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January 23, 2017

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Re: Appellant Beverly Wilshire Homes Association's Further Comments and Objections to General Plan Amendment, Zone Change, SB1818 Incentives, and Environmental Impact Report for the Proposed Development Project Located at 333 La Cienega Boulevard, Los Angeles, California CEQA No. ENV-2015-897-EIR (SCH No. 2016011061) Case Nos. CPC-2015-896-GPA-VZC-HD-MCUP-ZV-DB-SPR; VTT-74131 (City Council January 24, 2017 Agenda Items 13 and 21)

Dear Honorable Council Members:

This law firm represents Beverly Wilshire Homes Association, appellant in the above-referenced matter. Beverly Wilshire Homes Association ("BWHA") is a non-profit, incorporated organization of property owners, residents and businesses within the area bounded by La Brea to La Cienega and Rosewood to the north side of Wilshire Boulevard. Since 1956, BWHA has been the voice of the community. Its mission is to improve the quality of life for BWHA's members and for the greater BWHA community. The Proposed Project is adjacent to the BWHA community's western border and would severely and negatively impact the BWHA community.

BWHA hereby submits the following additional objections to the proposed project located at 333 S. La Cienega Boulevard (hereinafter "Proposed Project.") This correspondence incorporates all former objections raised by BWHA and all other individuals throughout the proceedings in this matter.

I. The City's Failure to Provide Additional Findings in a Timely Manner violates BWHA's Due Process Rights.

The California Constitution, article 1, section 7 provides: "A person may not be deprived of life, liberty, or property without due process of law." Adjudicative government actions that implicate significant or substantial property deprivation require procedural due process standards of reasonable notice and the opportunity to be heard. The proceedings at hand are adjudicative government actions that implicate significant property deprivation. As such, the City must provide BWHA and other potentially aggrieved parties with reasonable notice of all data considered at the City Council hearing, so that aggrieved parties may have a substantive opportunity to be heard. The City has failed to do so.

The City made two documents available with findings regarding the Proposed Project late Thursday, January 19, 2017. These documents included 140 pages of analysis regarding the Proposed Project. The City Council hearing on these matters is scheduled on the morning of Tuesday, January 24, 2017. Thus, the City only provided two business days prior to the City Council hearing for BWHA to review and potentially object to the City's additional findings.

In addition, the City did not issue a determination that the Project was exempt from CEQA under Public Resources Code section 21155.1 until two business days prior to the hearing on Tuesday, January 24, 2017. The City's findings referenced a 21155.1 Checklist, but the City did not provide this information to aggrieved parties.

This is hardly sufficient for substantive review and analysis, and precludes BHWA's members from a true opportunity to be heard with respect to the impacts of this Proposed Project. The City's failure to make these items available violates BWHA's members' due process rights to adequate notice and their ability to participate in the proceedings before the City Council.

II. The City Abused Its Discretion in Finding that the Project is Exempt from the California Environmental Quality Act ("CEQA").

The City claims that the Proposed Project is exempt from CEQA because under CEQA

section 21155.1, the Proposed Project is a transit priority project. However, Section 21155.1 does not exempt the Proposed Project from CEQA, as the Proposed Project does not meet all of the criteria required by Section 21155.1.

Furthermore, it is completely inappropriate to make a determination that the Project is exempt from CEQA under Section 21155.1 at this late a procedural juncture, without proper analysis, review, and community input, including review by the City Planning Commission.

Finally, CEQA directs the City to create a Thresholds Guide with respect to Transportation. The City has failed to create a CEQA Thresholds Guide for Transportation. Therefore, neither CEQA itself nor a City Thresholds Guide authorizes the City to exempt the Proposed Project from CEQA. Without such an authorization, the City is not empowered to provide a CEQA exemption on this basis. The City's provision of an exemption to this Project, therefore, is an abuse of discretion.

III. The City Abused Its Discretion in Failing to Examine the Potential Environmental Impacts of the Spot Zone That Would Be Created By the Proposed Project.

As discussed in BWHA's previous objections to the Proposed Project, this Project, if approved, would result in an unlawful spot zone. As defined by the City, "[a] 'spot' zone occurs when the zoning or land use designation for only a portion of a block changes, or a single zone or land use designation becomes surrounded by more or less intensive land uses." (CEQA Thresholds Guide, H.2-2.) This is consistent with California law: "A spot zone results when a small parcel of land is subject to . . . *less* restrictive zoning than surrounding properties." (*Foothill Communities Coalition v. County of Orange* (2014) 222 Cal.App.4th 1302, 1312, 1314, review denied (Apr. 30, 2014) (emphasis added).) The City's General Plan Amendment process, which violates the City Charter by allowing an applicant to initiate a GPA, also acknowledges that a GPA request may introduce a spot zone. (See General Plan Amendment Application.)

The City's CEQA Threshold Guide mandates that if a Project would result in a spot zone, the environmental review for the project requires further study. (Thresholds Guide, H.2-2.) The significance threshold is "made on a case-by-case basis" and considers the "extent of the area that would be impacted, the nature and degree of impacts, and the type of land uses within that area" and the "number, degree, and type of secondary impacts to surrounding land uses that could result from implementation of the project." (*Id.* at H.2-3.)

The City, however, has failed to analyze the environmental impacts that will result from the

creation of a spot zone. The City, therefore, has abused its discretion.

IV. The Attached Exhibits Demonstrate that the Proposed Project's New Height Would Significantly Differ from Existing Buildings, Zoning, and General Plan Requirements.

Please see attached Exhibits A, B, and C, which indicate that the revised height of the Proposed Project significantly differs from surrounding buildings and zoning requirements.

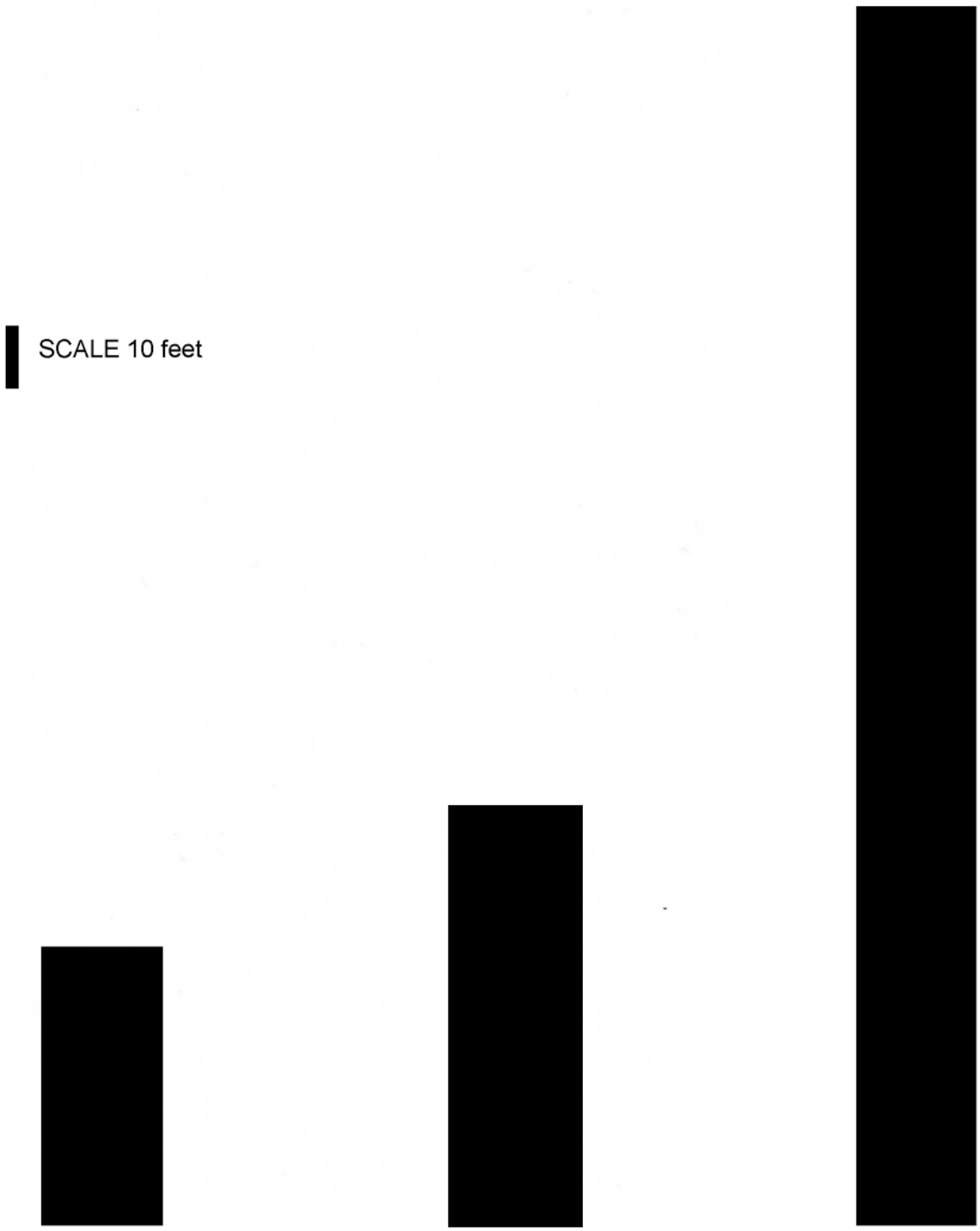
For these, and the reasons stated in BWHA's previous objections, BWHA respectfully requests that you deny all approvals for the Proposed Project and conduct a good faith environmental review of the Proposed Project's environmental impacts.

Sincerely,

Sabrina Venskus
Attorney for Beverly Wilshire Homes Assn.

EXHIBIT A

Height Comparison Chart Beverly Wilshire Homes Association



45 foot height limit
of C2-IVL zone

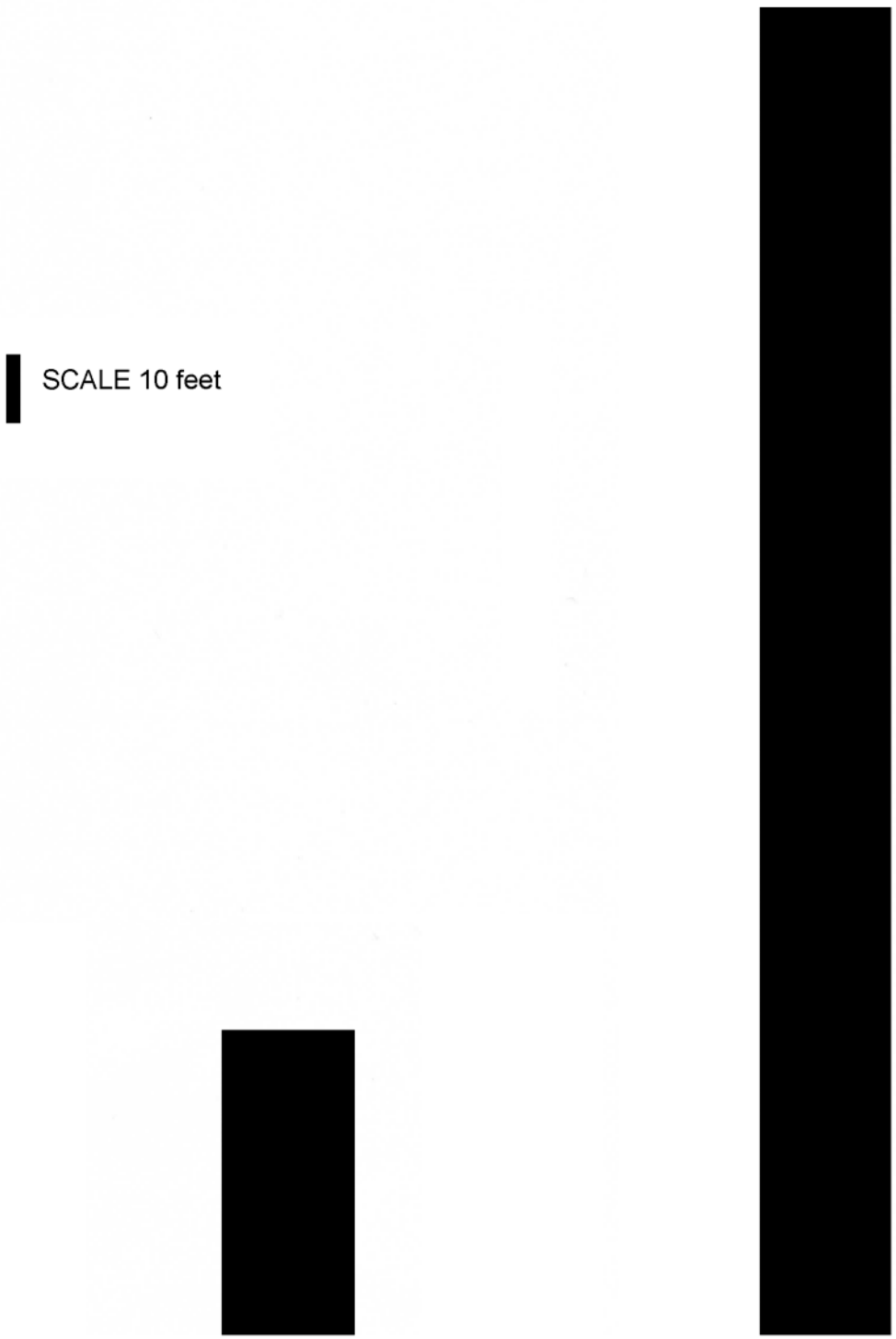
61 foot height limit
allowed in C2-IVL zone
with 20 % affordable housing bonus

185 foot height
Applicants approved project

Drawing by Rosalie Wayne

EXHIBIT B

Height Comparison Chart Beverly Wilshire Homes Association



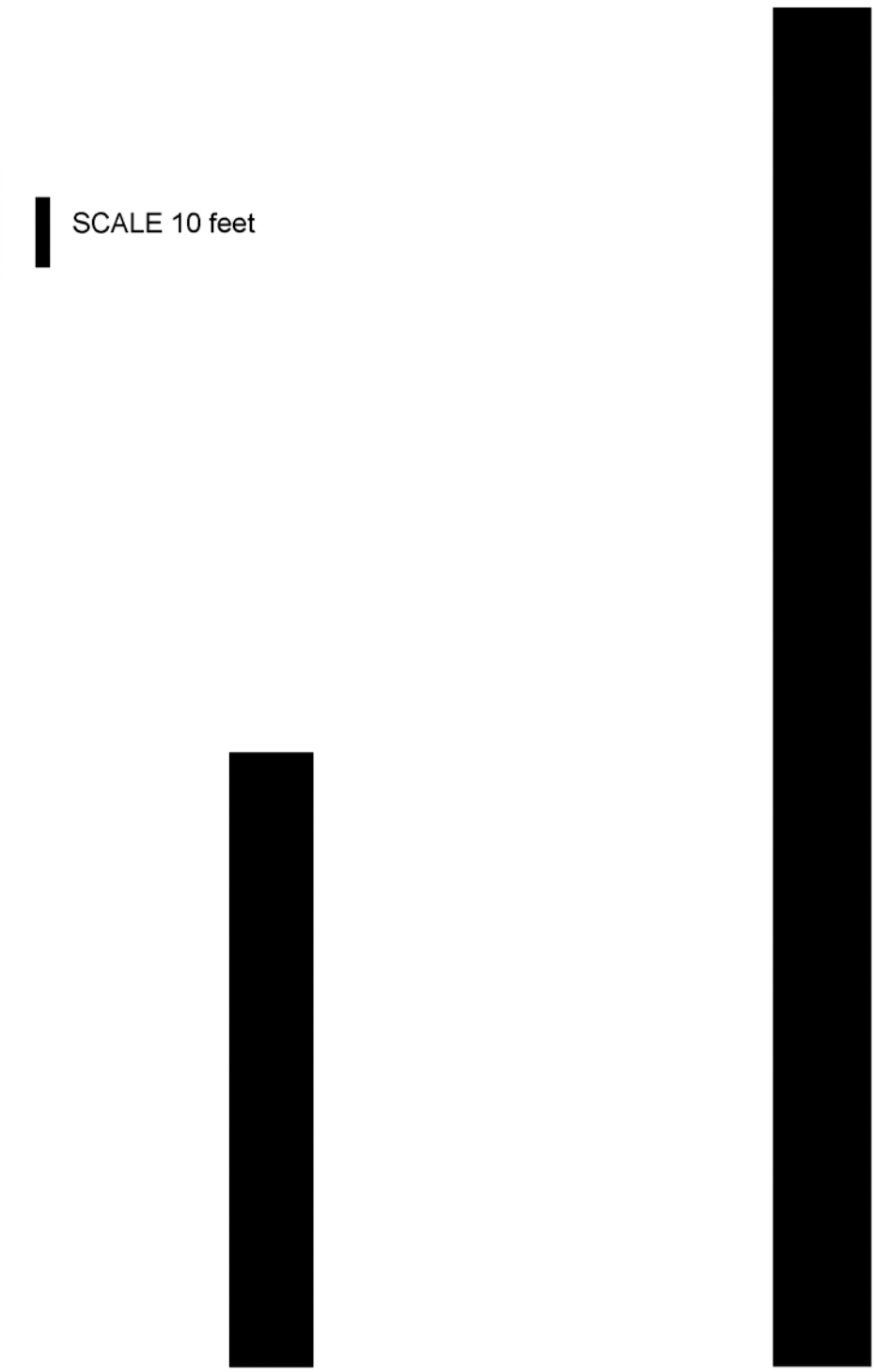
45 foot height limit
of C2-IVL zone

185 feet
Applicants approved project

Drawing by Rosalie Wayne

EXHIBIT C

Height Comparison Beverly Wilshire Homes Association



Drawing by Rosalie Wayne