: "CEQA does not require the City to impose mitigation measures that it determines are inadequate and infeasible...CEQA does not require the City to impose as a mitigation measure the construction of improvements outside of the City's jurisdiction if the agency with exclusive jurisdiction over the construction of such improvements has no plan or program to construct said improvements." This statement serves as an explanation that will help the public to understand why traffic congestion in the City of Los Angeles for the State system is worsening year after year as development grows.

CEQA requires the Lead Agency to mitigate the traffic impact when significant traffic impact is identified. However, Caltrans values the City of Los Angeles as our traffic partner in alleviating traffic congestions on the State system. We would assist the City in identifying significant traffic impact and feasible mitigation measures.

According to CEQA, Section 21002 Approval of Projects, Feasible Alternative or Mitigation Measures, the Legislature finds and declare that it is the policy of the State that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen the significant environmental effects of such projects. Significant cumulative traffic impacts should be mitigated regardless of Caltrans' exclusive jurisdiction. Los Angeles County has a Bridge and Thoroughfare (B&T) District that provides traffic mitigations/improvements on the State transportation system that the City of Los Angeles could follow. We would be more than happy to share more information with you.

Caltrans would like the City to consider potential improvements/mitigations to include, but not limit to restriping, striping with additional lane, signal upgrade, signal timing adjustment, right-of-way acquisition, additional deceleration/acceleration lane, interchange improvements, off-ramp expansion, freeway widening, and etc. When an impact is identified, those improvements could be implemented through fair share contribution. Caltrans understands that funds for larger capital improvements may be difficult to obtain. It would be both agency's responsibility to plan and to seek funding for larger projects.

If a Lead Agency is permitting development, then a nexus study with the General Plan (GP), Mobility element in GP, or the local fee program should be included. Although Caltrans does not generate any traffic on the freeway system, once again, we are willing to assist the City to identify potential traffic impact and possible improvements. Like other Lead Agencies, it is the City's option to have a mechanism to collect funds from private developments for improvements. Caltrans encourages the City to consider the local impact fees to include any feasible State facility improvement. We would like to help the City to overcome any challenge that you may have.

Caltrans would like to work together and partner with the City to provide safe, accessible transportation services and infrastructure in the City and region. If you have any questions, please feel free to contact me at (213) 897-8391 and refer to IGR/CEQA No. 160656AL-FEIR2.

Sincerely,

Alan Lin

ALAN LIN
Acting Branch Chief
Community Planning & LD / IGR Review

cc: Scott Morgan, State Clearinghouse

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3 of 3 DOCUMENTS

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September 22, 2012 Saturday

Petaluma group drops opposition to Friedman's project

BYLINE: Lori A. Carter, The Press Democrat, Santa Rosa, Calif.

SECTION: BUSINESS AND FINANCIAL NEWS

LENGTH: 812 words

Sept. 22--A Petaluma group agreed Friday to drop its opposition to the Friedman's-anchored Deer Creek Village shopping center in exchange for nearly $200,000 in concessions from the developer.

The six-figure settlement is the second the Petaluma Neighborhood Association has achieved in its opposition to large-scale developments in Sonoma County's second-largest city. The money is earmarked for street, bike, pedestrian and traffic improvements, three community groups and the PNA's legal costs.

In 2010, the loosely organized group forced a three-way settlement with the city and developers of the Target shopping center, which netted the two leaders of the group $100,000 and paid $50,000 toward their legal fees. It also required the developer, Regency Centers, to pay the city's legal fees related to the PNA suit and another one Regency had filed.

Merlone Geier Partners said the $191,000 settlement announced Friday will head off an expected **lawsuit** that would have further delayed the project and cost perhaps several hundred thousand dollars in legal fees.

During the planning process, a law firm hired by the PNA, headed by Petaluman Paul Francis, filed several letters of opposition in connection with various aspects of the Deer Creek proposal.

The latest settlement, reached Friday afternoon, calls for the PNA to drop its appeal, scheduled to be considered at Monday's City Council meeting. The group was asking the City Council to overturn the Planning Commission's latest approvals of the project's design.

The City Council had already approved the main planning hurdles, including an environmental impact report for the 36.5-acre, 344,000-square-foot shopping center along North McDowell Boulevard at Rainier Avenue.

When completed, it will be the city's second-largest shopping center, slightly smaller than the Target center

currently under construction on East Washington Street along Highway 101

"In this tough economy, no one stands to benefit from project delays and a **lawsuit**," Greg Geertsen, managing director of **Merlone Geier**, said in a written statement

"An agreement has been reached that ensures Friedman's returns to its hometown, 800 jobs and millions of dollars in additional city revenue that can help rebuild Petaluma's roads and help protect its neighborhoods and schools."

Francis said he and Geertsen had been negotiating for about two weeks on the agreement, which calls for **Merlone Geier** to fund $110,000 in improvements to the Lynch Creek bike and pedestrian trail, traffic calming measures on Rushmore Avenue, and crosswalks and pedestrian signals at Rainier Avenue and Maria Drive.

"Greg brought some really good ideas to the table, and after talking with a few of the neighbors, we came to an agreement that we feel is a win-win for all parties involved," Francis said in an email

The basic premise of the final agreement was "to make the project more pedestrian accessible, hence more viable in the long-term for our community," he said, while "at the same time lessen the impacts on the surrounding neighborhood."

It also obligates the developer to pay $36,000 to the PNA's law firm, $30,000 to a city tree planting fund, $25,000 to the Petaluma River Heritage Center and $10,000 to Heritage Homes of Petaluma.

Part of the 2010 agreement between the PNA and Regency called for Regency to make a few minor changes to its project, including some traffic mitigations on East D Street

City Councilman Mike Healy, a longtime supporter of Deer Creek Village, said he was pleased the project can start construction but worries the PNA's success in obtaining settlements with developers damages the city's reputation in business circles.

"I am concerned that Petaluma now has a situation where a project proponent can spend years getting their city approvals and then face a gauntlet of private litigants with their hands out," he said.

"It made perfect business sense for Friedman's and **Merlone Geier** to cut this deal and avoid a year of **litigation** and lawyer's fees, but it doesn't help Petaluma's reputation as a place to do business," he said.

Some supporters of East Washington Place and Deer Creek Village have called the PNA's methods extortion

Francis declined to address those charges

"I have nothing to say about those who persistently want to put a negative spin on citizens who choose to be engaged in the public process," he said "We have a lot of support from the neighborhood and those in the community who support our actions "

Janice Cader-Thompson, a former councilwoman, also challenged the project through land-use lawyers

She, too, reached agreements with **Merlone Geier** on neighborhood improvements, including a fence that will shield neighbors from the shopping center.

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