

# EXHIBIT B

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# **THE SILVERSTEIN LAW FIRM**

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October 18, 2016

## **VIA HAND DELIVERY**

Central Area Planning Commission  
City of Los Angeles  
200 N. Spring Street, 10th Floor  
Los Angeles, CA 90012

Re: Objections to the Site Plan Review, Floor Area Deviation, Director's Determination, Addendum to the Mitigated Negative Declaration and all other entitlements for the Alexan Project located at 850 S. Hill Street, Los Angeles; DIR-2015-2976-TDR-SPR; ENV-2006-6302-MND

**(IMPORTANT: This letter and exhibits supplement SP-DTLA's September 6, 2016 letter and exhibits.)**

Honorable Commissioners:

## **I. INTRODUCTION.<sup>1</sup>**

This firm and the undersigned represent the Society for the Preservation of Downtown Los Angeles (hereinafter "Appellant" or "SP-DTLA"). Please keep this office on the list of interested persons to receive timely notice of all hearings and determinations related to the proposed approval of a mixed-use building at 850 S. Hill Street, commonly known as the Alexan Project ("Project").

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<sup>1</sup> Appellant Society for the Preservation of Downtown Los Angeles ("SP-DTLA") filed an expanded appeal letter and supporting exhibits on September 6, 2016. On September 12, 2016, SP-DTLA filed with the Central Area Planning Commission an objection letter in response to comments by City staff that the appeal would be "deemed denied" because the staff failed to schedule a hearing within 30 days of the appeal. On September 13, 2016, the City issued a Determination Letter declaring SP-DTLA's appeal "deemed denied." On September 30, 2016, after considering the SP-DTLA objection to the deemed denied decision, the City reversed and rescinded the September 13, 2016 deemed denied determination and set the appeals for hearing.



Appellant represents the views of its members as well as those of the more than 1,000 individuals who have expressed opposition to the Project, including on the ground that it is incompatible with and destructive to the City's historic and cultural resources. In addition, a number of members of Appellant own property and/or live in the Eastern Columbia Building, and are personally, materially, substantially, and significantly adversely affected by the proposed Project and the Director's approval thereof.

Appellant adopts and incorporates by reference all Project objections raised by themselves and all others during the environmental review and land use entitlement processes.

The Central Area Planning Commission should deny the Project application and requested approvals on any and all of the following grounds:

- (1) The Director of the Department of City Planning ("Planning Director") does not have authority, including under Article 4.5, Chapter 1 of the Los Angeles Municipal Code ("LAMC"), to grant a floor area deviation to the Project because the Project is located within the City Center Redevelopment Area.
- (2) A floor area deviation, which approves a transfer of floor area of under 50,000 square feet, is a variance for which the City of Los Angeles ("City") would be mandated by the City Charter to make a finding of hardship (and other findings), which the City cannot show.
- (3) Even if the Planning Director had the authority to grant a floor area deviation under LAMC 14.5.7, the City fails to satisfy the requisite findings.
- (4) The Applicant's evasion of the California Environmental Quality Act ("CEQA") by proceeding under an addendum to a mitigated negative declaration ("MND") for a 2007 project approval for a different project, violates the law.

## **II. PROJECT BACKGROUND.**

In 2015, Dallas-based mega-developer Trammel-Crow Residential, appearing as "Maple Multi-Family Land CA, LLP" ("Applicant") proposed to construct a dense, steel and glass apartment and retail building on a parking lot located within the City's Historic Core at 850 S. Hill Street, called the Alexan Project. The Project would be located immediately adjacent to and west of the officially-registered Historic-Cultural Monument Eastern Columbia Building, and is also surrounded by four other officially-registered Historic-Cultural Monuments of the City of Los Angeles.

The Eastern Columbia Building is one of Los Angeles' most beautiful and historically significant structures. Situated within both the Los Angeles Historic Core and a National Historic District, it was designated by the Department of City Planning as Historic-Cultural Monument Number 294 in 1985. It is listed in the National Register of Historic Places as well as the California Register of Historic Places. Both the structure and its distinctive Clock Tower are recognized worldwide as a premier example of Art Deco Architecture. In the early 2000s, more than \$80 million dollars was spent in restoration and renovation of the Eastern Columbia Building, luring residents both enamored with the building's illustrious history, and willing to take a gamble on, and spearhead, a revitalization of the Historic Core.

Pursuant to Ordinance No. 164,307, adopted by the City Council on December 20, 1988, the proposed Project site at 850 S. Hill Street, regulated under the ordinance as Sub-Area 2030, is subject to a "D Limitation." That means that development of the property may not exceed a floor area ratio ("FAR") of 6:1. (Exh. 1 [Excerpts of Ordinance No. 164,307 at p. 30, 41]; Exh. 2 [Excerpts of Determination Letter at p. 24; stating that the property is in subarea 2030 of the ordinance].) Imposition of the D Limitation for the properties described in the ordinance was "part of the City's General Plan/Zoning Consistency Program, pursuant to California Government Code Section 65860(d)." (Exh. 1 [Excerpts of Ordinance No. 164,307 at p. 83].)

In 2007, a previous owner of 850 S. Hill Street sought entitlements to build a high-rise, 21-story mixed use development containing 158 residential condominiums, which was approved by the Department of City Planning. (Exh. 2 [Excerpts of Determination Letter at pp. 18-19].) That proposed development did not exceed the 6:1 FAR, and did not require an entitlement permitting development in excess of the D Limitation on the property. Id. That different project was approved under an MND, but was never built. Id.

In 2015, the Applicant submitted an application to build the Alexan Project, a proposed development that would increase the total square footage for 850 S. Hill Street by 24% over the total square footage allowed under City Center Redevelopment Plan and the D Limitation.<sup>2</sup> The Applicant applied for a Director's Determination for a floor area deviation of 49,999 square feet, under LAMC Sec. 14.5.7. The new proposed structure would be 27 stories (six stories taller), and up to 320 feet tall. It would tower over the neighborhood including the Eastern Columbia Building, which at 264 feet tall is the tallest building in this portion of the Historic Core. (Exh. 3 [SP-DTLA Opposition Letter, at p. 15].) Furthermore, the Project would completely block 25% of the Eastern Columbia Clock Tower from public view. (Exh. 3 [SP-DTLA Opposition Letter, at p. 5].)

The Applicant seeks to evade CEQA's requirements, despite this being a new project not analyzed in the original MND, and despite significant changes in the project description. The Applicant has falsely characterized the application as a "Modification" of the 2007 proposed development, instead of initiating and preparing a new initial study and EIR for its new project. In other words, the Applicant is attempting to rely on a 9-year-old MND approved by the City for a different project, when the baseline conditions were also significantly different.

The Applicant then prepared an extensive "Addendum" (itself an oxymoron) to the obsolete 2007 MND. On July 28, 2016, the Planning Director issued his Determination granting Conditional Approval of the Floor Area Deviation and a Site Plan Review, based upon 11 specific findings and the facially improper Addendum.

### **III. THE DIRECTOR OF PLANNING HAS NO AUTHORITY TO GRANT THE REQUESTED FLOOR AREA DEVIATION TO THE PROJECT.**

#### **A. LAMC Article 4.5, Chapter 1, Shows The Project Entitlement Application Is Fatally Flawed And Illegal.**

The Director's Determination Letter issued in Case No. DIR-2015-2976-TDR-SPR for the Project is titled "Director's Determination – Transfer of Floor Area – Site Plan Review" (emphasis added), but the entitlement the Director purports to grant a few

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<sup>2</sup> The allowable floor area at 850 S. Hill Street with a FAR of 6:1 is 207,570. (Exh. 2 [Excerpts of Determination Letter at p. 20.]) The Director's Determination purports to approve an increase in the floor area by 49,999 square feet to 257,569 square feet. The increase in total floor area as a result is 24%.

paragraphs later is “**Conditionally Approve a Floor Area Deviation** to allow a Transfer of Floor Area of less than 50,000 square feet to permit an increase in floor area of up to 49,999 square feet . . .” (Exh. 2 [Excerpts of Determination Letter, p. 1], underline emphasis added.) The Determination Letter claims authority to grant this “deviation” under LAMC Section 14.5.7, which purports to authorize a “Director’s Determination” (Exh. 2 [Excerpts of Determination Letter, pp. 1, 21]), however, as written by the City, Article 4.5 contains numerous fatal flaws that make it impossible for the Director to lawfully approve the requested “floor area deviation.”

As stated plainly in the Determination Letter, what is being granted is a “deviation” from the 6:1 maximum floor area ratio to permit an increase of 49,999 square feet of additional floor area. It is that simple. A “Transfer of Floor Area” is not occurring here, although the City’s Determination Letter erroneously states a “transfer” occurs. Nowhere in the Determination Letter does the City identify a Donor Site that is giving the Applicant’s Receiving Site 49,999 square feet (and permanently reducing density on the Donor Site), and nowhere does the City set forth a Transfer Plan required as part of the LAMC definition of a “Transfer.”

LAMC Section 14.5.3 defines a “Transfer” as “the conveyance of unused allowable Floor Area of a lot from a Donor Site to a Receiver Site, which is approved in accordance with the requirements of this article.” The same section defines “Floor Area Rights” as “the ability to construct additional Floor Area within a Project, pursuant to an approved Transfer Plan, in excess of the amount of Floor Area that Project would be allowed . . .” The same section also defines a “Floor Area Deviation” as “the Transfer of Floor Area of less than 50,000 square feet as determined by the Director.” Thus, reading these defined terms together, a Floor Area Deviation is granted by the Planning Director, and it includes a “Transfer” defined as a “conveyance of unused allowed Floor Area of a lot from a Donor Site to a Receiver Site.” Thus, all Transfers, whether 50,000 square feet or greater (approved by the City Council on recommendation of the City Planning Commission), or less than 50,000 square feet (approved by the Planning Director) are defined by the City’s Code as required to involve the transfer of allowable floor area from a Donor Site to a Receiver Site.

These definitional limits just described and set forth in Section 14.5.3 contradict Section 14.5.7, which purports to give the Planning Director the “authority to grant **Transfers of Floor Area Rights** in accordance with this Section” (emphasis added), and which nowhere requires an applicant to provide or the Planning Director to require a “Transfer Plan,” a “Donor Site,” or a “Receiving Site.” Nor has the Planning Director required such plan and identification of the donating and receiving sites. Thus, there is

no Transfer here -- it is a naked and illegal override of the 6:1 floor area ratio cap imposed by the Community Plan and City Center Redevelopment Plan.

LAMC Section 14.5.4(B), which contains prohibitions for Projects within the City Center Redevelopment Plan area (as the Project here is), says that no building permit may issue for a building exceeding the specified floor area ratio, except for "(3) Development permitted as a result of a Transfer of Floor Area Rights pursuant to Section 512.7, or density variation of less than 50,000 square feet, approved by the Agency Board or Commission pursuant to Section 512.6 and 520 of the Redevelopment Plan."

This section confuses a "Floor Area Deviation", a defined term in Section 14.5.3, as interchangeable with a "density variation of less than 50,000 square feet", a different and undefined term. Additionally, instead of referring to the Planning Director as the decision maker, Section 14.5.4(B) inconsistently refers to the CRA/LA Board or the City Planning Commission as the decision maker. Thus, because Section 14.5.4(B) fails to specify a Floor Area Variation issued by the Planning Director, there is no municipal exception in Section 14.5.4(B) that would permit the Planning Director's Determination to be a permissible vehicle for an exception from the 6:1 floor area ratio limit.

The purported Floor Area Deviation granted to the Project in the Determination Letter is not a "transfer of floor area rights." And compounding this legal impediment to the Project's requested entitlements, no variance has been granted by the CRA/LA to the Applicant, as separately required by Redevelopment Plan Sections 512.6 and 520. Thus, under LAMC Section 14.5.4, no building permit may be granted for the Project, and the Planning Director has no authority to grant a Floor Area Deviation for the Project.

To conclude, the entire Project proposal is built on a faulty legal foundation, and is *void ab initio* for that reason. To borrow from Thoreau: "If you have built castles in the air . . . put the foundations under them." — Henry David Thoreau, *Walden*.

**B. Legislative History For Ordinance No. 181,574 Affirms That The Planning Director Has No Authority To Approve the Floor Area Deviation For The Project.**

The Director of Planning had no authority to issue the floor area deviation for the Project because the Project is located within the City Center Redevelopment Area. Legislative history for Ordinance No. 181,574 (hereinafter "TFAR Ordinance") confirms



the textual analysis, *supra*, explaining that the Planning Director has no authority to issue floor area deviations inside the boundaries of the City Center Redevelopment Plan Area.

The TFAR Ordinance, which amended Article 4.5 of Chapter 1 of the LAMC in 2011, was proposed to the City Council because the Amended Central Business District Redevelopment Project Area expired on July 18, 2010. (Exh. 4 [City Planning Commission Recommendation Report ("Planning Comm'n Report"), CPC-2010-213-CA at p. 1]; Exh. 5 [TFAR Ordinance].) The Amended Central Business District that expired was "reduced in size" from the original Central Business District, and included only "the Convention Center, Civic Center, and financial districts, as well as some isolated industrial parcels in the eastern portion of Downtown." (Exh. 4 [Planning Comm'n Report, at p. A-1].) The City Center Redevelopment Project Area was established on May 15, 2002, and is set to expire on May 15, 2032. (*Id.*; Exh. 6 [Ord. No. 174,593, Sec. 3, at p. 4; adopting the City Center Redevelopment Project Area]; Exh. 7 [City Center Redevelopment Plan § 900 ("Redevelopment Plan"), providing that the plan expires 30 years after adopted].)

The Planning Commission further explained that the purpose of the TFAR Ordinance is to "[a]mend[] the authority and procedures for approving TFAR requests . . . [and] to remove CRA/LA from the approval process for projects that are outside the City Center Redevelopment Project Area." (Exh. 4 [Planning Comm'n Report, at p. A-12; emphasis added].) The City Planning Commission's reason for proposing the ordinance to the City Council was to "allow continued implementation" of the Transfer of Floor Area Rights program in areas outside of a redevelopment area. (*Id.* at p. A-4.) The Planning Commission explained that the TFAR Ordinance affirmed the authority of the CRA/LA in redevelopment areas:

**"Projects in the City Center Redevelopment Project Area will be acted on by the CRA/LA Board before going to the City Planning Commission. . . . [T]he only difference in process between TFAR projects within or outside the redevelopment project area is that those outside will not go to the CRA/LA Board because CRA/LA will no longer have oversight in those areas."**

(*Id.* at p. A-2, A-3; emphasis added.) This analysis by the City Planning Commission confirms that the City Council intended that under the TFAR Ordinance, the CRA/LA maintains its authority over all projects within the City Center Redevelopment Area. Thus, the Director of Planning has no authority to grant a floor area deviation for projects

within the CRA/LA's jurisdiction. (The former CRA/LA is now the "CRA/LA, a Designated Local Authority." See <http://www.crala.org/internet-site/index.cfm>, which states in part: "Notice: ABx1-26 does not abolish the 31 existing Redevelopment Plans. The land-use authorities in the Redevelopment Plans remain in effect and continue to be administered by the CRA/LA . . .")

Under the Redevelopment Plan, properties located in the Historic Downtown development area are subject to a FAR limitation of 6:1. (Exh. 7 [Redevelopment Plan § 512.1(1)].) Under the Plan, transfers of less than 50,000 SF may only be approved as a variance pursuant to Section 520. (Exh. 7 [Redevelopment Plan § 512.6].) Section 520 provides that the Agency may "permit a variation from the limits, restrictions and controls established by this Plan." However, to grant a variance, the Agency must determine that: (1) application of the plan "would result in practical difficulties or unnecessary hardships"; or (2) "[t]here are exceptional circumstances or conditions applicable to the property", and (3) permitting a variation would not be "materially detrimental" to the public welfare. (Exh. 7 [Redevelopment Plan § 520].) Only the CRA/LA has authority to issue a variance from the restrictions of the Redevelopment Plan. (Exh. 7 [Redevelopment Plan § 523].) The City and Planning Director do not.

The Project is located within the City Center Redevelopment Plan Area, within the Historic Downtown development area. (Exh. 7 [Redevelopment Plan, Exh. 1, 6]; Exh. 6 [Ord. No. 174,593, §§ 3, 9].) As such, only the CRA/LA Governing Board has jurisdiction to consider a TFAR request for the Project for 49,999 square feet in excess of the allowable limit under a 6:1 FAR. The CRA/LA Governing Board might only consider such an entitlement pursuant to a new application package, new public disclosure and review, new CEQA review, and upon making the findings – which it cannot do – noted above, and all pursuant to Redevelopment Plan §§ 512.6 & 520. Thus, the Planning Director's grant of a floor area deviation for the Project is invalid and *void ab initio* on this independent ground.

By definition, in light of the previously approved project for this exact site which was already substantial, application of the Redevelopment Plan "would [not] result in practical difficulties or unnecessary hardships"; and (2) "[t]here are [no] exceptional circumstances or conditions applicable to the property." However, permitting a variation would most certainly be "materially detrimental" to the public welfare, as has been previously noted in objections submitted by SP-DTLA and in testimony from numerous individuals, including related to the impacts to adjoining property owners and to the fabric of a unique area clustered with several City of Los Angeles Historic-Cultural Monuments.

Again, even if the Applicant had properly applied for a variance to the CRA/LA, such a request must be denied by the Governing Board because:

- (1) The prior approval of a 158-unit condominium structure at 850 S. Hill Street demonstrates that the owner could expansively develop the property, and will not experience legally cognizable "hardship or practical difficulties" in use of the property.
- (2) The Alexan Project as approved by the Director of Planning is materially detrimental to the public welfare for multiple reasons, including because it would obstruct and impair the views of and from the Eastern Columbia Building, a registered Historic-Cultural Monument, and would substantially shade the renovated rooftop pool and recreation facility located on top of the Broadway Trade Center.

Thus, the Director's Determination for the Project – approving a total floor area resulting in a FAR of 7.45:1 above the allowed 6:1 FAR – is invalid because the Planning Director has no authority to grant the entitlement, and development at 850 S. Hill Street must comply with the 6:1 FAR restriction.

**IV. THE DIRECTOR'S DETERMINATION IS INVALID BECAUSE IT WOULD ALLOW DEVIATION (VARIANCE) FROM THE D LIMITATION OF A 6:1 FAR WITHOUT REQUIRING AND MAKING LEGAL FINDINGS SHOWING HARDSHIP FOR A VARIANCE, AS MANDATED BY CHARTER SECTION 562.**

The Los Angeles City Charter ("Charter") provides that the City shall have all powers possible for a charter city, "subject only to the limitations contained in the Charter." Charter § 101. The Charter limits the power of the City of Los Angeles with regard to procedures for the granting of variances, and provides that the City must make five enumerated findings in order to grant a variance, including:

- "(1) that the strict application of the provisions of the zoning ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations; (2) that there are special



circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity; (3) that the variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of the special circumstances and practical difficulties or unnecessary hardships, is denied to the property in question; (4) that the granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the same zone or vicinity in which the property is located; and (5) that the granting of the variance will not adversely affect any element of the General Plan." (Charter § 562.)

A "variance or exception sanctions a deviation from the standard." Rubin v. Bd. of Dir. of City of Pasadena (1940) 16 Cal.2d 119, 124. A variance by definition is an aberration from a broader land use regimen which governs the entire community. Permitting variances is disfavored because doing so can set in motion a devastating domino effect. Therefore, upholding the integrity of the broader land use regimen is paramount. Otherwise, allowing a "variant use of plaintiff's lands would necessarily be the basis for others and thus the disintegrating process would be set in motion." Minney v. City of Azusa (1958) 164 Cal.App.2d 12, 32-33.

As our Supreme Court held in Topanga Ass'n for a Scenic Community v. County of Los Angeles (1974) 11 Cal.3d 506, 517, a zoning scheme is a contract in which "each party foregoes rights to use its land as it wishes in return for the assurance that the use of neighboring property will be similarly restricted, the rationale being that such mutual restriction can enhance total community welfare." Id. at 517. "Vigorous and meaningful" review of variances is a bulwark against "subversion of the critical reciprocity upon which zoning regulation rests." Id. at 517-518.

"[M]unicipalities must follow statutory or charter zoning procedures strictly whenever they propose a substantial interference with land use . . ." City of Escondido v. Desert Outdoor Advertising, Inc. (1973) 8 Cal.3d 785, 790. Variances constitute a substantial interference with allowed land use. "If . . . preventing unjustified variance awards for neighboring land is not sufficiently protected, the consequence will be subversion of the critical reciprocity upon which zoning regulation rests. [¶] Abdication by the judiciary of its responsibility to examine variance board decision-making when

called upon to do so could very well lead to such subversion . . . .” Stolman v. City of Los Angeles (2003) 114 Cal.App.4th 916, 923.

It must also be emphasized that:

“[D]ata focusing on the qualities of the property and Project for which the variance is sought, the desirability of the proposed development, the attractiveness of its design, the benefits to the community, or the economic difficulties of developing the property in conformance with the zoning regulations, lack legal significance and are simply irrelevant to the controlling issue of whether strict application of zoning rules would prevent the would-be developer from utilizing his or her property to the same extent as other property owners in the same zoning district.”

Orinda Association v. Board of Supervisors of Contra Costa (1986) 182 Cal.App.3d 1145, 1166 (emphasis added).

Even assuming it applied in this case – which it does not, as discussed above regarding the City’s facial misapplication of this section, and regarding the CRA/LA’s jurisdiction – LAMC Section 14.5.7 regarding the Director of Planning potentially granting a deviation in excess of the allowable floor area of up to 50,000 square feet, is a “deviation from the standard” maximum FAR of 6:1 imposed on the property under Ordinance No. 164,307. Furthermore, pursuant to LAMC Section 14.5.7, the floor area deviation is approved by the Director of Planning as an administrative, quasi-judicial act of the type which the Supreme Court in Topanga warned. Thus, a floor area deviation granted pursuant to a Director’s Determination is a variance, and the City of Los Angeles, as it has in other cases recently decided against it, must conform with the limitations on variances mandated in City Charter Section 562. (See, e.g., Exh. 8 [Los Angeles Superior Court decision finding Charter variance findings mandatory in considering and granting a Zoning Administrator’s adjustment].)

Section 14.5.7 is invalid because the City does not have the authority to grant a variance without making the hardship and other mandatory findings including that the hardship is not self-imposed. Under Section 14.5.7, in order to grant a Floor Area Deviation, the Planning Director must determine that: (1) the Project is proper for the community; (2) the Project will not be materially detrimental to the neighborhood; (3) the Project is in harmony with the General Plan; (4) The Project is consistent with the

applicable Redevelopment Plan; (5) the floor area deviation serves the public interest; and (6) the project incorporates mitigation measures. LAMC § 14.5.7. However, Section 14.5.7 fails to require the Director of Planning to find that "strict application of the provisions of the zoning ordinance would result in practical difficulties or unnecessary hardships," or all other criteria as mandated by Charter Section 562.

The City does not have the authority to grant a variance without making all findings required under the Charter. (See Exh. 8 [Los Angeles Superior Court decision: Charter variance findings mandatory in considering and granting a Zoning Administrator's adjustment].) In the Project Determination Letter, the Planning Director does not (and cannot) make any legitimate findings as to alleged "practical difficulties or unnecessary hardships" of the Applicant that would "prevent the would-be developer from utilizing his or her property to the same extent as other property owners in the same zoning district." Orinda Association, supra. Thus, the Planning Director could not grant a floor area deviation to the Project on this additional and independent ground.

Even if all necessary applications had been made, and then the City had investigated whether the variance findings required under the Charter existed, for all of the reasons stated above, and as stated throughout the whole of these administrative proceedings, the City would be unable to make such findings.

**V. THE DIRECTOR ERRED IN FINDING THAT THE APPLICANT MET ALL OF THE REQUIREMENTS OF LAMC SECTIONS 14.5.7 AND 16.05.**

Since the Applicant is not entitled by right to construct the structure proposed, it asked the City to approve a TFAR pursuant to City Ordinance 164307 and LAMC Sections 14.5.7 and 16.05. Even assuming the Director had the authority to grant this request – which he does not – in order to receive the entitlement requested, the Applicant would also have to satisfy all requirements of these two sections. Failure to satisfy any one requirement mandates denial of the application.

**A. The Project Is Not Proper In Relation To The Adjacent Uses Or The Development Of The Community As Required By LAMC Section 14.5.7 (3)(a)(1).**

At 320 feet and 27 stories (30 levels), the proposed structure is on its face incompatible with its immediate neighbors and the Historic Core in general. It is inconsistent in design with Federal, State and City guidelines regarding the preservation of historic buildings and neighborhoods. If allowed to be built as currently planned, it

would tower over and overwhelm all of the other buildings in the Historic Core and completely block 25% of the iconic Eastern Columbia Clock Tower from public view.

The Director admits that the Project site is located in the Historic Core, and is surrounded on all sides by historically significant structures. (Exh. 2 [Determination Letter, at pp. 21-23].) The Director's conclusion that the specific proposed, non-conforming, high-rise mixed-use development "is proper in relation to the adjacent uses and the development of the community" has no basis in fact or law. Id. at 25.

The Director's assertion that the "surrounding properties include . . . high-rise buildings" is simply wrong. Id. at 24. There are no high-rise structures "surrounding" the proposed site. There are, in fact, no high-rise buildings within the entire Historic Core community. The Director's finding that "a mixed-use residential and commercial high-rise building would be consistent and compatible with the established land use patterns in the area" is not consistent with the Historic Core landscape. Id. at 25. Given that there are no high-rise structures within the Historic Core, in order to make this conclusion, the Director had to look outside the actual impacted community to find high-rise structures with which the proposed Project could be considered compatible. This is legally unacceptable.

The Historic Core constitutes a specific, defined community, with a specific and unique historic nature and character. (Community Plan I-4].) As noted in the Community Plan: "The continued economic and social viability of Central City depends on . . . vibrant cohesive neighborhoods. (Community Plan III-1].) It further states that "The Central City Plan area is composed of nine districts" of which South Park and the Historic Core are identified (and mapped) as two different, discrete communities. (Community Plan I-4].)

The stated purpose of the Community plan is that it "Preserves and enhances the positive characteristics of existing uses which provide the foundation for community identity, such as scale, height, bulk, setbacks and appearance." (Community Plan II-2]) and it specifically notes that "Central City also contains some of the most architecturally significant buildings in Southern California, including two nationally recognized districts. . . . The Broadway Historical Theater District has some of the most architecturally significant buildings in California." (Community Plan I-5].)

The proposed high-rise Project does not fit with the nature and character of the surrounding Historic Core community as envisioned by the General and/or Community Plans. Moreover, the Community Plan does not, as improperly asserted by the Director

(Exh. 2 [Determination Letter at p. 21]), locate the proposed site within both the Historic Core and South Park. As noted above, the plan clearly distinguishes between the two neighborhoods and mapping clearly locates the proposed site within the Historic Core. For the Director to look outside the clearly defined historic community to support a contention that the project would be consistent with the surrounding community represents the worst sort of bootstrapping – a type of land use “forum shopping”.

The claim that the site is in the “southern portion of the Center City/Historic Core” as stated by the Director is a red herring and of no moment. (Exh. 2 [Determination Letter].) The relevant fact is that the proposed project is within the Historic Core community and, as a result, must be compatible with those structures similarly located – not those located in a different community or neighborhood. Accordingly, the Director’s finding that the project is proper in relation to adjacent uses and/or the development of the community is unsupported.

The Director’s finding is further based on the unsupported conclusion that the project “has been designed [to] meet the Downtown Design Guide (“DDG”) which sets parameters for development in relation to surrounding existing structures.” *Id.* at 25. The only basis for this contention is that the Project “would provide ground floor commercial/retail space . . . that complies with Design Guide’s requirements. . . .” *Id.* The Director completely ignores the fact that the proposed structure’s tower is, on its face, incompatible and at odds with the surrounding historic community and that it would block from public view 25% of the iconic and historically significant Eastern Columbia Clock.

The Director further ignores other relevant portions of the Guide with which the Project does not comply, including that proposed new structures must “Respect historically significant districts and buildings, including massing and scale, and neighborhood context. . . .” (Exh. 9 [Downtown Design Guide, p. 7].)

Appellant would not object to the development of an appropriate mixed-use project on the site that provides ground floor commercial/retail space, but it does object to a project providing such space that by virtue of its mass, scale and general design, fails to respect the surrounding Historic Core community.

As the Application fails as a matter of law and fact to satisfy one of the requirements of LAMC Section 14.5.7, the Application cannot be approved, and must be denied, on this additional ground.



**B. The Project Will Be Materially Detrimental To The Character Of Development In The Immediate Neighborhoods Under LAMC Section 14.5.7 A(3)(a)(2).**

The Director fails to state specific facts on which the second finding is based. The only statement directly related to material detriment is the following:

“The Proposed Project would be materially detrimental to the character of the development in the immediate surrounding neighborhood if it would adversely affect the rights of such surrounding development to enjoy their property. With respect to the continued enjoyment of the surrounding historic buildings, the Proposed Project has been conditioned to design a shoring plan that protects the Eastern Columbia and May Company buildings from damage that could occur during development (Condition No. 18). Furthermore, a historic assessment that was approved by the Office of Historic Resources concluded that the project would not negatively impact the historical significance of nearby historic monuments nor the adjacent historic district located on Broadway.” (Exh. 2 [Determination Letter, at p. 26].)

The question of shoring is not material to a determination under this section of the statute. The statute refers to the “character of development” of the “immediate neighborhood.” The “immediate neighborhood” is the Historic Core, and its “character of development” is historic. As stated by the Los Angeles Conservancy in its January 19, 2016 objection letter, the Project is “adjacent” to and abutting a historic district, and surrounded by individually-designated historic landmarks. While the project site may be near the South Park area, it is physically a part of and linked to the Historic Core area and context.” (Exh. 10 [Los Angeles Conservancy Objection Letter].)

On its face, the Project is not in keeping with the character of the immediate neighborhood. The fact that the lowest portion of the Project has been designed to attempt to fit in with the “rhythm” of the rest of the street ignores the bigger issue that the huge steel and glass tower has not and does not. (Exh. 2 [Determination Letter at p. 28].)

Furthermore, the Director’s comments regarding the Historic Downtown Design Guidelines do not support his finding. He admits that the Guidelines apply and that new buildings should maintain compatible design features with the surrounding neighborhood

(Exh. 2 [Determination Letter at p. 27]), but there is no discussion of how the proposed structure in its entirety is, in fact, compatible with the surrounding neighborhood. In this respect, he states, without any factual basis, that:

“The development of a project that would convert an underutilized surface parking lot at a major intersection into a mixed-use building would not create any adverse impacts on the surrounding community’s enjoyment of the surrounding neighborhood. The approved [sic] of the Project does not prohibit the use [sic].” Id.

In addition to having no stated factual or legal basis, this argument is incomprehensible and thus provides no support – legal or factual – for the finding.

The Director apparently relies on a January 26, 2016 Historic Assessment report by the Historic Resources Group, which concludes that the Project design is “compatible” with immediately adjacent historic structures and in compliance with Standards 9 and 10 of the Secretary of the Interior’s Standards for the Treatment of Historic Properties. Although the Director states that this report was “reviewed and approved by the Department of City Planning’s Office of Historic Resources”, Appellant has found no record of this approval in the official case file and was never notified of any review or given the right to challenge it.

Other comments by the Director in this section include that the Project would create amenities and opportunities for residents of the building and that the Project is near public transportation. These unsupported, conclusory statements are irrelevant and fail as a matter of law to prove that the Project will not be detrimental to the character of the neighborhood.

**C. The Project Is Not Consistent With The Redevelopment Plan, As Required by LAMC Section 14.5.7 (3)(a)(4).**

The Project is inconsistent with several Redevelopment Plan policies and objectives. The Director correctly cites that one objective is “to preserve key landmarks which highlight the history and unique character of the City, blending old and new in an aesthetic realization of change or growth with distinction, and facilitating the adaptive reuse of structures of architectural, historic or cultural merit,” and, in finding this objective satisfied, claims that “the Project’s primary podium elevations incorporate architectural design features and articulations complementary to the adjacent historic

buildings.” (Exh. 2 [Determination Letter at p. 41].) However, the Director fails to mention or take into consideration that the proposed tower structure on top of the podium is incompatible with and will degrade the surrounding “key landmarks” that surround the proposed site.

Most alarming is the Director’s conclusory comment that the building “would create a robust new image” for the Historic Core. *Id.* Not only is this assertion consistent with the fact that the Project is not compatible with its historic surroundings, but it gives credence to the Los Angeles Conservancy’s concern that ill-considered approval of incompatible structures in the Historic Core threatens the nature and character of this unique community. (Exh. 10 [Los Angeles Conservancy Objection Letter].)

If built, the Project would materially degrade the Eastern Columbia Building, one of the most successful Redevelopment projects in the City, as well as other historic adaptive reuse structures in the Historic Core. Developers, owners and residents of these special key landmarks are, and continue to be, responsible for the resurgence of the Historic Core as a historically significant neighborhood. They have placed their faith in the City to protect their interest in preserving their neighborhood’s unique nature and character as a historic district. However, approving a blatantly non-compatible, oversized, steel and glass structure to be constructed under the guise of appropriate “redevelopment” would subvert the intent and goals of the Plan the City claims to be implementing.

**D. The Project Fails To Incorporate Feasible Mitigation Measures, Monitoring Measures Or Alternatives Identified In The Environmental Review Sufficient To Substantially Lessen The Significant Environmental Effects Of The Project, And Any Additional Findings As May Be Required By CEQA And LAMC Section 14.5.7 A(3)(a)(6).**

Despite the Director’s unsupported assertion to the contrary, feasible mitigation measures have not been incorporated into the Project sufficient “to ensure that there will be no significant unavoidable environmental impacts.” (Exh. 2 [Determination Letter at p. 42].) This is particularly true in light of the admission that the project in fact “may cause potentially significant impacts on the environment.” *Id.*

The Director’s stated conditions and referenced MND mitigation measures do not adequately protect the environment and surrounding historic structures. Furthermore, because the provisions leave the details of formulation, monitoring and enforcement to unspecified persons and procedures at an unspecified time, as a practical matter they are



woefully insufficient under the circumstances of this case. This is classic “deferred mitigation” under CEQA, and is illegal.

Moreover, the city “cannot rely on post-approval mitigation measures adopted during the subsequent design review process.” Quail Botanical Gardens Foundation, Inc. v. City of Encinitas (1994) 29 Cal.App.4th 1597, 1606, fn. 4. This is precisely what the Addendum does by including a mitigation measure that defers the question of whether the design would impact historic resources. Mitigation Measures 15 and 16 provide that design features of the Project be reviewed after approval by an architect to determine whether the Project’s design is compatible with adjacent “historical resources and with the character of its surroundings” in “mass,” “scale” and “roof heights.” As these are design features that must be addressed prior to approval, reliance on these mitigation measures is improper.

**E. The Project Consists of an Arrangement of Buildings and Structures (Including Height, Bulk and Setbacks), Off-Street Parking Facilities, Loading Areas, Lighting, Landscaping, Trash Collection, and Other Such Pertinent Improvements That Are Or Will Be Incompatible With Existing And Future Development On Adjacent Properties And Neighboring Properties, In Violation Of LAMC section 16.05 F(2).**

The Director acknowledges that the properties adjacent to the property are historic buildings – Eastern Columbia to the east and Broadway Trade Center/May Company to the north – and that the Project site is within the designated Historic Core neighborhood. (Exh. 2 [Determination Letter at p. 23]).) Although the Director claims “surrounding properties include . . . high-rise residential buildings” “this is not true. *Id.* The Director’s description of a property located in a different designated neighborhood from the Project site as “adjoining” the Project site is similarly inaccurate. *Id.* at 24. The Director inappropriately extends a comparison of the Project to other buildings “in the downtown area” which are not adjacent to or neighboring the Project site.

**VI. THE APPLICANT’S CEQA ANALYSIS IS ILLEGAL: USE OF AN ADDENDUM IS IMPROPER AND AN ABUSE OF DISCRETION.**

**A. The Use Of An Addendum To The 2007 MND Is Improper.**

On yet a further separate and independent ground, the Project approvals and entitlements are all illegal based upon the attempted use of an addendum to a 9-year-old MND (“Addendum”). At a bare minimum, a new MND would be required, but even that

would be woefully inadequate. As discussed further below, a full EIR is required for the Project.

The standard of review regarding the use of an addendum to previous CEQA review was recently discussed by the California Supreme Court. Friends of the College of San Mateo Gardens v. San Mateo Community College District, Case No. S214061. This September, 2016 decision, harmonized with other case law, demonstrates that the City and the Applicant's attempted use of an addendum violates CEQA.

An addendum is improper and a Supplemental EIR is required where, as here, there are more than simply "minor technical changes or additions which do not raise important new issues about the significant effects on the environment. [Citation]." Ventura Foothill Neighbors v. County of Ventura (2015) 232 Cal.App.4th 429, at 426.

The Ventura Foothill case explains that a "subsequent or supplemental EIR is required" when:

"(1) '[s]ubstantial changes' are proposed in the project, requiring 'major revisions' in the EIR; (2) substantial changes arise in the circumstances of the project's undertaking, requiring major revisions in the EIR; or (3) new information appears that was not known or available at the time the EIR was certified. [Citations.]" (Committee For Green Foothills v. Santa Clara County Bd. of Supervisors (2010) 48 Cal.4th 32, 54–55, 105 Cal.Rptr.3d 181, 224 P.3d 920.)" Id. at 426. See also Pub. Res Code § 21166.

Stated in the disjunctive by using "or," only one of those three criteria must be satisfied to require preparation of a subsequent or supplemental EIR. But in this case, all three criteria are present and satisfied. It should also be noted that the Court in Ventura Foothill reviewed a project whose height had changed and increased, but there, only from 75 to 90 feet, a tiny fraction of the height and mass increase proposed here. "We agree with the trial court that the increase in height effected '[s]ubstantial changes' . . . in the project, requiring 'major revisions' in the EIR." [Citation.] Thus, County abused its discretion in not preparing a supplemental EIR." Id. at 436.

A strong presumption in favor of requiring preparation of an Environmental Impact Report ("EIR") is built into the California Environmental Quality Act ("CEQA"). This presumption is reflected in what is known as the "fair argument" standard, under

which an agency must prepare an EIR whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. Laurel Heights Improvement Ass'n v. Regents of the Univ. of Cal. (1993) 6 Cal.4th 1112, 1123; Communities for a Better Environment v. California Resources Agency (2002) 103 Cal.App.4th 98, 111-112.

An EIR must be prepared where there is substantial evidence that significant effects "may" occur. League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland (1997) 52 Cal.App.4th 86, 904-905. A project "may" have a significant effect on the environment if there is a "reasonable probability" that it will result in a significant impact. No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 83, n. 16. If any aspect of the project may result in a significant impact on the environment, an EIR must be prepared even if the overall effect of the project is beneficial. CEQA Guidelines § 15063(b)(1).

Substantial evidence "includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact." Pub. Res. Code § 21080(e)(1). It also includes "reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached . . ." (Emphasis added.) CEQA Guidelines § 15384(a).

The fair argument test is a "low threshold" test for requiring the preparation of an EIR. No Oil, *supra*, 13 Cal.3d at 84. Evidence supporting a fair argument of a significant environmental impact triggers preparation of an EIR regardless of whether the record contains contrary evidence. League for Protection, *supra*, 52 Cal.App.4th at 904-905. This standard reflects a preference for requiring an EIR to be prepared, and a preference for resolving doubts in favor of environmental review. Mejia v. City of Los Angeles (2005) 130 Cal.App.4th 322, 332.

The California Supreme Court in Friends of the College of San Mateo Gardens used language similar to the fair argument test to determine whether or not changes to an approved project requires subsequent environmental review. The Supreme Court stated:

"[W]hen a project is initially approved by negative declaration, a "major revision" to the initial negative declaration will necessarily be required if the proposed modification *may* produce a significant environmental effect that had not previously been studied. [citation]

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Guidelines section 15162 requires an agency to prepare an EIR whenever there is substantial evidence that the changes to a project for which a negative declaration was previously approved *might have a significant environmental impact not previously considered* in connection with the project as originally approved, and courts must enforce that standard. [citation.]”

Friends of the College of San Mateo Gardens, Slip Opn., pp. 23-24 (emphasis added).

Under the California Supreme Court’s test, proceeding with the Alexan Project Addendum clearly violates CEQA. An agency must prepare an EIR whenever “changes to a project for which a negative declaration was previously approved might have a significant environmental impact not previously considered in connection with the project as originally approved.” *Id.*, at p. 11. Here, the Project clearly represents significant changes from the approved 2007 project that might have a significant environmental impact not considered in the 2007 MND. The Addendum purported to evaluate the environmental impacts associated with the “Modified Project,” and whether the Modified Project would “cause new significant environmental impacts or an increase in the severity of previously significant impacts that were identified in the Adopted MND.” (Alexan Project Addendum, at p. I-6.) However, the Addendum failed to consider whether impacts previously considered to be insignificant would become significant under the new Project. Important facts and assumptions relied upon in the 2007 MND for the original project are no longer applicable. The 2007 MND specifically states that no increase in FAR would occur with the 2007 project. The 2007 MND anticipated that the lower height and design configuration (which protected the Eastern Columbia Building) would be enforced.

The 2007 MND predicated its conclusion that impacts would be less than significant on historical resources, in part, on the design configuration. By contrast, the new Project’s increase in height, bulk, and configuration present new, previously unstudied, potentially significant impacts that must be addressed in an EIR. In this case, the 2007-approved structure did not violate zoning laws restricting the property to a 6:1 FAR, and adopted mitigation measures to reduce impacts to aesthetic views, and impacts to adjacent historical buildings that are cultural resources. By contrast, the currently-proposed Project eliminates these protections and violates the LAMC, thus implicating significant land use/compatibility issues as well. In addition, the Project’s baseline and circumstantial setting has changed drastically since the first MND was approved.

As such, the Project's impacts must be disclosed and addressed in an EIR.

**B. A 28% Increase In The Height Of The Building Over The 2007 Approval Would Cause Potentially Significant Impacts, Triggering The Need To Prepare An EIR.**

The project proposed in 2007, for which the City approved an MND, was for a mixed-use high-rise project containing 158 residential condominium units, and that would reach a maximum height of 246 feet. (Alexan Project Addendum, at p. 1.) The Project proposes to build a structure that includes 305 residential dwelling units, and is 320 feet tall. *Id.* The Alexan Project proposes to increase the height of the building by 74 feet, or an increase of 28%, above what was approved in the different project from 2007.

In Ventura Foothill Neighbors v. County of Ventura, the Court affirmed the trial court finding that:

“[T]he 20 percent increase in the building's height, from a maximum of 75 feet to 90 feet, was a “material discrepancy” and “a violation of CEQA.” . . . [M]ajor revisions [of the EIR] are required since the entire building height/view-shed analysis in the 1993 EIR was gauged and analyzed for a [75-foot high] building[.]” *Id.* at 434.

Furthermore, as has already been extensively documented in prior proceedings, the substantial increase in height will significantly and adversely impact important cultural resources, including the Eastern Columbia Building and other surrounding historical buildings.

**C. A 35% Increase In Total Floor Area Over The 2007 Approval Would Cause Potentially Significant Impacts Triggering The Need To Prepare An EIR.**

The 2007 project had 190,902 square feet of floor area. (Alexan Project Addendum, at p. 1.) By contrast, the Project proposes to build a structure with 257,569 square feet of floor area, an addition of 66,667 square feet, or a 35% increase in total floor area.

In American Canyon Community United for Responsible Growth v. City of American Canyon (2006) 145 Cal.App.4th 1062, 1066, the City of American Canyon sought to approve the expansion of a proposed retail development that would increase the square footage of the project by 6.5%, through the use of an addendum to a mitigated negative declaration. The Court explained that an increase in the size of a development project is a substantial change triggering subsequent environmental review. Id. at 1077. As that Court noted, “[t]he most significant change in the Project was the increase in the square footage,” and the City’s determination that the change in size did not have a significant environmental effect requiring supplemental environmental review was an abuse of discretion. Id. at 1075-1078.

**D. The Project Violates CEQA Because Of Significant Impacts To Aesthetic Views Of Historical Buildings, And Significant Impacts To Historic Resources.**

CEQA defines “environment” as “the *physical conditions* which exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance.” Pub. Res. Code § 21060.5 (emphasis added). It is the policy of the state to take all actions required “to provide the people of this state with clean air and water, enjoyment of aesthetic, natural, scenic, and historic environmental qualities, and freedom from excessive noise.” Pub. Res. Code § 21001(b).

It is well established that “a project that may cause a substantial adverse change in the significance of an historical resource is subject to CEQA.” Eureka Citizens for Responsible Government v. City of Eureka (2007) 147 Cal.App.4th 357, 374; Pub. Res. Code § 21084.1. “Substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired.” CEQA Guidelines § 15064.5(b)(1) (emphasis added).

The Los Angeles CEQA Thresholds Guide provides that the impact to aesthetic views of historical resources is significant when “The amount or relative proportion of existing features or elements that substantially contribute to the valued visual character or image of a neighborhood, community, or localized area, . . . would be removed, altered, or demolished[.]” (L.A. CEQA Thresholds Guide, at p. A.1-3.) The impacts to the Eastern Columbia Building are substantial, and the visual character of the building and surrounding historic properties will be substantially altered because they will be effectively dwarfed, and significantly blocked, by this behemoth development project.



Incredibly, the Project Addendum concludes that the proposed Project will have “no impact” on aesthetic views of historic buildings, and thereby would not damage scenic resources. (Alexan Project Addendum, at p. III-11.) First, the Addendum appears to avoid a full application of the relevant standard of significance by erroneously applying Pub. Res. Code Section 21099<sup>3</sup>, which by its own terms does not apply to historic and cultural resources and does not apply where, as here, there are more protective local policies that apply (such as design criteria). As such, action approving this Addendum does not instill public confidence in the decisionmaking on this Project, and in fact it is not entirely clear from the Addendum whether the decision to approve the Project should take into account the rest of the discussion, since the Addendum states it was “for information purposes only.” (Alexan Project Addendum, at p. I-7.)

Next, any conclusion that the Alexan’s increased size, configuration, change in setbacks, and 6-story increase in height abutting a historic clock tower in a historic core section of downtown did not present potentially significant impacts not considered in an MND prepared 9 years earlier for a different project would be an abuse of discretion because the facts clearly show that the difference between the 2016 Project and the 2006 project are certain to cause significant impacts to historic resources. At 320 feet and 27 stories (30 levels) the proposed structure would stick out like a sore thumb in this iconic neighborhood. It is out of scale with the rest of the neighborhood. If allowed to be built as currently planned, the Project would tower over and overwhelm all of the other buildings in the Historic Core. (Exh. 11 [Maps of Historic Core Area, photos, design of prior Project, and San Diego Alexan].) Furthermore, the Project will completely block 25% of the iconic Eastern Columbia Clock Tower from public view, and would block viewing of the building from developments in other parts of Downtown Los Angeles. (Id.)

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<sup>3</sup> Pub. Res. Code Section 21099(d)(1) does state that “Aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment.” Even assuming this definition applies to the Project, Pub. Res. Code Section 21099(d)(2)(B) states: “For the purposes of this subdivision, aesthetic impacts do not include impacts on historical or cultural resources.” (Emphasis added.) Thus, aesthetic impacts to historical resources, including registered historic places such as the Eastern Columbia Building, must be disclosed, analyzed and mitigated under CEQA to determine whether there is a significant impact to these scenic resources.

Adrian Scott Fine, Director of Advocacy for the Los Angeles Conservancy, noted many concerns and objections, including:

- (1) "The tower and overall massing . . . introduces a much different feel and scale than currently exists in the Historic Core."
- (2) Regarding projecting balconies on primary facades:  
"We believe this design element greatly deviates from the character and overall compatibility of the Historic Core. . . . Projecting balconies introduce an entirely new rhythm and feel and are a primary design element of The Alexan[.]"
- (3) "We . . . do not believe that projects of this scale are ultimately compatible with the existing character of the Historic Core environment."

(Exh. 10 [Los Angeles Conservancy Objection Letter].)

Significantly, the Alexan Project would be located closer to the Eastern Columbia Building than the 2007 project. To mitigate potentially significant impacts to cultural resources in the Historic Core area, the 2007 MND included as a mitigation measure that the tower of the proposed structure be set back 99 feet from the rear elevation of the Eastern Columbia Building. (Alexan Project Addendum, at p. III-72.) By contrast, the proposed Project would be located 18 feet closer, at 81 feet from rear elevation. (*Id.* at p. III-75.) The Addendum fails to engage in any adequate analysis of whether this change will have a significant impact on aesthetic views of, and the historic resource of, the Eastern Columbia Building. The spatial relationship with the clock tower to public view is part of its historic importance. As such, any impacts to the public's view must be analyzed in an EIR.

Just a few months after the applicant's environmental planner sent a letter requesting from the Planning Department that the Alexan could proceed under a mere addendum to the MND<sup>4</sup>, the Alexan proponent's expert, Craig Lawson, argued in comments on another downtown project (the Hazens Project) that an EIR should

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<sup>4</sup> Exh. 14. [January 14, 2016 Parker Environmental Consultants Letter to City Planning.]



study whether the project's height, size and proximity to a Historic Cultural Monument (such as the Eastern Columbia Building) will have a significant impact on the monument, "especially with regards to its potential to create construction that reduces the integrity or significance of important historic resource on the site or in the vicinity." (Exhibit 13, p. 5 [Lawson Letter].)

Similar to this situation, the Petroleum Building's historic sign is very much like Eastern Columbia's clock tower, which "contributes to the aesthetic vibrancy of the immediate area" and "has been a part of the urban fabric and the immediate area's visual landscape for several decades." (*Id.* at pp. 5 and 4.) In his comments to the planning department, Mr. Lawson clearly identified that the height and spacing of a proposed project which has the potential to block views to and from a Historic Cultural Monument such as the Eastern Columbia Building constitutes a potentially significant impact to historic resources which must be addressed in an EIR. Height and bulk considerations are even more important in this case because, unlike the Hazens Project, the present proposed Project *is located within and impacts the Historic Core* and threatens the historic integrity of the core environment. Certainly if a high-rise project proposed in a less-historically sensitive area such as the Hazens Project deserves an EIR, then a high-rise project proposed in a historically protected area and abutting designated Historic Cultural Monuments deserves this type of environmental review.

Moreover, the above-mentioned impacts to a Historic Cultural Monument will reverberate for decades, as once the clock tower is sandwiched behind a massive project such as the Alexan, those public views are lost, causing irreparable harm not only to the public at large but to the residents of the Eastern Columbia Building, who took such pains to preserve the historic structure's visual prominence in the historic core and whose views of such a unique and legally-protected neighborhood will be forever changed. Clearly the Planning Department when giving short shrift to the potential impacts of the proposed Alexan did not grasp the gravity of the situation.

Impacts to a historic resource and to the historic core of downtown deserve better treatment from the Planning Department and the City. Despite the lengthy page count, the Addendum is merely a *pro forma* document put together to fast track a proposed project already assumed to be approved. The Project has proposed significant changes that deviate from the different project approved in 2007 in terms of height, size, design, and corresponding impacts on historic resources and aesthetic views. The City must require preparation and circulation of a full EIR for the Project before moving forward with any entitlement applications review, much less approval.

E. Additional CEQA Study Areas, As Well As Changes In The Baseline Conditions Since 2007, Also Mandate Preparation Of An EIR.

CEQA law, including as discussed in the Ventura Foothill case and the Supreme Court's Committee for Green Foothills cited therein, refer to whether "substantial changes [have] arise[n] in the circumstances of the project's undertaking . . . ; or new information appears that was not known or available at the time the [earlier CEQA document] was certified." Ventura Foothill at 435 (emphasis added). Thus, the starting point for measuring impacts or the degree of change (again, assuming the false premise that this is simply a "modification" of the 2007 project) would be the conditions present in Downtown Los Angeles in 2007.

Substantial changes in the "project," and the surrounding environment with its changed baseline conditions, trigger preparation of an EIR. These substantial changes relate, *inter alia*, to land use and compatibility impacts, and traffic and parking impacts. Of course, the Project, which is much larger than the project approved in 2007, will generate significantly more traffic, and implicates significant land use impacts such as related to the existing D Limitation on the property.

In addition, there clearly have been significant changes in the circumstances of the Project's undertaking/environment/regulatory framework that would trigger this threshold of significance. For example, infrastructure demands have drastically changed, especially water supply issues with the historic drought and emergency water conservation requirements.

Furthermore, "nothing in the baseline concept excuses a lead agency from considering the potential environmental impacts of increases in the intensity or rate of use that may result from a project." Lighthouse Field Beach Rescue v. City of Santa Cruz (2005) 131 Cal.App.4th 1170 1196-1197. For example, the historical setting of these historical resources could be eroded by later development induced by the approval of this out of scale, high-rise, inconsistent modern building. This was never (and cannot legally be) addressed in the Addendum. It must be addressed in an EIR.

Moreover, cumulative impacts of the Alexan Project and other related projects is an issue ignored and brushed aside without sufficient analysis in the Addendum, and which requires an EIR. As stated in Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal.App.4th 1184: "Proper cumulative impacts analysis is absolutely critical to meaningful environmental review" (*id.* at 1217), and "questions

concerning . . . cumulative impacts constitute important issues of broad public interest that are likely to reoccur.” Id. at 1203.

Cumulative impacts are defined as “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” Guidelines, § 15355. “The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects.” Guidelines, § 15355(b); emphasis added.

As the Supreme Court has stated, without proper consideration of cumulative impacts, this critical issue may be “submerged,” with potentially “disastrous consequences” to the environment. Bozung v. Local Agency Formation Com. (1975) 13 Cal.3d 263, 283-284.

There are several cumulative impacts that must be addressed in an EIR for this project, including, among other things, traffic, noise, GHG emissions, water supply and infrastructure. For example, circumstances in the past 9 years since the original MND was circulated have changed drastically regarding the ability of the City of Los Angeles to provide adequate water for its citizenry, requiring emergency measures.<sup>5</sup> Despite this obvious and well-reported fact representing a substantial change in circumstances, the City proceeded with an Addendum to an MND. Moreover, instead of ensuring capacity, the Addendum states the city “should” have water capacity for this new infill project. (Alexan Addendum, p. III-227 [“sufficient water pressures and volumes should be available”].) This language, in light of the City’s failure to assess infrastructure, is more evidence that such issues must be fully addressed in an EIR.

The application and proposed Project, as addressed above, present numerous inconsistencies with the General Plan, Community Plan, and Design Guidelines. These inconsistencies are not adequately addressed in the Addendum (as required by CEQA) and in fact must be addressed in an EIR. CEQA Guidelines Section 15125(d). The inconsistencies result in significant impacts and potentially significant impacts on the environment, including, but not limited to, impacts to historic resources.

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<sup>5</sup> See City of Los Angeles, Mayoral Executive Directive No.5, website: [http://www.lamayor.org/executive\\_directive\\_5\\_emergency\\_drought\\_response\\_creating\\_a\\_water\\_wise\\_city](http://www.lamayor.org/executive_directive_5_emergency_drought_response_creating_a_water_wise_city)

**VII. THE UNLIMITED RESIDENTIAL DENSITY SET FORTH IN THE GREATER DOWNTOWN HOUSING INCENTIVE AREA ORDINANCE IS UNLAWFUL AS APPLIED TO THE PROJECT BECAUSE IT IS FACIALLY INCONSISTENT WITH BOTH THE GENERAL PLAN FRAMEWORK INFRASTRUCTURE MONITORING OBLIGATION AND THE GENERAL PLAN CONSISTENCY PROGRAM.**

The City claims that residential unit density limits, setbacks, and other rules formerly applicable to projects in the City Center Community Plan area, were “eliminated” with the City’s enactment of the Greater Downtown Housing Incentive Area ordinance (“Incentive Ordinance”). This claim is without support or substance because an unlimited residential unit density rule purports to override the General Plan Framework and City Center Community Plan population growth estimates, and the limited residential unit density imposed via the zoning code as part of the City’s General Plan Consistency Program.

The City’s General Plan Framework, Policy 3.3.2, imposes a crucial mandate upon the City to monitor growth and infrastructure, and adjust authorized growth whenever the City determined that growth was outstripping the capacity of the City’s infrastructure. This process was supposed to be implemented via an Annual Infrastructure Report. The Annual Infrastructure Report is also incorporated into all of the City’s community plans, including the City Center Community Plan at pages 20 and 21.

To the best of our knowledge, in the 20 years since the 1996 adoption of the Framework, the City has prepared only two Annual Infrastructure Reports. In essence, the City is “flying blind.” Failure to monitor growth against infrastructure – as mandated as an adopted mitigation measure to the Framework and the various community plans – means the City has no idea whether the cumulative impact of dense project approvals in Downtown is within Community Plan projections, or far exceeding them. See, e.g., the Fix The City Infrastructure Position Paper dated August 11, 2014 for a detailed analysis of the far reaching negative impact of the City failing to monitor its infrastructure capacity. (Exhibit 15.)

In addition to the infrastructure monitoring program, in the 1980s the City was required to carry out a General Plan Consistency Program. This Program required the City to make its zoning code residential unit density, floor area ratio limits, and height limits consistent with the projected population and realistic carrying capacity of the City’s infrastructure in each community plan. This program resulted in downzoning of residential unit density, floor area ratio limits, and height limits across the City. As

discussed in this letter and exhaustively documented in **Exhibit 3**, the 6:1 FAR limit was imposed upon the subject lot for this Project. Additionally, the residential unit density was limited under the zoning to one unit per 200 square foot of lot area in a C5 zone. Apparently, the City recently enacted the Incentive Ordinance which purports to eliminate the residential unit density limit. The very suggestion of a zoning code provision allowing unrestrained residential unit density is antithetical to the City Charter and State Planning Code requirement that cities, including charter cities like Los Angeles, must have General Plans. One of the essential elements of a General Plan is to identify realistic population estimates and allocate the residential density across the General Plan, and in the Housing Element to provide for such projections. To have a portion of the City where there is no limit on residential density is to illegally reject the entire premise of General Plans.

The City may not lawfully apply the Incentive Ordinance to this Project because such intense residential density increases the FAR and the uncounted parking areas of the building. Such intense residential unit density triggers a cascade of negative impacts which the Frameworks Infrastructure Monitoring Plan and the General Plan Consistency Program were intended to avoid by incorporating development limits into the City's plans. Because this property is zoning commercial, it is limited to not more than 1 unit per 200 square feet of lot area. To the extent this Project exceeds the C5 limit in the City's general zoning and provided for in the City Center Community Plan, the Incentive Ordinance, in accordance with the mandate of Government Code Section 65860(d), may not override the limits of the Framework Element and the City Center Community Plan as implemented in the City's C5 zoning and the 6:1 FAR limit.

Finally, the Project is also inconsistent with the General Plan Framework Element in that no Annual Report addressing infrastructure has been produced by the Department in over 15 years. (Exh. 15.) An EIR for this Project must address potentially significant impacts to infrastructure. No mention of this inconsistency is made in the Addendum, despite changes in circumstances regarding, *inter alia*, the City's aging infrastructure, the intense drought causing a state of emergency, and intense building in the Downtown area. The application states that the change in the Project was prompted by an effort on the part of the developer to "take advantage" of Greater Downtown Housing Incentive Ordinance (Ord. No. 179,076, Eff. September 23, 2007) which purports to "permit reduced yards, redefines 'buildable area' to be consistent with 'lot area,' permits no prescribed percentage between private and common open space, and eliminates density requirements so long as the total floor area utilized by guest rooms does not exceed the total floor area utilized by dwelling units." However, that ordinance was passed 9 years ago in 2007, just after the original project was approved.



An EIR must address and take into account how many other projects have undoubtedly “taken advantage” or have recently applied to take advantage of this ordinance, as well as the general explosion of development in Downtown in the last decade, during a time when it is clear – one need only look at things like our constant traffic gridlock, decreased police and emergency response times, and bursting water mains – that the City cannot keep up with infrastructure demands.

The City must comply with CEQA and provide the public and decision makers with adequate information in an EIR regarding the true environmental impacts of the Project, and must propose alternatives and mitigation measures that would lessen those impacts. As our Supreme Court has held: “The EIR is the heart of CEQA, and the mitigation and alternatives discussion forms the core of the EIR.” In re Bay-Delta Programmatic Envtl. Impact Report Coordinated Proceedings (2008) 43 Cal.4th 1143, 1162.

**VIII. THE APPLICANT HAS FAILED TO DEMONSTRATE THAT IT CANNOT PROVIDE RESIDENTIAL UNITS ON ALL PARKING LEVELS.**

The land use consultant for the Applicant, Craig Lawson, recently pointed out in a letter representing a different property owner – which is opposing a proposed project in Downtown – that the Downtown Design Guidelines are incorporated into the City Center Community Plan as a mandatory compliance element. (City Center Community Plan, p. 21 [consistency requirement for design guidelines on discretionary projects].)

Curiously, when representing the Applicant here, Mr. Lawson’s correspondence in this case omits this critical fact in his analysis of Appellant’s objections to this Project.<sup>6</sup>

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<sup>6</sup> Counsel for SP-DTLA became aware of and received Mr. Lawson’s 166-page “Appeal Response” via a 5:26 p.m. October 17, 2016 email, in response our request to the City for any submittals by the Applicant. We have not been able to review the majority of that submission from Mr. Lawson, but preliminarily note many errors, including in its description of the holding of the Supreme Court’s recent Friends of the College of San Mateo Gardens decision. We reserve the right to further respond to Mr. Lawson’s 166 pages, and to supplement as to any other subject. We also note that Councilman Huizar’s office has violated the Public Records Act, Govt. Code 6250 et seq., by failing to respond to our CPRA requests. We reserve the right to supplement these objections, and to augment the administrative record in any litigation, due to such violations of law by the City. Code Civ. Proc. Sec. 1094.5(e).

Appellant agrees with Mr. Lawson that the Downtown Design Guidelines are a mandatory requirement to demonstrate consistency with the City Center Community Plan. Apparently, the Project has been modified again and now there are two underground levels of parking and residential units are shown lining the street frontages of Levels 5 and 6 of the massive parking podium. But the record is devoid of any evidence demonstrating that it is not feasible to provide residential units on the street frontages of Levels 2, 3 and 4.

The Design Guidelines make residential units mandatory for all street frontages unless "the project sponsor demonstrates that it is not feasible to line the parking with habitable space above the ground floor." (Exhibit 9, p. 20.) The Applicant just recently proposed to modify the building to add another below ground level of parking. There is no reason the Applicant cannot add another level below ground and provide 100% residential units lining the street frontages of this building's parking podium to comply with the Design Guidelines.

Only if it is somehow not feasible to provide residential units lining all parking levels may the Applicant be allowed to have one, two, or at most three levels of visible parking. Having failed to demonstrate it is physically impossible to do so (cost is not a permissible factor regarding feasibility), the Project further violates the Design Guide, and thus the Community Plan.

A finite Project description that includes this and all other Project changes should be included in a proper CEQA document, i.e., a Draft EIR, which is circulated to the public, the decision makers, and all responsible and trustee agencies. An "accurate, stable, and finite project description is the *sine qua non* of an informative and legally sufficient" CEQA document. County of Inyo v. City of Los Angeles (1977) 71 Cal.App.3d 185, 193. Without an accurate, fixed, and stable project description, the decision makers and the public cannot know what project is being approved, and without that knowledge, cannot know either what the environmental impacts of the project will be, or whether they will be adequately mitigated. That is why CEQA requires that "the defined project and not some different project must be the EIR's bona fide subject." Burbank-Glendale-Pasadena Airport Authority v. Hensler (1991) 233 Cal.App.3d 577, 592.

Central Area Planning Commission  
October 18, 2016  
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**IX. CONCLUSION.**

For all of the foregoing reasons, the Project as currently proposed must be denied.  
Thank you for your courtesy and attention to these important issues.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert P. Silverstein / jmr". The signature is written in a cursive, flowing style.

ROBERT P. SILVERSTEIN

FOR

THE SILVERSTEIN LAW FIRM, APC

RPS:jmr  
Attachments



# EXHIBIT C

---

# **THE SILVERSTEIN LAW FIRM**

*A Professional Corporation*

215 NORTH MARENGO AVENUE, 3RD FLOOR  
PASADENA, CALIFORNIA 91101-1504

PHONE: (626) 449-4200 FAX: (626) 449-4205

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WWW.ROBERTSILVERSTEINLAW.COM

October 25, 2016

## **AGENDA ITEM NO. 7**

### **VIA PERSONAL DELIVERY**

Central Area Planning Commission  
Attn: Renee Glasco, Comm'n Secretary  
City of Los Angeles  
200 N. Spring Street, 10th Floor  
Los Angeles, CA 90012

Re: SP-DTLA Partial Responses to City Recommendation Report and  
Developer's October 18, 2016 Letter re:  
Alexan Project located at 850 S. Hill Street, Los Angeles;  
DIR-2015-2976-TDR-SPR; ENV-2006-6302-MND

Honorable Central Area Planning Commissioners:

### **I. INTRODUCTION.**

This firm and the undersigned represent the Society for the Preservation of Downtown Los Angeles ("SP-DTLA"). This supplemental objection letter provides additional legal arguments in connection with the proposed Alexan project's ("Project") land use and environmental deficiencies. As discussed in our prior filings to this body and below, the Project entitlements cannot legally be approved. We urge you to grant the appeals before you and reject the Project as currently proposed.

### **II. THE CITY'S PROCEDURES AND RULES RELATED TO SUBMISSION OF ARGUMENT AND EVIDENCE TO THE RECORD WILL DEPRIVE APPELLANTS OF DUE PROCESS OF LAW.**

We enter our objection to the City's failure to adopt fair procedural hearing rules — especially with regard to allowing City staff or a developer to wait until the last moment before dropping a mass of argument and evidence as an effort to sandbag land use appellants.

Last Friday, October 21, 2016, our firm received from the City a copy of a letter from the Project developer's counsel bearing a date of October 18, 2016. We believe the letter was actually submitted on October 19 or 20, 2016, after the date and time when it

Central Area Planning Commission

October 25, 2016

Page 2

would have been included in the packet sent to the CAPC. The Commission's own stamped received record should indicate. The developer's letter and exhibits (also referred to as the "Liner/Leaderman Letter" in a separate October 24, 2016 letter from our firm to the APC) run on for about 100 pages.

The City continues to conduct land use appeal hearings without requiring all parties to submit materials by a certain date far enough in advance of the hearing so that both parties have time to reasonably review and respond to the argument and evidence. These failures and omissions of the City, particularly where the decision making body approves the project and denies the appeal, endanger the due process rights of appealing adjoining property owners and others with significant and constitutionally protected interests.

The proper cure for this ongoing infirmity is to direct the parties to respond to each other's written submissions and set a date sufficiently prior to a continued Area Planning Commission meeting where all argument and evidence may be fairly considered. Within the extremely limited time SP-DTLA had to review the City's staff report and voluminous argument and exhibits belatedly filed by the developer, the following comments could only be considered a partial response.

As SP-DTLA has been denied a reasonable period of time to research and fully respond to the City staff report and developer arguments and exhibits and to make a full administrative record for potential court review of the City's actions, SP-DTLA has been denied its rights to procedural due process of law.

**III. AS A PRELIMINARY MATTER, THE AREA PLANNING COMMISSION SHOULD VIEW THE DEVELOPER'S AD HOMINEM ATTACKS AS ADDITIONAL EVIDENCE OF THE LACK OF MERIT OF THE DEVELOPER'S ARGUMENTS.**

In a separate letter dated October 24, 2016, our firm has responded to the unfounded and ad hominem attacks leveled by the developer and its counsel on attorneys of this firm, and of the firm representing the other Appellant in this matter.

The Commission members should not be distracted from their task to review and assess each land use case on its merits. As First Lady Michelle Obama counsels: "When they go low, we go high." If considered at all, the Liner/Leaderman Letter should be considered additional evidence of the lack of merit of the substantive arguments Liner tries to make on behalf of the developer for the remainder of the letter.

**IV. THE CITY STAFF REPORTS /DEVELOPER LETTERS EVADE DISCUSSING CRITICAL INFIRMITIES WITH THE TFAR ORDINANCE; THIS IS AN ACKNOWLEDGEMENT OF THE FATAL PROBLEMS WITH THE PROPOSED PROJECT APPROVALS, AS RAISED IN SP-DTLA'S ANALYSIS.**

The Liner/Leaderman Letter seeks to “thread the needle” with an attempt to interpret the legality of LAMC Section 14.5.7, but without reference to the specific infirmities raised in detail, and supported with relevant City documents, in our September 6, 2016 and October 18, 2016 letters.<sup>1</sup> Additionally, similar evasion occurs throughout the City’s Recommendation Report.

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<sup>1</sup> We note that at page 30, line 1 of our October 18, 2016 letter there is an inadvertent reference to “Exhibit 3” in relation to the City’s General Plan Consistency Program for the City Center Community Plan. Exhibit 3 is actually a SP-DTLA analysis unrelated to the Consistency Program. SP-DTLA instead refers you to the General Plan Consistency Program file (CPC-86-606-GPC) and Council File No. 87-2328, both incorporated herein by this reference, whose contents demonstrate that the density and FAR limits imposed in 1988 were a mitigation measure to avoid significant negative environmental impacts upon the City’s infrastructure. We attach portions of the environmental review documents from CPC-86-606-GPC at Exhibit 3. This exhibit establishes that the 1974 Central City Community Plan EIR was re-circulated in 1987 as the draft and final EIR for the Central City Community Plan General Plan Consistency Program.

As discussed therein, the Central City Community Plan and its General Plan Consistency Program implementation, including adoption of the General Plan Consistency Ordinance in Council File 87-2328 with its D limitation, and normal zoning restrictions on residential density imposed on the Project site, mean that limitations throughout the Community Plan of maximum FAR and maximum residential density were mitigation measures to prevent significant impacts from allowing densities higher than that authorized. Later adopted City ordinances that purport to “abolish” the residential density limit and allow Transfer of FAR without actually limiting the increase in FAR from somewhere else in the Plan Area, are inconsistent with the Community Plan, and therefore invalid as applied to the Alexan Project. Additionally, the City’s recent ordinances (amendment of Article 14.5 concerning TFAR, and the Greater Downtown Housing Incentive Ordinance), inconsistent as they are with the General Plan, also violated Government Code Section 65860(d), which mandates that the City keep its zoning ordinances consistent with the General Plan, including the density limits imposed as part of the 1987 General Plan Consistency Program.

For instance, our letters at Section III analyzed definitions of critical terms used in LAMC Article 14.5, pointing out inconsistencies, yet the City Recommendation Report and Liner/Leaderman Letter offers no explanation for these fatal inconsistencies – especially the complete inapplicability of a Director's Determination regarding transfer of density for a project site within the City Center Redevelopment Plan area.

We also included Exhibits 4, 5, 6, and 7 to provide the Commissioners with critical portions of the legislative history of the enactment of the TFAR ordinance. Those documents directly support our arguments regarding the TFAR ordinance; however, the Liner/Leaderman Letter provides Commissioners with "Exhibit D," which literally is a one-page transmittal letter signed by the City Planning Commission's Executive Assistant reporting the Commission's approval of the TFAR ordinance. This transmittal letter's abbreviated summary of the content of the ordinance in no way constitutes any of the basic legislative history of the TFAR ordinance. Apparently, the City and developer believe the Commissioners will not delve into SP-DTLA's exhibits, which demonstrate the validity of our arguments. This occurs throughout both the City Recommendation Report and the Liner/Leaderman Letter where broad generalized denials of the legitimacy of SP-DTLA's objections try to pass as "analysis." Accordingly, SP-DTLA's arguments and supporting exhibits stand without significant rebuttal by the City or Liner.

**V. THE PLANNING DEPARTMENT HAS FAILED TO PROCEED IN ACCORDANCE WITH LAMC SECTION 16.05G REGARDING SITE PLAN REVIEW WHICH MANDATES PROJECTS IN REDEVELOPMENT PROJECT AREAS BE ENVIRONMENTALLY REVIEWED BY THE CRA, NOT THE CITY.**

Our research reveals another violation of the municipal code with respect to both the original Project and the so-called Modified Project (a false description, as this is a new project) now sought by the new developer.

LAMC Section 16.05G mandates that environmental review of a Project's Site Plan proposed within adopted redevelopment project areas be conducted by the CRA, not the City. As shown on the front page of the CRA/LA's website at <http://www.crala.org/internet-site/index.cfm>, "Notice: ABx1-26 does not abolish the 31 existing Redevelopment Plans. The land-use authorities in the Redevelopment Plans remain in effect and continue to be administered by the CRA/LA until transferred to the Department of City Planning." (Exhibit 1.) Unless that occurs, and it has not, the CRA is the Lead Agency.

The City failed to proceed in accordance with law when the original project was proposed, and it continues its unlawful conduct by usurping the power and authority of the CRA/LA, the successor agency to the CRA, which today exercises all authority of the former redevelopment agency.

Section 16.05G provides:

**G. Procedure.**

1. **Site Plan Review Application.** Application for the site plan review shall be filed in any public office of the Department of City Planning, upon such forms and accompanied by applicable fees, a site plan drawn to scale, and other information prescribed by the Director for that purpose. The application shall be verified by either the property owner, lessee, owner in escrow, or a legally authorized agent.

2. **Environmental Review.** As part of the application for site plan review, the applicant shall file necessary forms and information for environmental review as prescribed by the Director. The Director, or his/her designee, shall cause to be prepared, concurrently with the review and approval of the site plan, the required environmental studies and notices for the project, except that in the adopted redevelopment project areas, the CRA shall assume lead agency responsibilities for environmental review of all projects subject to the provisions of this section and shall prepare the required environmental studies and notices.

3. **Notice – Hearing – Time Limits.**

a. The Director shall refer all completed applications for site plan review to affected City departments for their review and report. For projects in adopted redevelopment project areas, the completed



applications shall be sent to the Administrator of the CRA for review and report as to conformity with the adopted Redevelopment Plan applicable to the project. Responses shall be returned within fifteen (15) days after receipt, or such other period agreed to by the Director and the affected agency or department.

b. (Amended by Ord. No. 173,992, Eff. 7/6/01.) If the Director finds that the matter may have a significant effect on neighboring properties, the Director shall set the matter for public hearing. If the application is set for public hearing, written notice of the hearing shall be sent by First Class Mail at least 15 days prior to the hearing to the applicant, owners and tenants of the property involved, owners and tenants of all property within 100 feet of the boundary of the subject site, the City Councilmembers representing the area in which the property is located, the Administrator of the CRA for projects within an adopted redevelopment project area, and any organization representing property owners or the community in the project vicinity if they request in writing to be notified. Notice shall also be given by at least one publication in a newspaper of general circulation in the City, designated for that purpose by the City Clerk, not less than 15 days prior to the date of the hearing.

c. The Director shall grant, conditionally grant or deny site plan approval within sixty (60) days after:

- (1) the date of filing of an application, or
- (2) where an EIR is required, the date the EIR is certified as complete.

This time limit may be extended up to forty-five (45) days by mutual consent of the applicant and the Director. The time limit shall also be extended if

necessary to prepare and process an EIR, as provided in Section 12.25A of this Code.

d. The Director shall send notice of the determination to the applicant and the interested parties listed in Section 16.05G3(b) of the determination by First Class Mail. Failure to receive notice shall not invalidate any action taken pursuant to this section. (Amended by Ord. No. 172,489, Eff. 4/16/99.) (Emphasis added.)

Section 16.05G lists numerous mandatory duties incumbent upon the City and the CRA/LA, which SP-DTLA has been unable to confirm were followed.

On September 8, 2016, our office filed a California Public Records Act request with the CRA/LA seeking all communications and documents related to the Project. On September 13, 2016, the CRA/LA responded by stating: "We have conducted a search of our records and did not locate any documents pertaining to the proposed Alexan Project located at 850 S. Hill Street." A copy of the CRA/LA's response is attached hereto at Exhibit 2.

Based upon the CRA/LA's response, further evidence exists showing the City has violated the mandatory duties to:

- (1) refer the original and the "Modified Project" to the CRA/LA for environmental review as the lead agency;
- (2) send the completed applications to the CRA/LA for a determination regarding consistency with the redevelopment plan; and
- (3) provide the CRA/LA with notice of its determination.

Instead, the City's conduct "has the process exactly backward[.]" Berkeley Keep Jets Over the Bay v. Board of Port Commissioners of the City of Oakland (2001) 91 Cal.App.4th 1344, 1371.

The CRA/LA has a critical environmental review and consistency analysis role required as the lead agency, fulfillment of which is a prerequisite before the Planning Director could take action on a Site Plan Review for a project located within an adopted redevelopment project area, as this project is. Accordingly, this constitutes another series of failures by the City to proceed in accordance with law.

The City's Recommendation Report essentially admits the truth of this fact when, in connection with the related variation to approve an increase in density, it states at page 11:

"A variation has not been granted by the CRA/LA, A Designated Local Authority (CRA), as is separately required by Redevelopment Plan Sections 512.6 and 520. If the herein project is approved, the project will be required further approval by the CRA prior to the issuance of any permits, at which time the appropriate findings will need to be made. The CRA request is separate and apart from the action before you."

Thus, the City Recommendation Report, by its omission of any discussion of the CRA/LA's role in reviewing the Site Plan Review, is substantial evidence of the City's failure to comprehend and/or apply its own laws.

Even worse, the City seems to suggest that the CRA/LA's approval of a density variation is not a discretionary determination by the CRA/LA's governing board. Such approval may not simply be made by the CRA/LA staff "prior to issuance of permits." It is a central entitlement not disclosed or discussed by the City until SP-DTLA brought it up in appeal papers.

## **VI. CONCLUSION.**

Time has not permitted SP-DTLA to fully review and respond to the City's Recommendation Report and the Liner/Leaderman Letter. Accordingly, SP-DTLA specifically objects to the lack of time to fully review and prepare responses for the administrative record.

Despite the due process violations, and based upon the partial review set forth herein, there simply is no authority for the Central Area Planning Commission to sustain the Planning Director's determination. SP-DTLA's appeal must be granted in full and

Central Area Planning Commission  
October 25, 2016  
Page 9

the Project returned to City Planning officials to follow the City's laws and comply with environmental laws that mandate an environmental impact report for this Project.

Very truly yours,

A handwritten signature in black ink, appearing to read "Daniel Wright". The signature is fluid and cursive, with the first name "Daniel" and last name "Wright" clearly distinguishable.

DANIEL WRIGHT

FOR

THE SILVERSTEIN LAW FIRM, APC

DEW:jr  
Encl.

**CENTRAL APC  
DETERMINATION  
LETTER**

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## CENTRAL AREA PLANNING COMMISSION

200 N. Spring Street, Room 532, Los Angeles, California, 90012-4801, (213) 978-1300

[www.planning.lacity.org](http://www.planning.lacity.org)

DETERMINATION MAILING DATE: NOV. 15 2016

CASE: DIR-2015-2976-TDR-SPR-1A  
CEQA: ENV-2006-6302-MND-REC-1  
Plan Area: Central City

Council District: 14 – Hulse  
Zone: C5-4D

PROJECT SITE: 850 SOUTH HILL STREET  
(840, 844, 846, 848, 850, 852, 856 SOUTH HILL STREET;  
217, 219, 221, 223, 223 ½, 225 WEST 9<sup>TH</sup> STREET)

Applicant: Garth Erdosy, Maple Multi-Family Land CA, L.P.  
Representative: Alex Irvine, Craig Lawson & Co., LLC

Appellants: Alex Hertzberg, Society for the Preservation of Downtown Los Angeles  
Sheila Swanson, Eastern Columbia Homeowners Association

At its meeting of **October 25, 2016**, the **Central Area Planning Commission** took the following actions related to the following project:

The modification of a previously approved project to allow the construction of a 27-story (approximately 320-feet above grade), mixed-use residential project with 305 dwelling units and 6,171 square-feet of ground floor commercial space with a total of 336 vehicular and 342 bicycle parking spaces. The modified project includes development of approximately 257,569 square-foot of floor area with a proposed floor area ratio (FAR) of 7.45:1, based on a Transfer of Floor Area Rights ("TFAR") request.

1. **FIND**, based on the independent judgment of the decision-maker, after consideration of the whole of the administrative record, the project was assessed in Mitigated Negative Declaration, No. **ENV-2006-6302-MND** adopted on July 28, 2016; and pursuant to CEQA Guidelines 15162 and 15164, as supported by the addendum dated April 22, 2016, no substantial revisions are required to the Mitigated Declaration; and no subsequent EIR or negative declaration is required for approval of the project.
2. **DENY** the appeals of the Director of Planning's Determination to approve the Transfer of Floor Area and Site Plan Review associated with the proposed project.
3. **SUSTAIN** the decision of the Director of Planning.
4. **ADOPT** the attached Conditions of Approval as modified by staff and the technical modifications dated October 25, 2016.
5. **ADOPT** the attached Findings.
6. **ADVISE** the applicant that, pursuant to the State Fish and Wildlife Code Section 711.4, a Fish and Wildlife and/or Certificate of Game Exemption is now required to be submitted to the County Clerk prior to or concurrent with the Environmental Notices and Determination (NOD) filing.



Central Area Planning Commission  
Determination Letter  
DIR-2015-2976-TDR-SPR-1A

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.

This action was taken by the following vote:

**Moved:** Delgado  
**Seconded:** Chung Kim  
**Ayes:** Oh  
**Absent:** Chermirinsky

**Vote:** 3 - 0

This action is not further appealable and is effective upon the mailing of this notice

  
\_\_\_\_\_  
Renee Glasco, Commission Executive Assistant I  
Central Area Planning Commission

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachments: Findings, Conditions of Approval

c: Notification List  
Jenna Monterrosa  
Nicholas Hendricks

**MODIFIED CONDITIONS OF APPROVAL****A. ENTITLEMENT CONDITIONS**

The approval is subject to the following terms and conditions:

1. **Site Plan.** The use and development of the subject property shall be in substantial conformance with the site plan and elevations labeled Exhibit "A" included in the subject case file. Minor deviations which result in a total floor area that is less than 257,569 square feet may be allowed in order to comply with provisions of the Municipal Code, the subject conditions, and the intent of the subject permit authorization.
2. **Use.** The project shall be limited to a mixed-use building with up to 305 residential units and up to 6,171 square feet of commercial floor area.
3. **Floor Area.** Development on the subject property shall be limited to a 7.45:1 Floor Area Ratio (FAR), or a total floor area of up to 257,569 square feet. No deviations which result in more than 257,569 square feet of development shall be permitted.
4. **Height.** The building height shall not exceed 320 feet, which shall be measured according to the Los Angeles Municipal Code. Any structures on the roof, such as air conditioning units and other equipment shall be fully screened from view of any abutting properties.
5. **Parking.** On-site parking shall be provided in compliance with the commercial and residential parking requirements of the LAMC.
6. **Bicycle Parking.** On-site bicycle parking shall be provided in compliance with the commercial and residential parking requirements of the LAMC.
7. **Landscaping.** All open areas not used for buildings, driveways, parking areas, recreational facilities, or walks shall be attractively landscaped, including an automatic irrigation system, and maintained in accordance with a landscape plan prepared by a licensed landscape architect or licensed architect.
8. **On-Site Trees.**
  - a. Based on 305 proposed dwelling units, the project shall provide 76 on-site trees, pursuant to Section 12.21-G.2(a)(3) of the Los Angeles Municipal Code, or one (1) 24" box tree per every four (4) units, whichever is greater.
  - b. In the event that the 76 trees cannot be accommodated on the project site, the applicant shall make arrangements with City Plants to have the trees planted off-site. The first priority for the location of off-site plantings shall be within the Central City Community Plan Area. If trees cannot be planted within the Central City Community Plan Area, the location shall be determined by City Plants.
  - c. The applicant shall provide funds to City Plants equivalent to those necessary for the trees, concrete cut, planting, and five years of watering and maintenance for each tree. An agreement with City Plants demonstrating compliance with this condition shall be furnished at the time of Building Permit Clearance. Contact City Plants, at (213) 473-9950 to execute the agreement.

- d. In the event that the number of residential units is reduced, the minimum number of 76 trees to be planted on-site shall not be reduced. However, the number of trees to be planted off-site shall be recalculated per LAMC requirements.
9. **Exterior Lighting.** Exterior lighting for the building shall comply with Downtown Design Guide Section 8.F.
- a. Outdoor lighting shall be designed and installed with shielding, such that the light source does not illuminate any adjacent properties, the public right-of-way, or the above night skies.
10. **Maintenance.** The subject property (including any trash storage areas, associated parking facilities, sidewalks, driveways, yard areas, parkways, and exterior walls along the property lines) shall be maintained in an attractive condition and shall be kept free of trash and debris.
11. **Public Benefit Payment.** The Project is subject to and shall pay a Public Benefit Payment in conformance with Section 14.5.9 of the Los Angeles Municipal Code (LAMC). Based on the appraised value of \$19,000,000.00, the applicant shall provide a Public Benefit Payment in the amount of \$1,830,671.10. Consistent with the TFAR Ordinance, at least 50 percent of the Public Benefit Payment shall consist of a cash payment by the applicant to the Public Benefit Payment Trust Fund and up to 50 percent (or \$915,335.55) of the Public Benefit Payment may be paid as a Direct Provision of Public Benefits.
- a. The Applicant shall pay the required Public Benefit Payment, less the cost of the Direct Provision of Public Benefits, in cash to the Public Benefit Trust Fund, pursuant to the terms of Transfer of Floor Area Rights Ordinance No. 181,574, Article 4.5 of the LAMC. The Public Benefit Payment proof of cash payment and direct provision of public benefits is required upon the earliest occurrence of either:
    - i. The issuance of the building permit for the Project; or
    - ii. Twenty-four months after the final approval of the Transfer and expiration of any appeals or appeal period should the Applicant not make the required payments within the specified time the subject approval shall expire, unless extended by the Director of Planning in writing.
  - b. The Public Benefit Payment shall be pro-rated to the amount of TFAR being acquired in the event that maximum amount of TFAR approved is not required. During clearance, the final appraised value may be subject to verification prior to payment of the Public Benefit Payment.
12. Prior to the issuance of a building permit, the designs for the proposed new building adjacent to historical resources shall be reviewed, commented on and approved for conformance with Secretary's Standards. Design review shall be performed by a preservation architect meeting the Secretary of the Interior's Professional Qualifications Standards in historic architecture and in consultation with the Department of City Planning's Office of Historic Resources and Expedited Processing Section. The preservation architect shall be an impartial third party, different than any preservation architect who may have reviewed the project previously, chosen by the Department of City Planning, and paid for by the Applicant. Any recommended modifications to the project design shall be in substantial conformance to the approved architectural plans analyzed in the Addendum to the adopted MND and

**attached to this approval as Exhibit A, and shall be administratively reviewed and accepted by the Department of City Planning prior to issuance of a building permit for the new building.**

Recommended modifications shall be incorporated in the design prior to issuance of building permits for the new building.

- a. The qualified preservation architect shall hold a valid license to practice architecture in the State of California and have a minimum of 10 years specific experience rehabilitating historic buildings and applying the Secretary's Standards to such projects. In consultation with the Department of City Planning's Office of Historic Resources and Expedited Processing Section, the qualified preservation architect will assess design of the proposed new building for its compatibility in mass, materials, relationship of solids to voids, scale and color with immediately adjacent identified historical resources and with the character of its surroundings. "The relationship of buildings to each other, setbacks... views, driveways and walkways and street trees together create the character of a district or neighborhood." Without imitating the features of historic buildings, the design for adjacent contemporary buildings should: use similar or complimentary materials, repeat and/or respect the heights of floors, rhythms and depths of bays, use compatible window/door openings and types, and correspond to roof heights and shapes, all of which will help maintain the existing character of the area. A letter summarizing the qualified preservation architect's findings shall be submitted to the Department of City Planning's Office of Historic Resources and Expedited Processing Section to establish the proposed project's conformance with the Secretary's Standards and compatibility with historical resources prior to issuance of any building permit for the proposed project.
  - b. Any approved design edits shall be stamped and included in the subject case file and serve as a supplemental to the herein approved Exhibit "A." In no case may the design edits result in a building containing more than 257,569 square feet of development.
13. **Downtown Design Guidelines.** The proposed project as depicted in Exhibit "A" shall comply with the following Downtown Design Standards:
- a. **Sidewalks and Setbacks.**
    - i. A building may project over the required sidewalk easement above a height of 40' and below a depth of 5' to accommodate street trees. Projections, which are permitted in the public ROW by the Municipal Code, such as signs, canopies and awnings, are permitted over the required easement, subject to the same approvals.
  - b. **Ground Floor Treatment.**
    - i. The project shall provide ground floor retail space to a depth of at least 25 feet from the façade and include an average 14'-0" floor-to-ceiling height.
    - ii. The primary entrance to each street level tenant space that has its frontage along a public street shall be provided from that street.

- iii. One building entrance shall be located on Hill Street. Such entrance shall provide access to the building's main lobby and shall be kept unlocked during business hours.
  - iv. Wall openings on the ground floor, including storefront windows and doors, shall comprise at least 75 percent of a building's street level façade along Hill and 9<sup>th</sup> Streets.
  - v. The project shall provide clear glass for all wall openings along Hill and 9<sup>th</sup> Streets. Dark tinted, reflective, or opaque glazing is not permitted for any required wall opening along both street level façades.
  - vi. Ground-floor window and door glazing shall be transparent and non-reflective.
  - vii. The project's electrical transformers, mechanical equipment, and other equipment shall not be located along the project's ground floor along Hill or 9<sup>th</sup> Streets.
- c. Parking and Access.
- i. No more than the minimum Municipal Code required parking shall be provided on-site, unless provided for public use.
  - ii. Except for the ground level frontage required for access, no parking or loading shall be visible on the ground floor of any building façade that faces Hill or 9<sup>th</sup> Streets.
  - iii. Parking, loading, or circulation located above the ground floor shall be integrated into the design of the building façade.
  - iv. Drop-off activities for residential and commercial uses shall be provided within the off-street parking facilities using the parking access.
  - v. Parking and loading access shall be located a minimum of 25 feet from a primary building entrance, pedestrian paseo, or public outdoor gathering area.
  - vi. Where a vehicular exit from a parking structure is located within 5 feet of the back of sidewalk, a visual/audible alarm shall be installed to warn pedestrians and cyclists of exiting vehicles.
  - vii. The Proposed Project's parking podium's southern and eastern facing façades shall be completely enclosed and feature a green wall. The podium of the proposed project, as it wraps the Eastern Columbia Building's utility yard, shall be completely enclosed and include a green wall.
  - viii. Mirrors shall be installed mirrors at the Project's garage entrances for pedestrian safety.
- d. Massing and Street Wall.

- i. The project shall maintain an identifiable break between the building's ground floor commercial uses, podium parking levels, and the residential floors. This break may consist of a change in material, change in fenestration, or similar means.

e. On-Site Open Space.

- i. The project shall provide a total combined public and private open space as shown on the following table:

<u>Require Open Space</u>	<u>S.F. per Unit</u>	<u>Proposed Units</u>	<u>Square feet</u>
< 3 Habitable rooms	100	242	24,200
= 3 Habitable rooms	125	60	7,500
> 3 Habitable rooms	175	3	525
<b>Total Required</b>		<b>3058</b>	<b>32,225</b>

- ii. In the event that the number of dwelling units is reduced, the amount of open space and trees would be revised accordingly to meet the requirements of the Los Angeles Municipal Code.
- iii. At least 50 percent of the trees on-site are canopy trees that shade open spaces, sidewalks, and buildings.

f. Architectural Detail.

- i. The project shall provide well-marked entrances to cue access and use.
- ii. Main building entrances should read differently from retail storefronts, restaurants, and commercial entrances.
- iii. Different architectural treatment on the ground floor façade than on the upper floors shall be required and feature high quality materials that add scale, texture and variety at the pedestrian level.
- iv. Exterior lighting shall be shielded to reduce glare and eliminate light being cast into the night sky.

g. Streetscape Improvements.

- i. Street trees shall be spaced not more than an average of 25 feet on center and shall comply with Downtown Design Guide Section 9.F, to the satisfaction of the Bureau of Street Services, Urban Forestry Division. At least 50 percent of the provided trees shall be canopy trees in conformance with Downtown Design Guide Section 7.
- ii. The developer shall install street lights to the satisfaction of the Bureau of Street Lighting.
- iii. The applicant shall execute a Maintenance Agreement with the City by which the developer or Lead Public Agency agrees to maintain the streetscape improvements and accepts liability for them.



14. **On-Site Landscape Conditions.** The project shall comply with the Landscape Plan in Exhibit "A" as follows:
- a. Amenity decks on the 7<sup>th</sup> and 27<sup>th</sup> floors shall include attractively landscaped passive outdoor areas; including but not limited to lounge areas, communal tables, fire pits, a dog lawn and washing station, and pool and spa areas that enhance the outdoor experience of the development.
  - b. All planters containing trees shall be constructed at a minimum depth of 48 inches.
  - c. All rooftop equipment and appurtenances shall be screened from public view using landscaping or shall be architecturally integrated into the design of the building.

**B. Environmental Conditions**

15. **Aesthetics.** The Applicant shall ensure, through appropriate postings and daily visual inspections, that no graffiti and unauthorized materials are posted on any temporary construction barriers, pedestrian walkways, or other structures, and that any such temporary barriers and walkways shall be maintained in a visually attractive manner throughout the construction period.

**Enforcement Agency: Los Angeles Department of Building and Safety**

**Monitoring Agency: Los Angeles Department of Building and Safety**

**Monitoring Phase: Pre-construction; Construction**

**Monitoring Frequency: Once, at plan check for Project, then ongoing during construction**

**Action Indicating Compliance: Issuance of Certificate of Occupancy of Use of Land (Construction)**

16. **Air Quality.**
- a. Water or a stabilizing agent shall be applied to exposed surfaces in sufficient quantity to prevent generation of dust plumes.
  - b. Track-out shall not extend 25 feet or more from an active operation, and track-out shall be removed at the conclusion of each workday.
  - c. A wheel washing system shall be installed and used to remove bulk material from tires and vehicle undercarriages before vehicles exit the project site.
  - d. All haul trucks hauling soil, sand, and other loose materials shall maintain at least six inches of freeboard in accordance with California Vehicle Code Section 23114.
  - e. All haul trucks hauling soil, sand, and other loose materials shall be covered (e.g., with tarps or other enclosures that would reduce fugitive dust emissions).
  - f. Traffic speeds on unpaved roads shall be limited to 15 miles per hour.
  - g. Operations on unpaved surfaces shall be suspended when winds exceed 25 miles per hour.
  - h. Heavy-equipment operations shall be suspended during first and second stage smog alerts.

**Enforcement Agency: SCAQMD; Los Angeles Department of Building and**

**Safety****Monitoring Agency: Los Angeles Department of Building and Safety****Monitoring Period: Preconstruction and construction****Monitoring Frequency: Periodic field inspections during construction****Action Indicating Compliance: Field inspection sign-off; Compliance certification report by project contractor**

17. **Biological Resources.** The proposed landscaping plan shall meet all the general goals of the Landscaping Ordinance, including a tree planning scheme that will provide sufficient shade to reduce heat attenuation around buildings. Drip irrigation will be used wherever appropriate, and highly durable, drought tolerant species will be used to the maximum extent feasible.

**Enforcement Agency: Los Angeles Department of City Planning (plan review); Los Angeles Department of Building and Safety (operation)****Monitoring Agency: Los Angeles Department of City Planning (plan review); Los Angeles Department of Building and Safety (operation and maintenance)****Monitoring Phase: Pre-construction; Construction****Monitoring Frequency: Once, at plan check for Project; Once, during field inspection****Action Indicating Compliance: Plan approval and issuance of applicable building permit (Preconstruction); Issuance of Certificate of Occupancy of Use of Land (Construction)**

18. **Cultural Resources.**

- a. Prior to commencement of construction of the new building, a qualified structural engineer shall survey the existing foundations and other structural aspects of immediately adjacent historic buildings and provide a shoring design to protect the Eastern Columbia and May Company buildings from potential damage. Pot holing or other destructive testing of the below grade conditions on the project site and immediately adjacent historic buildings may be necessary to establish baseline conditions and prepare the shoring design. If feasible, project, and in particular shoring, design shall avoid pile driving within 25 feet of the existing immediately adjacent historic buildings. The shoring design shall specify threshold limits for vibration causing activities consistent with the ATS report.
- b. The qualified structural engineer shall hold a valid license to practice structural engineering in the State of California and have a minimum of 10 years specific experience rehabilitating historic buildings and applying the Secretary's Standards to such projects. The qualified structural engineer shall submit a pre-construction survey letter establishing baseline conditions to be monitored during construction to the lead agency and to the mitigation monitor prior to issuance of any foundation only or building permit for the proposed project.
- c. The qualified structural engineer shall monitor vibration during the pile driving or other vibration-causing construction activities to ensure that the impact threshold established in the ATS report and shoring design is not exceeded. If feasible, alternative means of setting piles such as predrilled holes or hydraulic pile driving shall be employed to avoid exceeding the impact threshold established in the ATS report.
- d. At the conclusion of vibration causing activities, the qualified structural engineer shall issue a follow-on letter describing damage, if any, to immediately adjacent

historic buildings and recommendations for any repair, as may be necessary, in conformance with the Secretary's Standards. Repairs to immediately adjacent historic buildings shall be undertaken, or performance bonds securing the same, and completed in conformance with all applicable codes including the California Historical Building Code (Part 8 of Title 24) prior to issuance of any temporary or permanent certificate of occupancy for the new building.

**Enforcement Agency: Los Angeles Department of Building and Safety**

**Monitoring Agency: Los Angeles Department of Building and Safety**

**Monitoring Phase: Construction**

**Monitoring Frequency: Once, prior to issuance of building permit, then ongoing during construction**

**Action Indicating Compliance: Issuance of Certificate of Occupancy or Land Use Permit**

- e. To ensure compatibility, designs for the proposed new building adjacent to historical resources shall be reviewed, commented on and approved for conformance with Secretary's Standards by a preservation architect meeting the Secretary of the Interior's Professional Qualifications Standards in historic architecture. Modifications recommended by the preservation architect shall be incorporated in the design prior to issuance of building permits for the new building adjacent to historical resources.
- f. The qualified preservation architect shall hold a valid license to practice architecture in the State of California and have a minimum of 10 years specific experience rehabilitating historic buildings and applying the Secretary's Standards to such projects. The qualified preservation architect will assess design of the proposed new building for its compatibility in mass, materials, relationship of solids to voids, scale and color with immediately adjacent identified historical resources and with the character of its surroundings. "The relationship of buildings to each other, setbacks... views, driveways and walkways and street trees together create the character of a district or neighborhood." Without imitating the features of historic buildings, the design for adjacent contemporary buildings should: use similar or complimentary materials, repeat and/or respect the heights of floors, rhythms and depths of bays, use compatible window/door openings and types, and correspond to roof heights and shapes, all of which will help maintain the existing character of the area. A letter summarizing the qualified preservation architect's findings shall be submitted to the lead agency to establish the proposed project's conformance with the Secretary's Standards and compatibility with historical resources prior to issuance of any building permit for the proposed project.

**Enforcement Agency: Los Angeles Department of City Planning**

**Monitoring Agency: Los Angeles Department of City Planning**

**Monitoring Phase: Pre-Construction, prior to issuance of a building permit**

**Monitoring Frequency: Once, prior to issuance of building permit**

**Action Indicating Compliance: Issuance of building permit**

- g. During excavation and grading, if archaeological resources are uncovered, all work in that area shall cease and be diverted so as to allow for a determination of the value of the resource. Construction activities in that area may commence once the uncovered resources are collected by an archaeologist and properly processed.

Any archaeological remains and/or reports and surveys shall be submitted to the South Central Coastal Information Center, California State University, Fullerton.

- h. The Applicant shall sign a covenant and agreement with the City to allow suspension of construction activities for the recovery or recordation of all archaeological resources prior to the issuance of a building permit.
- i. During excavation and grading, if paleontological resources are uncovered, all work in that area shall cease and be diverted so as to allow for a determination of the value of the resource. Construction activities in that area may commence once the uncovered resources are collected by a paleontologist and properly processed. Any paleontological remains and/or reports and surveys shall be submitted to the Los Angeles County Natural History Museum.
- j. The Applicant shall sign a covenant and agreement with the City to allow the suspension of construction activities for the recovery or recordation of all paleontological resources prior to the issuance of a building permit.
- k. If human remains are discovered within either development parcel, work at the specific construction site shall be suspended, and the City Department of Building and Safety and County Coroner shall be notified. If the remains are determined by the County Coroner to be Native American, the Native American Heritage Commission (NAHC) shall be notified within 24 hours and the guidelines of the NAHC shall be implemented in the treatment and disposition of the remains.
- l. The Applicant shall sign a covenant and agreement with the City to allow suspension of construction activities for the recovery of all human remains prior to the issuance of a building permit.

**Enforcement Agency: Los Angeles Department of Building and Safety**

**Monitoring Agency: Los Angeles Department of Building and Safety**

**Monitoring Phase: Construction**

**Monitoring Frequency: Once, prior to issuance of building permit, then ongoing during construction**

**Action Indicating Compliance: Issuance of Certificate of Occupancy or Land Use Permit**

**19. Geology and Soils.**

- a. Unless otherwise so specified by the City of Los Angeles, the proposed project shall demonstrate compliance with specific recommendations of the geotechnical engineering report prepared by Geocon West, Inc., dated January 5, 2016, and contained herein as Appendix B, to the satisfaction of the City of Los Angeles Department of Building and Safety, as conditions to issuance of any grading and building permits.
- b. The project shall conform to applicable criteria set forth in the Recommended Lateral Force Requirements and Commentary by the Structural Engineers Association of California.
- c. Seismic design for structures and foundations shall comply with the parameters outlined in the 2013 California Building Code as designated for site-specific soil conditions.
- d. The project shall be designed to conform to the City of Los Angeles Seismic Safety Plan, and additional seismic safety requirements not encompassed by compliance with the Building Code and Grading Ordinance as may be identified by the Department of Building and Safety prior to Plan Check approval.

- e. The structural design of the project shall comply with the seismic standards of the California Building Code according to the seismic zone and construction type ( $S_c$  based on Table 16-J of the UBC):
- f. During inclement periods of the year, when rain is threatening (between October 1 and April 15 per Chapter IX, Division 70 of the Los Angeles Municipal Code) an erosion control plan that identifies BMPs shall be implemented to the satisfaction of the City of Los Angeles Department of Building and Safety to minimize potential erosion during construction. The erosion control plan shall be a condition to issuance of any grading permit.
- g. To the extent feasible, grading shall be scheduled for completion prior to the start of the rainy season (between October 1 and April 15 per Chapter IX, Division 70 of the Los Angeles Municipal Code) or detailed temporary erosion control plans shall be implemented in a manner satisfactory to the City of Los Angeles Department of Public Works.
- h. Appropriate erosion control and drainage devices shall be incorporated to the satisfaction of the Department of Building and Safety. Such measures include interceptor terraces, berms, vee-channels, and inlet and outlet structures, as specified by Section 91.7013 of the Building Code, as well as planting fast-growing annual and perennial grasses in areas where construction is not immediately planned. These will shield and bind the soil.
- i. If temporary excavation slopes are to be maintained during the rainy season, it will be necessary to direct all drainage away from the top of the slope. No water shall be allowed to flow uncontrolled over the face of any temporary or permanent slope.
- j. Provisions shall be made for adequate surface drainage away from the areas of excavation as well as protection of excavated areas from flooding. The grading contractor shall control surface water and the transportation of silt and sediment.
- k. The project shall comply with the following Department of Building and Safety requirements (if not already covered by 23), prior to issuance of a grading permit for the project.
  - i. Prior to the issuance of a grading permit by the Department of Building and Safety, the consulting geologist and soils engineer shall review and approve project grading plans. This approval shall be conferred by signature on the plans which clearly indicate the geologist and/or soils engineer have reviewed the plans prepared by the design engineer and that the plans include the recommendations contained in the report.
  - ii. Prior to the commencement of grading activities, a qualified geotechnical engineer and engineering geologist shall be employed for the purpose of observing earthwork procedures and testing fills for conformance to the recommendations of the City Engineer, approved grading plans, applicable grading codes, and the geotechnical report approved to the satisfaction of the Department of Building and Safety.
  - iii. During construction, Grading shall be observed, and reported by the project engineer. Grading shall be performed under the supervision of a licensed engineering geologist and/or soils engineer in accordance with applicable provisions of the Building Code and to the satisfaction of the City Engineer and the Superintendent of Building and Safety.
  - iv. Any recommendations prepared by the consulting geologist and/or soils engineer for correction of geologic hazards, if any, encountered during

grading shall be submitted to the Department of Building and Safety for approval prior to issuance of a Certificate of Occupancy for the project.

- v. Grading and excavation activities shall be undertaken in compliance with all relevant requirements of the California Division of Industrial safety, the Occupational Safety and Health Act of 1970 and the Construction Safety Act.

**Enforcement Agency: Los Angeles Department of Building and Safety**

**Monitoring Agency: Los Angeles Department of Building and Safety**

**Monitoring Phase: Construction**

**Monitoring Frequency: Ongoing during construction**

**Action Indicating Compliance: Issuance of Certificate of Occupancy or Land Use Permit**

**20. Hazards and Hazardous Materials.**

- a. Sub-slab Vent System. A series of perforated vent lines and an associated 2-inch thick gravel blanket must be installed beneath the floor slab of the proposed structure. The perforated vent lines must be connected to solid vent piping that extends through the walls or pipe chases of the building to outlets above the roof line. A permanent dewatering system must be installed if the design high groundwater level for the project is not at least one foot below the lowest vent piping elevation. Groundwater was not encountered during the current site investigation to the maximum depth explored (i.e., 40 feet). The project soils engineer should identify the design groundwater elevation in accordance with LADBS criteria.
- b. Impervious Membrane. A continuous gas membrane is required below the floor slab of the building. This membrane must be sealed against footing, pilings and utilities to form a gas-tight barrier beneath the building.
- c. Utility Trench Dams. A section of impervious backfill consisting of compacted native soil or sand/cement slurry must be installed in utility trenches that extend beneath the perimeter of the building in order to prevent gas from migrating through sand or backfill.
- d. Conduit Seals. Gas tight seals must be installed on all conduits (e.g., electrical, cable, T.V., telephone, etc.) that extend to the interior of the structure. The purpose of these seals is to prevent methane gas from entering the subsurface cracks or discontinuities in the conduits and subsequently migrating to the interior of the building.
- e. The Applicant shall develop and implement an Emergency Procedures Plan, which includes notification to the City of Los Angeles EOO, the Central Division of the Los Angeles Police Department, Los Angeles Fire Department Central Division Headquarters, and Fire Station No. 10 (first call station) of any full or partial lane closures, movement of heavy construction equipment, construction within the 9th Street or Hill Street right-of-ways, or any use of the adjacent right-of-ways.
- f. The Emergency Procedures Plan shall specify a process by which any activities in the adjacent right-of-ways shall be coordinated with the emergency requirements of the EOO and the Police and Fire Departments.

**Enforcement Agency: Los Angeles Department of Building and Safety**

**Monitoring Agency: Los Angeles Department of Building and Safety**

**Monitoring Phase: Pre-Construction and Construction**



**Monitoring Frequency: Ongoing during construction**

**Action Indicating Compliance: Issuance of Certificate of Occupancy or Land Use Permit**

**21. Hydrology and Water Quality**

- a. The project shall comply with the requirements of the NPDES permit for stormwater discharge and with all applicable requirements of the RWQCB, USEPA and local agencies regarding water quality.
- b. The project shall implement stormwater BMPs to retain or treat the runoff from a storm event producing 0.75 inch of rainfall in a 24-hour period. The design of structural BMPs shall be in accordance with the Development Best Management Practices Handbook Part B Planning Activities. A signed certificate from a licensed civil engineer or licensed architect that the proposed BMPs meet this numerical threshold standard shall be provided.
- c. All storm drain inlets and catch basins within the project area shall be stenciled with prohibitive language (such as "NO DUMPING-DRAINS TO OCEAN") and/or graphical icons to discourage illegal dumping.
- d. The legibility of signs and stencils discouraging illegal dumping shall be maintained.
- e. Materials used on site with the potential to contaminate stormwater shall be: (1) placed in an enclosure such as, but not limited to, a cabinet, shed, or similar stormwater conveyance system; or (2) protected by secondary containment structures such as berms, dikes, or curbs.
- f. The Applicant shall prepare and execute a covenant and agreement (Department of City Planning General form (CP-6770)) satisfactory to the Department of City Planning binding the owners to post-construction maintenance of all structural BMPs in accordance with the SUSMP.

**Enforcement Agency: Los Angeles Department of Building and Safety**

**Monitoring Agency: Los Angeles Department of Building and Safety**

**Monitoring Phase: Pre-Construction and Construction**

**Monitoring Frequency: Ongoing during construction**

**Action Indicating Compliance: Issuance of Certificate of Occupancy or Land Use Permit**

**22. Land Use Planning.**

- a. Prior to the issuance of the Modified Project's building permits, the Modified Project shall demonstrate to the satisfaction of the Planning Department consistency with the goals and objectives of the City of Los Angeles General Plan, the Central City Community Plan and the requirements of the City of Los Angeles Zoning and Municipal Codes.
- b. Prior to issuance of the Modified Project's building permits, the Modified Project shall demonstrate that it fully meets the requirements of the Community Redevelopment Agency as needed to assure consistency with the goals and objectives City Center Redevelopment Plan.

**Enforcement Agency: Los Angeles Department of City Planning**

**Monitoring Agency: Los Angeles Department of City Planning**

**Monitoring Phase: Pre-construction****Monitoring Frequency: Once, at plan check****Action Indicating Compliance: Issuance of building permit****23. Noise**

- a. Construction contracts shall specify that all construction equipment shall be equipped with mufflers and other suitable noise attenuation devices.
- b. Grading and construction contractors shall use quieter equipment as opposed to noisier equipment (such as rubber-tired equipment rather than track equipment).
- c. Equipment staging areas shall be located on the western portion of the project site as far as possible from the Eastern Columbia residential tower to the east.
- d. Construction activity involving structural framing and the application of the exterior skin shall be limited to the hours of 8:00 a.m. to 6:00 p.m.
- e. During construction activity, the applicant shall periodically conduct 24-hour noise monitoring within Eastern Columbia residential tower dwelling units facing the project site or along the western façade of the Eastern Columbia residential tower. Additional mitigation shall be implemented for residential units if exterior noise levels exceed 71 dBA CNEL or interior noise levels exceed 45 dBA CNEL. These mitigation measures may include, but are not limited to, installation of temporary vertical sheeting at sensitive points to provide greater noise attenuation and further limitations to the construction schedule.
- f. All residential units located within 500 feet of the construction site shall be sent a notice regarding the construction schedule of the proposed project. A sign, legible at a distance of 50 feet shall also be posted at the construction site. All notices and the signs shall indicate the dates and duration of construction activities, as well as provide a telephone number where residents can inquire about the construction process and register complaints.
- g. A "noise disturbance coordinator" shall be established. The disturbance coordinator shall be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and would be required to implement reasonable measures such that the complaint is resolved. All notices that are sent to residential units within 500 feet of the construction site and all signs posted at the construction site shall list the telephone number for the disturbance coordinator.

**Enforcement Agency: Los Angeles Department of Building and Safety****Monitoring Agency: Los Angeles Department of Building and Safety****Monitoring Phase: Construction****Monitoring Frequency: Ongoing during field inspection****Action Indicating Compliance: Issuance of Certificate of Occupancy or Use of Land****24. Public Services.**

- a. Project building plans shall include the submittal of a plot plan for approval by the Los Angeles Fire Department either prior to the recordation of the final map or the approval of a building permit. All structures shall be within 300 feet of an approved fire hydrant.

- b. The Applicant shall consult with the Fire Department and incorporate fire prevention and suppression features appropriate to the design of the project.
- c. Definitive plans and specifications shall be submitted to the Fire Department and requirements for necessary permits satisfied prior to commencement of any portion of the project.
- d. Any required fire hydrants to be installed shall be fully operational and accepted by the Fire Department prior to any building construction.
- e. Plot plans indicating access driveways and roads and turning areas shall be reviewed and approved by the Fire Department, prior to the issuance of a building permit.
- f. During the construction phase, emergency access shall remain clear and unobstructed.
- g. The proposed project shall comply with all applicable State and local codes and ordinances, and the guidelines found in the Fire Protection and Fire Prevention Plan, as well as the Safety Plan, both of which are elements of the General Plan of the City of Los Angeles (C.P.C. 19708).
- h. All access roads, including fire lanes, shall be maintained in an unobstructed manner, removal of obstructions shall be at the owner's expense. The entrance to all required fire lanes or required private driveways shall be posted with a sign no less than three square feet in area in accordance with Section 57.09.05 of the Los Angeles Municipal Code.
- i. Where fire apparatus will be driven onto the road level surface of the subterranean parking structure, that structure shall be engineered to withstand a bearing pressure of 8,600 pounds per square foot, unless otherwise approved.
- j. The project shall comply with all applicable State and local Codes and Ordinances found in the Fire Protection and Fire Prevention Plan, as well as the Safety Plan, both of which are elements of the General Plan of the City of Los Angeles.
- k. During the project's construction phase, the Applicant shall ensure adequate through access and emergency access to adjacent uses.
- l. The Applicant shall consult with the Police Department and comply with recommended security features for the construction site(s), including security fencing, locked entrances, lighting, and the use of a 7-day, 24-hour security patrol.
- m. Upon completion of the project, the Applicant shall provide the Central Division Commanding Officer of the LAPD with a diagram of each portion of the property including access routes and other information that might facilitate police response, as requested by the LAPD.
- n. The applicant shall provide project plans to the LAPD Crime Prevention Unit, to determine any additional crime prevention and security features appropriate to the design of the project. Any additional design features identified by the LAPD Crime Prevention Unit shall be incorporated into the project's final design and to the satisfaction of LAPD, prior to issuance of a Certificate of Occupancy for the project.
- o. The project shall incorporate design guidelines relative to security, semi-public and private spaces, which may include, but not be limited to, access control to buildings, secured parking facilities, walls/fences with key systems, well illuminated public and semi-public space designed with a minimum of dead space to eliminate areas of concealment, location of toilet facilities or building entrances in high-foot traffic areas and provision of security guard patrol throughout the

project site if needed. The applicant is referred to Design Out Crime Guidelines: Crime Prevention Through Environmental Design (CPTED) published by the Los Angeles Police Department's Crime Prevention Section located at 100 W. 1st Street, #250, Los Angeles, CA 90012; (213) 486-6000. The CPTED operates on three key concepts:

- i. Natural surveillance: The placement of physical features, activities, and people in a way that maximizes visibility.
  - ii. Natural access control: Restricting or encouraging people to come into a space through the placement of entrances, exits, fencing, landscaping, and lighting.
  - iii. Territorial reinforcement: The use of physical attributes to define ownership and separate public and private space.
- p. The Applicant shall pay fees related to capital acquisitions and improvements in effect at the time of building permit issuance in accordance with California Government Code Section 65995.
  - q. The project Applicant shall carry out one or more of the following: (1) dedicate additional parkland such that the project would provide a total of three acres per 1,000 project residents; (2) pay in-lieu fees for any land dedication requirement shortfall; or (3) provide onsite improvements equivalent in value to said in-lieu fees.
  - r. The applicant shall pay per capita mitigation fees in accordance with the requirements of the Los Angeles Department of Public Libraries.

**Enforcement Agency: Los Angeles Department of Building and Safety**

**Monitoring Agency: Los Angeles Department of Building and Safety**

**Monitoring Phase: Pre-Construction**

**Monitoring Frequency: Once, at plan check**

**Action Indicating Compliance: Issuance of building permits**

## **25. Utilities and Service Systems.**

- a. The Applicant shall comply with City ordinances limiting connections to the City sewer system, in accordance with City Bureau of Sanitation procedures.
- b. The Applicant shall install low-flow water fixtures and further encourage reduction of water consumption to minimize wastewater flow to the sewer system, in accordance with City water conservation requirements.
- c. Any required connections or mains shall be designed by a registered civil engineer and approved by the Los Angeles Department of Public Works, Bureau of Engineering. Any construction within the public right-of-way shall be approved by the Los Angeles Department of Transportation.
- d. Prior to the issuance of a building permit, the applicant shall consult with LADWP to identify feasible and reasonable measures that reduce water consumption per City adopted California Building Code requirements.
- e. The project shall incorporate Phase I of the City of Los Angeles Emergency Water Conservation Plan.
- f. The project shall comply with any additional mandatory water use restrictions imposed as a result of drought conditions.

- g. Automatic sprinkler systems shall be installed to irrigate landscaping during morning hours or during the evening to reduce water losses from evaporation. Sprinklers shall be reset to water less often in cooler months and during the rainfall season, so that water is not wasted in excessive landscape irrigation.
- h. Prior to issuance of building permits, the Applicant shall pay any appropriate fees imposed by the Department of Building and Safety. A percentage of building permit fees is contributed to the fire hydrant fund, which provides for citywide fire protection improvements.
- i. The Applicant shall implement a demolition and construction debris recycling plan, with the explicit intent of requiring recycling during all phases of site preparation and building construction.
- j. In order to reduce the deposition of construction materials at solid waste landfills serving the City of Los Angeles, the grading contractor shall identify suitable private sites that accept all fill and earth materials for re-use. Sites in the City currently accepting construction/demolition debris include Browning Ferris Industries Recycling and Transfer Station and Mission Road Recycling and Transfer Station. Documentation of which site(s) is used shall be provided to the Bureau of Engineering, prior to the issuance of haul route permits.
- k. A Source Reduction and Recycling Plan (SRRP) shall be developed by the Applicant to the satisfaction of the Bureau of Engineering and Department of Sanitation. This plan shall identify methods to promote recycling and re-use of materials, as well as safe disposal consistent with the policies and programs contained in the City's Source Reduction and Recycling Element and the City's Solid Waste Management Policy Plan. The SRRP shall provide tenants and occupants with the means to recycle and compost materials in a manner that is practical and accessible. Specifically, the SRRP shall include a statement describing the methods by which the designated recyclables shall be separated from the waste stream, collected, and stored to facilitate transportation of these materials to a recycler or hauler providing such services. The SRRP shall identify an adequate storage area for collection and removal of recyclable materials within the project and establish standards for collection/storage of recyclable, and green waste (if applicable), materials.
- l. The proposed residential buildings shall be designed to be permanently equipped with clearly marked, durable, source sorted recyclables bins to facilitate the separation and deposit of recyclable materials.
- m. Primary collection bins shall be designed to facilitate mechanized collection of recyclable wastes for transport to on- or off-site recycling facilities.
- n. Applicant shall coordinate with the City of Los Angeles to continuously maintain in good order for the convenience of residents clearly marked, durable and separate bins in the same location to facilitate the commingled recyclables and deposit of recyclable or commingled waste metal, cardboard, paper, glass, and plastic; to maintain accessibility to such bins at all times; and to require waste haulers to utilize local or regional material recovery facilities as feasible and appropriate.

- o. The Applicant shall comply with the provisions of City of Los Angeles Ordinance No. 171687 with regard to all new structures constructed as part of the proposed project.

**Enforcement Agency: Los Angeles Department of Building and Safety**

**Monitoring Agency: Los Angeles Department of Building and Safety**

**Monitoring Phase: Pre-construction**

**Monitoring Frequency: Once, at plan check**

**Action Indicating Compliance: Plan approval**

### **C. ADMINISTRATIVE CONDITIONS**

- 26. **Final Plans.** Prior to the issuance of any building permits for the project by the Department of Building and Safety, the applicant shall submit all final construction plans that are awaiting issuance of a building permit by the Department of Building and Safety. All plans that are awaiting issuance of a building permit by the Department of Building and Safety shall be stamped by Department of City Planning staff "Final Plans". A copy of the final plans, supplied by the applicant, shall be retained in the subject case file.
- 27. **Notations on Plans.** Plans submitted to the Department of Building and Safety, for the purpose of processing a building permit application shall include all of the Conditions of Approval herein attached as a cover sheet, and shall include any modifications or notations required herein.
- 28. **Approval, Verification, and Submittals.** Copies of any approvals, guarantees or verification of consultations, review of approval, plans, etc., as may be required by the subject conditions, shall be provided to the Department of City Planning prior to clearance of any building permits, for placement in the subject file.
- 29. **Code Compliance.** Use, area, height, and yard regulations of the zone classification of the subject property shall be complied with, except where granted conditions differ herein.
- 30. **Department of Building and Safety.** The granting of this determination by the Director of Planning does not in any way indicate full compliance with applicable provisions of the Los Angeles Municipal Code Chapter IX (Building Code). Any corrections and/or modifications to plans made subsequent to this determination by a Department of Building and Safety Plan Check Engineer that affect any part of the exterior design or appearance of the project as approved by the Director, and which are deemed necessary by the Department of Building and Safety for Building Code compliance, shall require a referral of the revised plans back to the Department of City Planning for additional review and sign-off prior to the issuance of any permit in connection with those plans.
- 31. **Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning.
- 32. **Covenant.** Prior to the issuance of any permits relative to this matter, an agreement concerning all of the information contained in these conditions shall be recorded by the property owners in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent owners, heir, or assigns. Further, the agreement must be submitted to the Planning Department for approval before being recorded. After recordation, a Certified Copy bearing the Recorder's number and date must be given to the City Planning Department for attachment to the subject case file.



33. **Expiration.** In the event that this grant is not utilized within three years of its effective date (the day following the last day that an appeal may be filed), the grant shall be considered null and void. Issuance of a building permit, and the initiation of, and diligent continuation of, construction activity shall constitute utilization for the purposes of this grant.
34. **Prior to the clearance of any conditions.** The applicant shall show proof that all fees have been paid to the Department of City Planning, Expedited Processing Section.
35. **Indemnification and Reimbursement of Litigation Costs.**

Applicant shall do all of the following:

- (i) Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
- (ii) Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
- (iii) Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$25,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (iv) Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (v) If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

The City shall notify the applicant within a reasonable period of time of its receipt of any action and the City shall cooperate in the defense. If the City fails to notify the applicant of any claim, action, or proceeding in a reasonable time, or if the City fails to reasonably cooperate in the defense, the applicant shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the Applicant fails to comply with this

condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

"City" shall be defined to include the City, its agents, officers, boards, commissions, committees, employees, and volunteers.

"Action" shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims, or lawsuits. Actions includes actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the Applicant otherwise created by this condition.

Prior to the issuance of any permits relative to this matter, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Development Services Center for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.

### TRANSFER OF FLOOR AREA FINDINGS

1. **That the Project is proper in relation to the adjacent uses or the development of the community.**

The Project involves the redeveloping the existing commercial surface parking lot with a high-density mixed-use Project consistent with other similar developments occurring in Downtown Los Angeles. The Project would be constructed in a single phase as a 27-story (a maximum height of 320 feet) building totaling up to 305 residential units with up to approximately 6,171 square feet of neighborhood-serving commercial uses.

The project is located on a lot at the northeast corner of 9<sup>th</sup> Street and Hill Street, is irregular in shape, and encompasses a total of approximately 34,595 square feet of lot area (0.79 acres). Surrounding properties include historic buildings that have been adapted into residential and commercial uses, high-rise residential buildings, low-rise retail buildings, high-rise office buildings, parking garages and surface parking lots. The Central City Community Plan describes the project location as within the Center City/Historic Core of the Plan which spans from First Street to approximately Eleventh Street between Los Angeles and Hill Street. The Community Plan describes this area of the City as being divided into three distinct subareas: a) the northern portion with its concentration of government related uses, b) the middle portion encompassing largely vacant, historic theaters and a dynamic retail shopping district along Broadway, and c) the southern portion which is emerging as an extension of the Fashion District and the South Park residential neighborhood. By these descriptions, the Project site is located in the southern portion of the Center City/Historic Core.

Similar to the previously approved project on the site, the Proposed Project is proper in relation to adjacent uses and the development of the community since it furthers mixed-use, high-density residential development adjacent and proximate to other high-density residential and community uses and has been conditioned to meet the required provisions of the City's Downtown Design Guide. The Downtown Design Guide is composed of Standards and Guidelines intended to provide guidance for creating a livable, sustainable Downtown community.

The Project would provide six levels of parking, including one level of subterranean parking and five levels of above grade parking. Ground level would support five (5) parking spaces and a loading area, accessed from Hill Street. Levels two (2) through four (4) would consist entirely of parking spaces and Level five (5) would provide additional parking behind habitable residential space fronting Hill Street and 9<sup>th</sup> Street. The Project is in compliance with the Downtown Design Guide by providing a maximum of three levels of exposed parking above ground floor retail.

Other design features include glass elements of the tower fronting the corner of 9<sup>th</sup> and Hill Street which would come all the way down to the first level above the ground floor retail space, thereby creating a visual enhancement of the parking levels in the podium so as to complement the façade of the residential units above the podium. Additionally, the Project would include a comprehensive podium screening program that would incorporate pre-cast concrete with a stone veneer, metal panel frames and vertical louvers along 9<sup>th</sup> and Hill Streets to give the appearance that the parking levels are occupied floors rather than a screened garage. The design of these levels would also carry the scale and rhythm of the adjacent Broadway Trade Center building through the block. Where the project faces the

adjacent Eastern Columbia building's dwelling units and parking garage, the Project would screen the podium so as to reduce the visibility of parking on the subject site.

The Project has been designed to be consistent with the tower spacing requirements identified in the Downtown Design Guide. The tower would be located 81 feet from the neighboring Eastern Columbia Building and approximately 176 feet from the clock tower. The tower spacing is designed to provide privacy, natural light and air, as well as to contribute to an attractive skyline. Therefore, the Project would be proper in relation to adjacent uses and the development of the community.

Structures that immediately surround the project site include mid-rise commercial buildings to the north, west and south. Other development located within the community of the adjoining South Park district and Historic Core include the 30-story "Level" building at the northeast corner of Olive and 9<sup>th</sup> Streets, a recently approved 50-story building on the west side of Hill Street between 8<sup>th</sup> and 9<sup>th</sup> Streets, and the 24-story mixed-use project at 8<sup>th</sup> & Spring Street. Development of the project site into a mixed-use residential and commercial high-rise building would be consistent and compatible with the established land use patterns in the area.

The Downtown Design Guide identifies the project site, along both Hill and 9<sup>th</sup> streets, as a Retail Street, which requires projects to provide ground floor retail space to a depth of at least 25 feet from the front façade and include 14' floor-to-ceiling height. The Project would provide ground floor commercial/retail space along the Hill Street and 9<sup>th</sup> Street frontage that complies with Design Guide's requirements of ground floor retail treatment along retail streets, thus complying with this provision of the Downtown Design Guide and resulting in a project that would be proper in relation to the adjacent uses and the development of the community. In addition to providing neighborhood-serving retail uses, a variety of recreational amenities for the residents would be provided in the form of a swimming pool and fitness center to a bicycle repair facility and indoor recreation amenities.

The Project would continue the pattern of development in the community of mixed-use buildings that are street activating in nature. Furthermore, the location of the project site makes it ideal for high density residential, as it is zoned to permit unlimited density and is located within walking distance of transit, employment centers, retail and entertainment uses. Overall, the project site is located adjacent to other high-density developments as well as historic buildings, and has been designed meet the Downtown Design Guide which sets parameters for development in relation to surrounding existing structures. Therefore, the project is proper in relation to the adjacent uses and the development of the community.

**2. That the Project will not be materially detrimental to the character of development in the immediate neighborhoods.**

The Proposed Project would replace the existing commercial surface parking lot with a mixed-use development that would create new housing and local serving retail uses. As previously described, the project is located at the northeast corner of 9<sup>th</sup> Street and Hill Street, is irregular in shape, and encompasses a total of approximately 34,595 square feet of lot area (0.79 acres). The Central City Community Plan describes the project location as within the Center City/Historic Core of the Plan which spans from First Street to approximately Eleventh Street between Los Angeles and Hill Street, with its specific location

within the southern subarea, or neighborhood, which is emerging as an extension of the Fashion District and the South Park residential neighborhood.

Properties surrounding the site are developed with historic buildings that have been adapted into residential and commercial uses, high-rise residential buildings, low-rise retail buildings, high-rise office buildings, parking garages and surface parking lots. The westerly adjoining property, across Hill Street, is a historic building, the Coast Federal Savings Building, which now includes office uses and additional retail businesses on properties zoned [Q]R5-4D. Just west of the Coast Federal Savings Building is the recently completed LEVEL project, a 33-story residential tower. The easterly property adjoining the site is developed with the mixed-use historic Eastern Columbia Building on property zoned [Q]R5-4D-CDO. The northerly adjoining structure is a historic building, the Broadway Trade Center, formerly the May Company Department Store (original Hamburger's Department Store), which includes retail/commercial uses, on property zoned [Q]R5-4D. South of the subject property, across 9<sup>th</sup> Street, is developed with the historic buildings of the May Company Garage and Blackstone's Department Store, occupied as a mixed-use building, on property zoned [Q]R5-4D and [Q]C2-4D-CDO.

The Proposed Project would be materially detrimental to the character of the development in the immediate surrounding neighborhood if it would adversely affect the rights of such surrounding development to enjoy their property. With respect to the continued enjoyment of the surrounding historic buildings, the Proposed Project has been conditioned to design a shoring plan that protects the Eastern Columbia and May Company buildings from damage that could occur during development (Condition No. 18). Furthermore, a historic assessment that was approved by the Office of Historic Resources concluded that the project would not negatively impact the historical significance of nearby historic monuments nor the adjacent historic district located on Broadway.

In addition to the proposed retail component, the project would activate the streets through the provision of bicycle amenities for residents, guests, employees and customers of the development. The Project would continue the revitalization of this section of Hill Street and 9<sup>th</sup> Street.

The design of the building was created in observance of the Historic Downtown Los Angeles Design Guidelines which, among other guidelines, seek to promote infill development where open parking lots occupy prime building sites at major intersections. The Historic Downtown Los Angeles Design Guidelines were created in July 2002 by a consortium of interest groups including the Los Angeles Conservancy, the Historic Core Business Improvement District (BID), the Downtown Center BID, and the Fashion District BID. These Design Guidelines were never adopted by the City Planning Commission; however, they are referenced in the Downtown Design Guide. The Design Guidelines are based on the Secretary of Interior Standards for the Treatment of Historic Properties and were intended to serve as a tool to create historically compatible design in an area encompassing Hill Street to the South, Main Street to the east, 3rd Street to the north, and 9th Street to the south. The New Construction guidelines include design guidelines meant to ensure that new work in this area does not destroy historic materials, features, and spatial relationships that characterize a building or district while also being differentiated from the old and maintaining compatibility with the historic materials, features, size, scale, proportions and massing.

According to the Design Guidelines, the Historic Downtown, as of the date of the Guidelines' publication, has more than 20 parking lots of varying sizes on prime building sites, and the Guidelines note that the "urban character of downtown is substantially diminished by these vacant sites." The Project replaces an existing parking lot with a mixed-use building with

architectural features and treatments that meet the priorities listed for new construction in the historic core.

The Historic Downtown Design Guidelines observe that key points in new construction including building to the street, particularly at corners, and constructing infill buildings at vacant or underutilized sites along major streets. They go on to state that new buildings should be constructed on existing surface parking lots and shall be differentiated from the old while maintaining compatible design features with the surrounding neighborhood. Due to their importance in establishing the urban grid, corner sites like the project site should be a priority. The development of a project that would convert an underutilized surface parking lot at a major intersection into a mixed-use building would not create any adverse impacts on the surrounding community's enjoyment of the surrounding neighborhood. The approved of the Project does not prohibit the use

The Historic Downtown Los Angeles Design Guidelines establish a study area that includes the Broadway Theater and Commercial District Boundary. The boundary captures the historic buildings along Broadway and includes a few buildings that extend to Hill Street between 3<sup>rd</sup> Street and 9<sup>th</sup> Street. The Broadway District includes the historic buildings on Hill Street immediately adjacent to the north of the project site. The subject property is not included within this historic study area boundary. Nevertheless, the Project proposes architectural design features, as noted below, that integrate the building façade at the parking levels to be complementary to the historical features of the immediately adjacent historic buildings.

An infill project on a corner lot is a first priority for the Historic Downtown Design Guidelines. The Historic Downtown Design Guidelines include the following infill construction guidelines that are applicable to the proposed project and which result in the development being able to fulfill major objectives of the Guidelines:

- Construct new buildings, of compatible design with the surrounding neighborhood, on parking lot sites. Corner sites, because of their importance in defining the urban grid, should be the first priority for infill construction.
- Pursue creative and innovative contemporary designs for new buildings in the Historic Downtown.
- Build consistently with the street wall, particularly at corner sites.
- Design new buildings to respond to the existing building context within a block, and provide continuity to the overall streetscape.
- Explore options for multi-use buildings, combining residential, commercial, and other compatible uses where appropriate.
- Provide multi-tenant retail space and other public uses at the street level. These should be accessible directly from the sidewalk, rather than through common interior lobbies.

In a report dated January 26, 2016, the Historic Resources Group prepared a Historic Assessment of the Project. The report concluded that the proposed design would comply with Standards 9 and 10 of the Secretary of the Interior's Standards for Rehabilitation and construction of the proposed tower would not result in adverse effects to historic resources located immediately adjacent to or in the near vicinity of the Project site. The report was reviewed and approved by the Department of City Planning's Office of Historic Resources. The Project would construct a high-rise mixed-use building on a corner site currently occupied by a surface parking lot. Façade materials for the building would consist of creative and innovative contemporary design in the use of glass, stone veneer, concrete, perforated metal screens and metal louvers. The Project would provide a continuous street



wall that would complete the street and would provide wider sidewalks that would make the proposed retail spaces even more accessible.

Similar to the previously approved Project on the site, the Project would be contemporary in design and be clearly differentiated from the surrounding historic buildings. However, the Project exhibits several design elements that reinforce its compatibility with adjacent historical resources. The Project is compatible with the adjacent historic resources and the character of the contributing buildings to the adjacent historic district in its rectangular plan, the solid six-story massing of its podium, the pedestrian-oriented retail storefronts along its ground floor street frontage, and the articulation of its façades, all of which reflect the massing, orientation, and articulation of the adjacent and surrounding historic buildings. The podium directly west of the Eastern Columbia building would be set back approximately 42 feet, would be completely enclosed, and would feature a solid wall at the service yard including a green wall. The southern facing podium wall would also be completely enclosed, feature a green wall, and be a minimum of 12 feet from the northwest corner of the Eastern Columbia building. The tower would maintain approximately 81 feet of separation from the tower portion of the Eastern Columbia building and approximately 176 feet of separation from the Eastern Columbia clock tower. The Project would also maintain a 22 foot sidewalk along 9<sup>th</sup> Street. The tower spacing distance would provide substantial buffering space between the two buildings on the 9<sup>th</sup> Street façades, and the wider sidewalk would allow the views of the Eastern Columbia Building's iconic massing and highly decorated south-facing façade to remain intact and the historical resource would retain its visual prominence.

The Project would be directly abutting the south façade of the Broadway Trade Center (May Company building) at the podium level. The May Company's south façade was originally designed to be utilitarian and unadorned in anticipation of the construction of the neighboring building and the closely-set buildings would reinforce the continuity of the Hill Street streetscape and street-facing retail. The tower portion of the new building would be set back above the podium level along the north façade, again providing a spatial buffer between the two buildings so that the height of the new building does not overwhelm the Broadway Trade Center when viewed from Hill Street. The Project proposes architectural design features, as noted below, that integrate the building façade at the parking levels to be complementary to the historical features of the immediately adjacent historic building. The façade of the building fronting Hill and 9<sup>th</sup> Streets are designed to complement the architecture of the adjacent historic building to the north, with architectural features that match the rhythm and scale of the historic building's windows and ornamentation. As a result of the Project's design features that create a comparatively rhythmic scale matching the historic building's design features, the four levels of podium parking above the ground floor on Hill Street are designed to intentionally match the cornice lines of the historic Broadway Trade Center building to the north.

The Central City Community Plan describes the project location as within the Historic Core as well as the South Park neighborhood of Downtown Los Angeles. The Central City Community Plan states that, "The Historic Core forms the spine of Central City." This historic community includes the proximate citing of auxiliary support services such as neighborhood-supporting retail, services, and amenities for area residents, workers, and visitors. In an effort to create a linkage between jobs and housing, the development of community-serving mixed-use commercial projects is encouraged. The project site and surrounding area are designated for Regional Center Commercial land use. The proposed project will create high-density housing and ground floor commercial space on an underutilized parking lot. The project is designed to activate the ground floor and will include a residential lobby and ground floor commercial space on Hill and 9<sup>th</sup> Streets. The project



will revitalize the underutilized lots by creating commercial and housing uses within the Central City Community Plan, without displacing any existing residential units

The proposed project will create new residential units and commercial opportunities that will serve residents of the building, as well as workers and visitors of Downtown. It is likely that the commercial uses will have evening hours which will coincide with the lively, urban environment of the Historic Core neighborhood. The project will provide high-density housing in a Transit Priority Area. It is located within ½ mile of two existing rail transit stations, the 7<sup>th</sup> Street Metro rail transit station, and the Pershing Square Metro rail transit station. The Project Site is also located within ½ mile of numerous bus routes with peak commute service intervals of 15 minutes or less. These transportation opportunities allow for access to employment centers in all parts of the metropolitan area and help reduce the number of vehicles on the road. As such, the proposed project will not be detrimental to the character of development in the immediate neighborhood and will be in harmony with the Central City Community Plan and the Downtown Design Guide, which are a part of the General Plan.

**3. That the Project will be in harmony with the various elements and objectives of the General Plan.**

The Project is consistent with various elements of the General Plan, including the Central City Community Plan, the Housing Element and the Mobility Element.

General Plan Framework

The Framework Element for the General Plan (Framework Element) was adopted by the Los Angeles City Council on December 11, 1996 and re-adopted on August 8, 2001. The Framework Element provides guidance regarding policy issues for the entire City of Los Angeles, including the Project site. The Framework Element of the General Plan establishes general policies for the City of Los Angeles based on projected population growth. Land use, housing, urban form and neighborhood design, open space, economic development, transportation, infrastructure, and public services are all addressed in the context of accommodating future City-wide population increases. The City's various land use categories are defined based on appropriate corresponding development standards including density, height, and use.

The General Plan's Downtown Center designation, applicable to this site, notes that the adopted Downtown Strategic Plan provides direction and guidance for the area's continued development and evolution, but indicates that the "Element emphasizes the development of new housing opportunities and services to enliven the downtown and capitalize on the diversity of the City's population." Generally, the Downtown Center is characterized by high-rise buildings with Floor Area Ratios up to 13:1. The Framework Element "reflects the Strategic Plan's goals and maintains the Downtown Center as the primary economic, governmental, and social focal point of Los Angeles, while increasing its resident community. In this role, the Downtown Center will continue to accommodate the highest development densities in the City and function as the principal transportation hub for the region." Moreover, Downtown Los Angeles is identified as the location for "high-rise residential towers," in addition to major cultural and entertainment facilities, hotels, restaurants, and regional transportation facilities.

The proposed development is consistent with the following Framework Element Downtown Center goals, objectives, and policies:

***Goal 3.G: A Downtown Center as the primary economic, governmental, and social focal point of the region with an enhanced residential community.***

***Objective 3.11: Provide for the continuation and expansion of government, business, cultural, entertainment, visitor-serving, housing, industries, transportation, supporting uses, and similar functions at a scale and intensity that distinguishes and uniquely identifies the Downtown Center.***

***Policy 3.11.1: Encourage the development of land uses and implement urban design improvements guided by the Downtown Strategic Plan***

***Policy 3.15.3: Increase the density generally within one quarter miles of transit stations, determining appropriate locations based on consideration of the surrounding land use characteristics to improve their viability as new transit routes and stations are funded in accordance with Policy 3.1.6:***

The Project site is currently developed with a surface parking lot. The applicant proposes to develop the site with a mixed-use residential and commercial development that will provide ground floor retail uses with residential located above. The Project site is at an optimal location for high-density development as it is located in a transit-rich area of Downtown. The Project creates a mixed-use center that would revitalize the surrounding neighborhood with a broad range of uses that are compatible with adjacent land uses and that would enhance the urban lifestyle that attracts people to live in the Downtown Center. The site is located four blocks from the Pershing Square Metro Rail Station containing the Red and Purple Lines, and is located five blocks away from the 7<sup>th</sup>/Metro Center Metro Rail station, which contains the Red, Purple, Blue, and Expo Lines.

The proposed Project is located in close proximity to various bus transit lines, MTA rail lines (Metro Rail) and DASH service. MTA Rapid Bus Line 794 runs along Hill Street with stops at the Civic Center, the Burbank Airport and a final destination in Sylmar. MTA Rapid Bus Line 728 runs north along Hill Street to Union Station and to the west along Olympic Boulevard to Century City. Several MTA Rapid Bus Lines run along Olive Street, Grand Avenue, Broadway, Spring Street, Main Street, Olympic Boulevard and 7<sup>th</sup> Street, with connections to Union Station, the Civic Center, Koreatown, Mid City, West Los Angeles and Santa Monica. The MTA Bus Line 66 runs west along 9<sup>th</sup> Street to Koreatown and the Wilshire/Western Metro Rail Station and runs east along 8<sup>th</sup> Street and Olympic Boulevard to Boyle Heights, East Los Angeles and Montebello. The MTA Bus Line 10 runs along Hill Street to Pershing Square, the Civic Center and then along Temple Street and Melrose Avenue to West Hollywood. The MTA Bus Line 81 runs along Hill Street to Eagle Rock to the north and along Figueroa Street to Exposition Park and the Harbor Freeway Station of the Metro Rail Green Line to the south. Several additional MTA Bus Lines run along Hill Street, including MTA Bus Lines 2, 4, 28, 83, 90 and 91. The LADOT Dash Route D runs south along Spring Street connecting to the Civic Center, Bunker Hill, Union Station, South Park, and the Metro Rail stations in Downtown. Dash Route E runs along 7<sup>th</sup> Street. The site is located four blocks from the Pershing Square Metro Rail Station containing the Red and Purple Lines, and is located five blocks away from the 7<sup>th</sup>/Metro Center Metro Rail station, which contains the Red, Purple, Blue, and Expo Lines.

The Project's residential intensity meets the City's vision for this land use designation and provides opportunities to reduce vehicle miles traveled in the City. This Project locates housing density near major transit services which epitomizes the Framework Element's vision of integrating Downtown Center density with public transportation infrastructure and would encourage the use of transit by on-site residents and their guests, retail patrons,

and employees. The proposed development scale is compatible with the Framework Element that envisions that the "Downtown Center would continue to accommodate the highest development densities in the City and function as the principal transportation hub for the region." By enabling the construction of a high-density housing project in close proximity to jobs, services, entertainment uses and a transit rich area, the Transfer of Floor Area and Site Plan Review would be consistent with several goals and policies of the Framework Element. .

#### Land Use Element – Central City Community Plan

The Central City Community Plan was updated and adopted by the Los Angeles City Council on January 8, 2003. The project site is located in the Center City/Historic Core and the Central City Community Plan describes this area of the City as being divided into three distinct subareas. The project site is located in the southern portion "which is emerging as an extension of the Fashion District and the South Park residential neighborhood." Additionally, the Community Plan observes that "expanding the downtown residential community is viewed as a major component of efforts to revitalize Downtown." The Project, as a mixed-use, transit-oriented development, advances a number of specific goals and objectives contained in the Central City Community Plan.

These include:

*Objective 1-2: To increase the range of housing choices available to Downtown employees and residents.*

*Objective 1-3: To foster residential development which can accommodate a full range of incomes.*

Policy 1-3.1: Encourage a cluster neighborhood design comprised of housing and services.

Historic Core of the Central City Plan is recognized in the Community Plan as the place for "expanding the Downtown residential community" in that it is viewed as a "major component of efforts to revitalize Downtown." The Plan also references the Downtown Strategic Plan which "recognizes the need to significantly increase the residential presence in the Central City community." The Plan also observes that "residential uses are permitted within commercially designated lands, however, and an increasing number of residential units are being developed downtown as a result of a growing demand for housing."

The Community Plan recognizes that while residentially zoned land accounts for less than 5% of the total land area in the Central City, the "continued economic and social viability of Central City depends on the contributions of a stable population and vibrant, cohesive neighborhoods. Therefore, a primary objective of the Central City Plan is to facilitate the expansion of housing choices in order to attract new and economically and ethnically diverse households." The Project contributes to a stable population by the development of up to 305 new residential units in area, though zoned commercially, that includes high-rise residential towers as well as other commercial properties. Introducing more residents to this area of the Central City helps to achieve a vibrant, cohesive neighborhood. Moreover, the mixed-use project provides neighborhood-serving retail uses that activates the streets with increased pedestrian activity and serves to create a lively urban environment.

The property's zoning is consistent with the land use designation, Regional Center Commercial, and supports high density residential development. The Project is compatible with the Community Plan objectives listed above and would result in the provision of additional housing and services to help revitalize Hill and 9<sup>th</sup> Streets. The Project also brings new residential units to an area which is located near the Financial Core and South Park, thus placing residents within easy walking distance of the jobs rich environment in the Downtown area. The Plan seeks to increase the range of housing choices available Downtown and offers opportunities to live close to Downtown employment and other civic, cultural and recreational uses.

Additionally, the Proposed Project would encourage cluster neighborhood design comprised of housing and services via the incorporation of neighborhood-serving retail space fronting on Hill and 9<sup>th</sup> Streets, and up to 305 residential units on the site. The addition of these two uses in conjunction with each other would indeed create a focal point for the Historic Core neighborhood, and Downtown as a whole. The Project's proposed neighborhood-serving retail space to occupy the street frontages of Hill and 9<sup>th</sup> Streets would result in Project addressing the Community Plan's assertion that the "lack of neighborhood-oriented businesses to support residential areas" is a significant land use issue for both residential and commercial development. The Project addresses the Community Plan's concern by providing much needed neighborhood-serving retail uses easily accessible from the street frontages along Hill and 9<sup>th</sup> Streets, and this retail space would serve existing residential and commercial developments in the surrounding neighborhood.

As noted in the Plan, Downtown Los Angeles offers a variety of attractions for both residents and visitors alike. Residents of downtown mixed-use buildings are attracted by the wide variety of entertainment, dining and shopping opportunities that also appeal to visitors. The Plan also observes that "traditional retail is declining due to limited patronage by office workers and a very small resident population." Since the adoption of the Central City Community Plan, many residential developments, including high-rise residential towers, have been approved and constructed in the Central City. As a result, retaining the existing retail base, as well as adding to it, has become an important component of mixed-use projects. The Project would provide neighborhood-serving retail uses that would create an active downtown environment for current and future residents. This activation would encourage a mix of uses which create an active, 24-hour downtown environment for current residents and which would also foster increased tourism (Objective 2-4). The Project would support the growth of the neighborhood by providing small, local retail services that would serve the surrounding neighborhood and activate the streets with more pedestrian activity.

The proposed project will add new housing choices in the Central City Community Plan to meet market demand in the City's housing-impacted Downtown (Objective 1-2). The project would improve the Central City's competitiveness as a location for offices, business, retail, and industry by providing up to 305 new residential units in the core of the Downtown (Objective 2-1) while improving the appearance of the site, which currently functions as a parking lot (Policy 2-1.2). The proposed ground floor commercial uses will enhance the existing retail base in the Central City (Policy 2-2.1) and will add to the growth of downtown neighborhoods by providing local retail services that (Policy 2-2.3). As a result, the project's new retail component will contribute to economic growth of Downtown Los Angeles (Objective 2-2). Prospective commercial tenants may include restaurants or other uses that promote night life activity (Policy 2-4.1).

The Community Plan recognizes that, "The continued economic and social viability of Central City depends on the contributions of a stable population and vibrant, cohesive neighborhoods. Therefore, a primary objective of the Central City Community Plan is to facilitate the expansions of housing choices in order to attract new, economically and ethnically diverse households." The proposed Project promotes new housing opportunities for Downtown Los Angeles by proposing the addition of 305 dwelling units to the housing stock of the Center City/Historic Core neighborhood. In addition, the new residential units will not remove existing residential units or displace residents, but would instead develop an underutilized parking lot.

#### Downtown Design Guide

The Downtown Design Guide was adopted by City Council on April 24, 2009 as a General Plan Amendment to the Central City Community Plan to revise Chapter V of the Central City Community Plan text to incorporate the Downtown Design Guide, Urban Design Standards and Guidelines. The Downtown Design Guide supplements Municipal Code provisions and applies to all projects within its boundaries of the Hollywood Freeway (Interstate 101) on the north, the Santa Monica Freeway (Interstate 10) on the south, Harbor Freeway (Interstate 110) on the west and Alameda Street and San Pedro Street on the east. The Downtown Design Guide contains standards and guidelines for sustainable design, sidewalks and setbacks, ground floor treatment, parking and access, massing and street wall, on-site open space, architectural detail, streetscape improvements and signage prepared at a finer grain specifically for the Downtown Neighborhood Districts.

As conditioned, the project complies with the requirements of the Downtown Design Guide. Such conditions relative to sidewalks and setbacks; ground floor treatment; parking and access; massing and street wall; on-site open space; architectural details; and streetscape improvements encourage a livable downtown. As an example, the Downtown Design Guide encourages variations in setbacks along street frontages, and specifies that setbacks on retail streets in the Historic Downtown area are to match prevailing setbacks where appropriate. The adjacent properties along Hill and 9<sup>th</sup> Streets do not have front yard setbacks. The Downtown Design Guide also dictates that at least 95% of the Project Frontage along 9<sup>th</sup> Street and Hill Street be lined with Building Street Wall at the back of the setback and that 90% of that Building Street Wall on 9<sup>th</sup> Street and Hill Street reach a height of 75 feet. The Project would comply with all applicable requirements set forth in the LAMC and Downtown Street Standards. Furthermore, the new building's east façade would be set back approximately 42 feet from the Eastern Columbia Building at the podium level, while the proposed tower would be approximately 81 feet setback from the adjacent property to the east, Eastern Columbia Building, and approximately 176 feet from the clock tower at top the Eastern Columbia Building, consistent with the design guidelines of the Downtown Design Guide.

#### Historic Downtown Los Angeles Design Guidelines

The Historic Downtown Los Angeles Design Guidelines were created in July 2002 by a consortium of interest groups including the Los Angeles Conservancy, the Historic Core Business Improvement District (BID), the Downtown Center BID, and the Fashion District BID. These Design Guidelines were never adopted by the City Planning Commission; however, they are referenced in the Downtown Design Guide. The Design Guidelines are based on the Secretary of Interior Standards for the Treatment of Historic Properties and were intended to serve as a tool to create historically compatible design in an area encompassing Hill Street to the South, Main Street to the east, 3rd Street to the north, and



9th Street to the south. The New Construction guidelines include design guidelines meant to ensure that new work in this area does not destroy historic materials, features, and spatial relationships that characterize a building or district while also being differentiated from the old and maintaining compatibility with the historic materials, features, size, scale, proportions and massing. As conditioned, the project complies with the following design guidelines:

*Construct new buildings, of compatible design with the surrounding neighborhood, on parking lot sites.*

*Pursue creative and innovative contemporary designs for new buildings in the Historic Downtown.*

*Build consistently with the street wall, particularly at corner sites.*

*Design new buildings to respond to the existing building context within a block, and provide continuity to the overall streetscape. Frequently a new building will be inserted on a site between two existing buildings of disparate scale and design.*

*Set back upper floors, especially when a taller building is permitted by code, so that the dominant roof and cornice lines remain consistent along the street wall.*

*Explore options for multi-use buildings, combining residential, commercial, and other compatible uses where appropriate.*

The proposed Project will remove an underutilized surface parking lot and replace it with a high density mixed-use building containing 305 residential units and 6,171 square feet of ground floor commercial/retail space. In a report dated January 26, 2016, the Historic Resources Group prepared a Historic Assessment of the Project. The report concluded that the proposed design would comply with Standards 9 and 10 of the Secretary of the Interior's Standards for Rehabilitation and construction of the proposed tower would not result in adverse effects to historic resources located immediately adjacent to or in the near vicinity of the Project site. The report was reviewed and approved by the Department of City Planning's Office of Historic Resources. The report states that the Proposed Project exhibits several design elements that reinforce its compatibility with adjacent historical resources more than the previous project that was approved for the site. "The podium of the Proposed Project includes common design characteristics shared with adjacent historic resources and the historic district. The west and south façades of the Modified Project's podium will be articulated vertically with clearly defined bays that echo the rhythm of the structural bays of the adjacent May Company building and garage. The podium will be articulated horizontally to align with the May Company building's base, cornice, and windows and recall similar cornice lines and belt courses on the nearby Coast Federal Savings Building and the May Company Garage. The primary entrance on Hill Street will feature three tall rectangular bays with precast concrete surrounds that recall the size, proportions, and materials of the prominent central entrance portals with cast-stone surrounds of nearby historic buildings."

The report goes on to state that "articulation of the podium and tower façades are varied to differentiate base, middle and top sections that recall the tripartite stacked arrangements of the adjacent May Company Building and the nearby Coast Federal Savings Building and May Company Garage." It describes that the "tower of the Modified Project features exposed slab edges and residential balconies forming continuous horizontal bands that echo the horizontal rhythm of windows and spandrels characteristic

on the May Company's Hill Street façade" and states that "the same rhythm is also found on the Coast Federal Savings Building across Hill Street and the May Company Garage across 9th Street." In addition, "the modulation of the tower's corner balconies recalls the corner setbacks of the adjacent Eastern-Columbia building" and new tower "would be set back above the podium level along the north and east façades, providing a spatial buffer between the new construction and the two adjacent historic buildings so that the height of the new building will be more compatible with the May Company and Eastern-Columbia buildings when viewed from Hill Street and 9th Street." The Historic Assessment determines that the Proposed Project conforms to Standard 9 because it will be differentiated from adjacent and nearby historic resources by its contemporary design and materials.

Furthermore, the Project has been conditioned to undergo an additional level of review involving a preservation architect, the Department of City Planning's Office of Historic Resources and Expedited Processing Section in order to further verify conformance with the Secretary Standards for new construction near historic resources.

#### Housing Element

The proposed mixed-use project is consistent with the following stated objectives of the Housing Element:

*Objective 1.1:* Plan the capacity and develop incentives for the production of an adequate supply of rental and ownership housing for households of all income levels and needs.

*Objective 2.3:* Promote sustainable buildings, which minimize adverse effects on the environment and minimize the use of non-renewable resources.

*Objective 2.4:* Promote livable neighborhoods with a mix of housing types, quality design and a scale and character that respects unique residential neighborhoods in the City.

The City's Housing Element (adopted by the City Council on December 3, 2013) states that that the population of Los Angeles will grow by over 140,000 persons by 2021. The amount of housing needed to accommodate citywide growth is estimated to be 82,002 dwelling units by October 2021 or 10,250 units per year.

The proposed project will provide current and future downtown employees with housing at a convenient location. The proposed project will add a total of up to 305 dwelling units to the City's downtown housing stock. The proposed project is close to many public transit options. It is located within ½ mile of two existing rail transit stations, the 7<sup>th</sup> Street Metro rail transit station, and the Pershing Square Metro rail transit station. The Project Site is also located within ½ mile of numerous bus routes with peak commute service intervals of 15 minutes or less. The City Council has acknowledged the area's unique proximity to jobs and housing by creating the Central City Parking District for projects in this area.

#### Mobility Plan 2035

Approval of the Project in proximity to mass transit options would be consistent and harmonious with the purposes of the Mobility Plan 2035. Various modes of travel are encouraged by the Mobility Plan 2035, including walking, biking and using public transit. The following policies of the Mobility Plan apply to the proposed project:



*Policy 2.3: Recognize walking as a component of every trip, and ensure high-quality pedestrian access in all site planning and public right-of-way modifications to provide a safe and comfortable walking environment.*

With its ground floor retail space fronting on 9<sup>th</sup> Street and Hill Street, Project would encourage pedestrian activity in this area. The Project would provide an attractive sidewalk design to improve pedestrian travel throughout the surrounding area. The Project also seeks to activate pedestrian activity by creating the inviting outdoor dining area which would be on 9<sup>th</sup> Street and Hill Street with neighborhood-serving ground level retail uses.

*Policy 3.1: Recognize all modes of travel, including pedestrian, bicycle, transit and vehicular modes – including goods movement – as integral components of the City's transportation system.*

The Project promotes a balanced transportation system by locating a mixed use project in the Downtown Center, where residents of the development would have easy access to all modes of travel. The Project encourages pedestrian activity with the neighborhood-serving ground level retail uses. Residents would have the option to walk, ride bicycles or use public transit to access jobs, shopping, and entertainment options in the Downtown Center. The development would provide bicycle parking facilities for both residential and retail uses, thereby encouraging this mode of travel. Furthermore, Project additionally encourages cycling by providing an on-site bicycle lounge and repair facility for convenient and easy bicycle maintenance.

*Policy 3.3: Promote equitable land use decisions that result in fewer vehicle trips by providing greater proximity and access to jobs, destinations, and other neighborhood services.*

The Mobility Plan recognizes that neighborhoods with frequent, reliable transit service are the ideal place to cluster uses and services so that area residents can complete a number of errands within a single walk or bike trip. Likewise, the Mobility Plan observes that it makes sense for land uses situated near major transit stops to be of the intensity and type that they attract a high number of transit riders. The Project, situated in close proximity to Metro Rapid Bus stops and within walking and biking distance of the Downtown Center, is ideally located to satisfy the Mobility Plan's objective to reduce vehicular trips. Residents would have greater proximity and access to jobs and other neighborhood services.

*Policy 3.8: Provide bicyclists with convenient, secure and well-maintained bicycle parking facilities.*

The Project would provide bicycle parking for both residential and commercial purposes, adhering to the Los Angeles Municipal Code (the "Code") requirements of the Bicycle Parking Ordinance. As such, the Project would provide convenient, secure and well-maintained bicycle parking facilities. Customers of the retail uses and visitors to the residential units would have a place to safely and conveniently secure their bicycles for the duration of a visit. Furthermore, the Project additionally encourages cycling by providing an on-site bicycle lounge and repair facility for convenient and easy bicycle maintenance.

*Policy 4.13: Balance on-street and off-street parking supply with other transportation and land use objectives.*

The Mobility Plan 2035 recognizes that an oversupply of parking can undermine broader regional goals of creating vibrant public spaces and a robust multi-modal mobility system and that parking consumes a vast amount of space in the urban environment, which otherwise could be put to valuable alternative uses. Additionally, the Mobility Plan observes that parking lots create significant environmental impacts, detract from neighborhoods' visual quality, and discourage walking by increasing the distances between services and facilities. The Project would provide reduced residential parking according to the Central City Parking Exception. The development would eliminate a surface parking lot and replace it with a mixed use project that would improve the visual quality of the neighborhood and activate the streets with more pedestrian activity.

*Policy 5.2: Support ways to reduce vehicle miles traveled (VMT) per capita.*

The Mobility Plan 2035 promotes a combination of sustainable approaches to reduce vehicle miles traveled. Land use policies should be aimed at shortening the distance between housing, jobs, and services, thereby reducing the need to travel long distances on a daily basis. More attractive non-vehicle alternatives, including transit, walking and bicycling, need to be offered. The Project would promote these sustainable approaches by locating housing in proximity to jobs, transit and services. Residents of the development would be inclined to walk, bike ride and use transit to access the Downtown Center and surrounding areas.

The proposed Project is located in close proximity to various bus transit lines, MTA rail lines (Metro Rail) and DASH service. MTA Rapid Bus Line 794 runs along Hill Street with stops at the Civic Center, the Burbank Airport and a final destination in Sylmar. MTA Rapid Bus Line 728 runs north along Hill Street to Union Station and to the west along Olympic Boulevard to Century City. Several MTA Rapid Bus Lines run along Olive Street, Grand Avenue, Broadway, Spring Street, Main Street, Olympic Boulevard and 7<sup>th</sup> Street, with connections to Union Station, the Civic Center, Koreatown, Mid City, West Los Angeles and Santa Monica. The MTA Bus Line 66 runs west along 9<sup>th</sup> Street to Koreatown and the Wilshire/Western Metro Rail Station and runs east along 8<sup>th</sup> Street and Olympic Boulevard to Boyle Heights, East Los Angeles and Montebello. The MTA Bus Line 10 runs along Hill Street to Pershing Square, the Civic Center and then along Temple Street and Melrose Avenue to West Hollywood. The MTA Bus Line 81 runs along Hill Street to Eagle Rock to the north and along Figueroa Street to Exposition Park and the Harbor Freeway Station of the Metro Rail Green Line to the south. Several additional MTA Bus Lines run along Hill Street, including MTA Bus Lines 2, 4, 28, 83, 90 and 91. The LADOT Dash Route D runs south along Spring Street connecting to the Civic Center, Bunker Hill, Union Station, South Park, and the Metro Rail stations in Downtown. Dash Route E runs along 7<sup>th</sup> Street. The site is located four blocks from the Pershing Square Metro Rail Station containing the Red and Purple Lines, and is located five blocks away from the 7<sup>th</sup>/Metro Center Metro Rail station, which contains the Red, Purple, Blue, and Expo Lines.

Furthermore, the goals outlined in the Mobility Plan 2035 are as follows:

1. Safety First
2. World Class Infrastructure
3. Access for all Angelenos
4. Collaboration, Communication, and Informed Choices
5. Clean Environments and Healthy Communities

The project will locate high-density housing near transit stations with direct connections to Union Station consistent with Mobility Plan Policies 3.6 – Regional Transportation and Union Station and 3.7 – Regional Transit Connections. The Plan's objectives are to ensure that 90

percent of all households have access within one mile to the Transit Enhanced Network and to increase the number of people that travel by walking bicycling, or transit. In addition, the project site is within proximity to several employment centers in Downtown; including the Civic Center, the Financial District, and the Fashion District and the site is close to many commercial and entertainment options which will reduce vehicle trips. The project will provide safe and secure bicycle parking for residents, in line with Policy 3.8 – Bicycle Parking.

The project proposes a pedestrian-oriented environment by locating high-density residential and retail uses in proximity to public transit and the jobs rich environment of Downtown Los Angeles. With new residents most likely to work downtown and to avail themselves of the recreational and cultural opportunities of the area, the need for automobile transportation is greatly reduced, because residents will either walk, bike, or use one of the many forms of public transportation available in the area. As a result, the project will be in harmony with the various elements and objectives of the General Plan.

The project site is within walking distance of many jobs in the downtown area. The City Council has acknowledged the area's unique proximity to jobs and housing by creating the Central City Parking District and the Exception Downtown Business District for projects in this area. Because many trips can be made by transit and walking, there is less need for a car in a downtown environment (a major attraction for people wishing to reside in residential units in the downtown area), and therefore, less of a need for parking spaces.

The Applicant proposes a pedestrian-oriented environment by locating high-density residential and retail uses in proximity to public transit. The Project has been designed for residents who would be attracted to this location because of the numerous transit options, including MTA buses, Metro Rail Lines and the DASH buses, that offer easy access to the jobs-rich environment of downtown Los Angeles. The combination of public transit and pedestrian and bicycle access makes it possible for residents to forgo the use of personal vehicles for everyday living and commuting. Residents would also be able to reduce reliance on the automobile because many shopping opportunities are located throughout the downtown area. The Project's new retail spaces would also help facilitate a more inviting pedestrian- and bicycle-friendly environment.

The Project is harmonious with the Mobility Plan 2035 because residents would have easy access to work opportunities and essential services, and greater mobility would be assured by the plentiful transit options offered by Metro Rail and MTA Rapid Bus lines. For these reasons outlined above, the Project demonstrates harmony with the Mobility Plan 2035.

**4. That the Project is consistent with any applicable adopted Redevelopment Plan.**

Pursuant to Section 503.6, the Community Redevelopment Agency may permit appropriately designed and properly located residential facilities within commercial areas, including residential uses as mixed uses in commercial mixed use developments, consistent with the applicable Community Plan and as permitted by the zoning and the Los Angeles Municipal Code, and provided that the residential facility, as well as any commercial facility in the case of a mixed use development, shall conform to the following criteria:

1. Promote community revitalization;
2. Promote the goals and objectives of the Plan;
3. Be compatible with and appropriate for the Commercial uses in the vicinity;
4. Include amenities which are appropriate to the size and type of housing units proposed;

5. Meet design and location criteria required by the Agency.

The Project would revitalize the community and be compatible with and appropriate for the commercial uses in the vicinity. The Project would be developed with amenities, including recreational activities, which are appropriate for a development with up to 305 residential units. As noted below, the Project would promote the goals and objectives of the Redevelopment Plan.

The Project is consistent with the following purposes and objectives of the City Center Redevelopment Plan (Section 105):

*a. To eliminate and prevent the spread of blight and deterioration and to rehabilitate and redevelop the Project Area in accordance with this Plan.*

The Project would remove an existing commercial surface parking lot for the development of a new mixed-use development, consistent with the principles of the Downtown Design Guide, supporting new residents and employees who would activate the street and creating new commercial uses that would be within walking distance of thousands of existing residents. The Project would provide much needed housing, neighborhood-serving retail, as well as bicycle amenities for residents, guests, employees, and customers among many other assets and benefits. Further, the Project would provide streetscape and landscape improvements. Such improvements would help to eliminate and prevent the spread of blight and deterioration and to rehabilitate and redevelop the Project Area in accordance with the Redevelopment Plan.

*b. To further the development of Downtown as the major center of the Los Angeles metropolitan region, within the context of the Los Angeles General Plan as envisioned by the General Plan Framework, Concept Plan, City-wide Plan portions, the Central City Community Plan, and the Downtown Strategic Plan.*

The Project would provide a high density mixed-use development in Downtown close to urban transit and many employment opportunities, furthering the development of Downtown as the major center of the Los Angeles metropolitan region. As noted above, the proposed Project is consistent with the vision of the General Plan Framework and the Central City Community Plan for mixed-use development that includes new residential construction. Additionally, the Downtown Strategic Plan recognized the need to significantly increase the residential presence in the Central City community.

*c. To create an environment that will prepare, and allow, the Central City to accept that share of regional growth and development which is appropriate, and which is economically and functionally attracted to it.*

The Project provides additional density to help reinforce the Central City as the center of the Downtown Los Angeles metropolitan region. The employment and residential dwelling unit opportunities support a fair share of regional growth and development. Expanding the downtown residential community is a major component of efforts to revitalize the Historic Core in Downtown Los Angeles. The Project adds a significant increase to the residential presence in the Central City, and the retail uses of the mixed use project would serve residents and workers in the surrounding neighborhood.

*d. To promote the development and rehabilitation of economic enterprises including retail, commercial, service, sports and entertainment, manufacturing, industrial and hospitality uses that are intended to provide employment and improve the Project Area's tax base.*

The Project furthers the development and rehabilitation of economic enterprises in Downtown. It would provide street level retail and commercial opportunities. Additionally, the new residents of the Project would shop, eat, entertain, and work at local business establishments and, by contributing to the area's tax base, would help existing businesses grow thereby enhancing employment opportunities in Downtown Los Angeles.

*e. To guide growth and development, reinforce viable functions, and facilitate the redevelopment, revitalization or rehabilitation of deteriorated and underutilized areas.*

The project site is currently an underutilized commercial surface parking lot. The Project would replace the current use with a vibrant mixed-use development that would activate the streetscape and provide new residents to shop, eat, and work at various neighborhood establishments. Moreover, the Project is consistent with the Historic Downtown Los Angeles Design Guidelines that seek to promote infill development where open parking lots occupy prime building sites at major intersections. At the time of its publication, the Historic Downtown Design Guidelines stated that there were more than 20 parking lots of varying sizes on prime building sites, and note that the "urban character of downtown is substantially diminished by these vacant sites." The Project replaces an existing parking lot with a mixed-use building with architectural features and treatments that are compatible with existing historic buildings.

*f. To create a modern, efficient and balanced urban environment for people, including a full range of around-the-clock activities and uses, such as recreation, sports, entertainment and housing.*

The Project would provide up to 305 apartments and up to approximately 6,171 square feet of retail and restaurant uses and as envisioned the Project would provide a new modern and efficient urban environment for residents allowing these residents to take full advantage of the round-the-clock entertainment, restaurants, and associated activities in close proximity to the Project and in Downtown Los Angeles.

*g. To create a symbol of pride and identity which gives the Central City a strong image as the major center of the Los Angeles region.*

The Project as envisioned would provide a strong architectural statement building and would create a robust new image of the resurgence of the Historic Core in Downtown Los Angeles.

The Historic Downtown Los Angeles Design Guidelines seek to promote infill development where open parking lots occupy prime building sites at major intersections. The Project replaces an existing parking lot with a mixed-use building with architectural features and treatments that are compatible with existing historic buildings. The Project is designed to be compatible with the architectural design of the adjacent historic building to the immediate north of the project site, thereby enhancing the identity and image of the Historic Core as a major center of the Los Angeles region.

*h. To facilitate the development of an integrated transportation system which will allow for the efficient movement of people and goods into, through and out of the Central City.*

The Project is within walking distance of the 7<sup>th</sup>/Metro Center and Pershing Square Metro Rail stations as well as in close proximity to a number of bus lines, including several Metro Rapid Bus Lines. The Project is located near the vicinity of a bike lane network, including Spring Main, and 7<sup>th</sup> Streets. The Project's proximity to mass transit, bicycle infrastructure,



as well as easy freeway and major highway access helps to facilitate and encourage the development of an integrated transportation system which would allow for the efficient movement of people and goods into, through, and out of the Central City.

*i. To preserve key landmarks which highlight the history and unique character of the City, blending old and new in an aesthetic realization of change or growth with distinction, and facilitating the adaptive reuse of structures of architectural, historic or cultural merit.*

The project site consists of a commercial surface parking lot. It contains no landmarks or structures of architectural, historical, cultural significance that could be adaptively reused on the project site. However, the Project's primary podium elevations incorporate architectural design features and articulations complementary to the adjacent historic buildings.

*j. To provide a full range of employment opportunities for persons of all income levels.*

In addition to temporary construction opportunities for skilled construction and associated trades, the Project would provide up to 6,171 square feet of new commercial space that would provide job opportunities for the local community, including ground floor retail and commercial uses.

*k. To provide high and medium density housing close to employment and available to all ethnic, social and economic groups, and to make an appropriate share of the City's low- and moderate-income housing available to residents of the area.*

The Project would provide up to 305 residential apartment units close to the employment centers in Downtown Los Angeles. In addition, the Project would provide on-site employment opportunities. The Project would be available to all ethnic, social and economic groups and would include micro units, studio units, 1 bedroom units, 1 bedroom plus den units, 2 bedroom units and 2 bedroom + den penthouse units providing housing opportunities for a wide and diverse array of income groups.

*l. To provide the public and social services and facilities necessary to address the needs of the various social, medical and economic problems of Central City residents and to minimize the overconcentration or exclusive concentration of such services within the Project Area.*

The Project does not propose public or social services and therefore would not contribute to the overconcentration or exclusive concentration of such services within the Project Area.

*m. To establish an atmosphere of cooperation among residents, workers, developers, business, special interest groups and public agencies in the implementation of this Plan.*

The Project is consistent with the Redevelopment Plan's applicable goals and objectives, the Historic Core Design Guidelines, and the Downtown Design Guide, which reflects public input and participation.

5. **That the transfer serves the public interest by providing public benefits in accordance with Subparagraph (b)(1) of this subdivision.**

For a Director's Authority to Approve a Floor Area Deviation Transfers of less than 50,000 square feet of floor area, a project must provide public benefits equivalent to the dollar value otherwise required for a Public Benefit Payment. A Public Benefit must serve a public purpose, such as: providing for affordable housing; public open space; historic preservation; recreational; cultural; community and public facilities; job training and outreach programs;



affordable child care; streetscape improvements; public arts programs; homeless services programs; or public transportation improvements. The project is requesting a Transfer of Floor Area of 49,999 square feet, which results in a public benefit equivalency of \$1,830,671.10. Therefore, as the project will provide revenue equivalent to a Public Benefit Payment, the Project serves the public interest by complying with the requirements of sections 14.5.9 of the Los Angeles Municipal Code.

6. **That the Project incorporates feasible mitigation measures, monitoring measures when necessary or alternatives identified in the environmental review which would substantially lessen the significant environmental effects of the project, and any additional findings as may be required by CEQA.**

On April 22, 2016, the Department of City Planning released an Addendum to the previously adopted Mitigated Negative Declaration No. ENV-2006-6302-MND. This Addendum reflects the independent judgment of the lead agency and determined that this project would not have a significant effect upon the environment provided the potential impacts are mitigated to a less than significant level. All feasible mitigation measures have been incorporated into the project as Conditions of Approval to ensure that there will be no significant unavoidable environmental impacts.

The Proposed Modified Project, as identified in the project description, may cause potentially significant impacts on the environment without mitigation. The Addendum to the environmental analysis (ENV-2006-6302-MND) concludes that none of the proposed changes to the Project would generate or result in any new significant environmental impacts and the mitigation measures identified in the adopted Mitigated Negative Declaration shall be readopted for the purposes of avoiding and mitigating all potential adverse impacts on the environment in association with the associated case(s): ZA-2006-6350-YV-ZAA-SPR and VTT-66505. Finally, based on the fact that these impacts can be feasibly mitigated to less than significant, and based on the findings and thresholds for Mandatory Findings of Significance as described in the California Environmental Quality Act, section 15065, the overall project impacts(s) on the environment (after mitigation) will not:

- Substantially degrade environmental quality.
- Substantially reduce fish or wildlife habitat.
- Cause a fish or wildlife habitat to drop below self-sustaining levels.
- Threaten to eliminate a plant or animal community.
- Reduce number, or restrict range of a rare, threatened, or endangered species.
- Eliminate important examples of major periods of California history or prehistory.
- Achieve short-term goals to the disadvantage of long-term goals.
- Result in environmental effects that are individually limited but cumulatively considerable.
- Result in environmental effects that will cause substantial adverse effects on human beings.

The records upon which this decision is based are with the Environmental Review Section of the Planning Department in Room 750, 200 North Spring Street.

### SITE PLAN REVIEW FINDINGS

7. That the project is in substantial conformance with the purposes, intent and provisions of the General Plan, applicable community plan, and any applicable specific plan.

The Project Site is located entirely within the boundaries of the Central City Community Plan. The project site has a land use designation of Regional Center Commercial, which corresponds to the C2, C4, C5, P, PB, RAS3, and RAS4 Zones. The property is zoned C5-4D. The site's zoning and location within Height District 4 permits multi-family residential uses and an unlimited height restriction. The density, lot area, and setback requirements for the Project Site are superseded by the Greater Downtown Housing Incentive Area (Ordinance 179,076, effective Sept. 2007). The corresponding "D" Limitation restricts the project's Floor Area Ratio (FAR) to 6:1 but allows a FAR of up to 13:1 through the Transfer of Floor Area (TFAR) program. As such, the applicant is requesting a Transfer of Floor Area Rights (TFAR) of 49,999 square feet to allow for an FAR of 7.45 to 1 or approximately 257,569 square feet of floor area, in lieu of the otherwise allowable FAR of 6 to 1 or approximately 207,570 square feet.

The following identifies the Proposed Project's consistency with various elements of the General Plan, including the Central City Community Plan, the Housing Element and the Mobility Element.

#### General Plan Framework

The Project is consistent with the following stated goals, objectives and policies of the General Plan Framework, which are addressed in full in the TFAR findings:

*Goal 3F: A Downtown Center as the primary economic, governmental, and social focal point of the region with an enhanced residential community.*

*Objective 3.11: Provide for the continuation and expansion of government, business, cultural, entertainment, visitor-serving, housing, industries, transportation, supporting uses, and similar functions at a scale and intensity that distinguishes and uniquely identifies the Downtown Center.*

#### General Plan Housing Element

The Project is harmonious with the following goals, objectives and policies of the Housing Element of the General Plan, which are addressed in full in the TFAR findings:

*Goal 1: A City where housing production and preservation result in an adequate supply of ownership and rental housing that is safe, healthy and affordable to people of all income levels, races, ages, and suitable for their various needs.*

*Objective 1.1: Produce an adequate supply of rental and ownership housing in order to meet current and projected needs.*

*Policy 1.1.4: Expand opportunities for residential development, particularly in designated Centers, Transit Oriented Districts and along Mixed-Use Boulevards.*

*Goal 2: A City in which housing helps to create safe, livable and sustainable neighborhoods.*

*Objective 2.2: Promote sustainable neighborhoods that have mixed-income housing, jobs, amenities, services and transit.*

*Objective 2.3: Promote sustainable buildings, which minimize adverse effects on the environment and minimize the use of non-renewable resources.*

*Objective 2.4: Promote livable neighborhoods with a mix of housing types, quality design and a scale and character that respects unique residential neighborhoods in the City.*

#### Mobility Plan 2035

The Project is consistent with the following stated goals, objectives and policies of the Mobility Plan 2035, which are addressed in full in the TFAR findings:

**Policy 2.3:** Recognize walking as a component of every trip, and ensure high-quality pedestrian access in all site planning and public right-of-way modifications to provide a safe and comfortable walking environment.

**Policy 3.1:** Recognize all modes of travel, including pedestrian, bicycle, transit and vehicular modes – including goods movement – as integral components of the City's transportation system.

**Policy 3.3:** Promote equitable land use decisions that result in fewer vehicle trips by providing greater proximity and access to jobs, destinations, and other neighborhood services.

**Policy 3.8:** Provide bicyclists with convenient, secure and well-maintained bicycle parking facilities.

**Policy 4.13:** Balance on-street and off-street parking supply with other transportation and land use objectives.

**Policy 5.2:** Support ways to reduce vehicle miles traveled (VMT) per capita.

For these reasons outlined above the Project demonstrates harmony with the Mobility Plan 2035.

#### Central City Community Plan

The project site is located in the Center City/Historic Core and the Central City Community Plan describes this area of the City as being divided into three distinct subareas. The project site is located in the southern portion which, as described in the Community Plan, "is emerging as an extension of the Fashion District and the South Park residential neighborhood." Additionally, the Community Plan observes that "expanding the downtown residential community is viewed as a major component of efforts to revitalize Downtown."

The Project is consistent with the following objectives of the Central City Community Plan which are addressed in full in the TFAR findings:

*Objective 1-2: To increase the range of housing choices available to Downtown employees and residents.*

*Objective 1-3: To foster residential development which can accommodate a full range of incomes.*

*Policies 1-3.1: Encourage a cluster neighborhood design comprised of housing and services.*

*Objective 2-2: To retain the existing retail base in Central City.*

*Policy 2-2.3: Support the growth of neighborhoods with small, local retail services.*

*Objective 2-4: To encourage a mix of uses which create an active, 24-hour downtown environment for current residents and which would also foster increased tourism.*

As noted in the Plan, Downtown Los Angeles offers a variety of attractions for both residents and visitors alike. Residents of downtown mixed-use buildings enjoy the conveniences of a wide variety of entertainment, dining and shopping opportunities that also appeal to visitors. The Plan also observes that "traditional retail is declining due to limited patronage by office workers and a very small resident population." Since the adoption of the Central City Community Plan, many residential developments, including high-rise residential towers, have been approved and constructed in the Central City. As a result, retaining the existing retail base, as well as adding to it, has become an important component of mixed-use projects. The Project would provide neighborhood-serving retail uses that would create an active downtown environment for current and future residents. The Project would support the growth of the neighborhood by providing small, local retail services that would serve the surrounding neighborhood and activate the streets with more pedestrian activity.

8. **The project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements that is or will be compatible with existing and future development on adjacent properties and neighboring properties.**

The Applicant proposes to replace an existing surface parking lot with a high-density mixed-use project consistent with other similar developments occurring in Downtown Los Angeles. The Project would be constructed in a single phase as a 27-story, up to 320 feet in height, building totaling up to 305 residential units with up to approximately 6,171 square feet of neighborhood serving commercial uses, including 3,500 square feet of restaurant uses and 2,671 square feet of retail uses. The project proposes a contemporary design that is appropriate for the historic core, composed of varying complementary building materials and elements to provide articulation and a building design that promotes a lively street appearance. The project has been designed with open space, landscaping, outdoor and indoor recreation amenities and articulated building elevations. The Project would be consistent and compatible with existing and future development on neighboring and other properties in close proximity. When considering the recent approvals of the several nearby high rise / high density projects, located in the downtown area, it is apparent that high-rise mixed-use buildings are projects compatible with the proposed project.

The Project would continue the pattern of development in the community of mixed-use buildings that are street activating in nature. Furthermore, the location of the project site makes it ideal for high density residential, as it is zoned to permit unlimited density and is located within walking distance of transit, employment centers, retail and entertainment uses. Overall, the project site is located adjacent to other high-density developments as well as historic buildings, and has been designed meet the Downtown Design Guide which sets

parameters for development in relation to surrounding existing structures. Therefore, the project is proper in relation to the adjacent uses and the development of the community.

The Project has been designed to be consistent with the tower spacing requirements identified in the Downtown Design Guide. The tower would be located 81 feet from the neighboring Eastern Columbia Building and approximately 176 feet from the clock tower. The tower spacing is designed to provide privacy, natural light and air, as well as to contribute to an attractive skyline. Therefore, the Project would be proper in relation to adjacent uses and the development of the community.

A summary of project specifics is as follows:

- Height: 320 feet (27 stories)
- FAR: 7.45 to 1
- Yards: No yard requirements shall apply to a property located in the Greater Downtown Housing Incentive Area, according to LAMC Section 12.22-C.3(a). The Project would maintain zero front, side and rear yard setbacks with the exception of the western side yard along the adjacent parking garage, which would maintain a 3-foot setback. Additionally, the Project would maintain a small 12'6" x 14'-7" notch within along the portion of the podium nearest the northwest corner of the adjacent Eastern Columbia Building.
- Off-street Parking Facilities: Residential parking would be provided based on the Central City Parking Exception, and commercial parking would be provided based on the Exception Downtown Business District, LAMC Section 12.21-A.4(l)3.
- Open Space: 32,225 square feet.

#### Building Arrangement (Height, Bulk and Setbacks)

The Project is designed with a 27-story, 320-foot high tower with an attached, partially lined parking structure. The existing C5-4D Zone on the site does not limit height, however, the 4D height district limits the permitted floor area ratio (F.A.R.) of the site to 6:1. The project has been approved for a Transfer of Floor Area less than 50,000 square feet, which has resulted in an F.A.R. of up to 7.45:1. This high-rise, 27-story building would front on Hill Street and 9th Street, establishing a massing and bulk that encompasses a majority of the lot area. The Project would also feature one level of subterranean parking and four levels, of podium parking. Levels five (5) and six (6) would be completely lined with habitable space on the street frontages and therefore parking on these levels would not be visible from the street level. Consistent with other neighboring buildings, the ground floor commercial space will provide a direct interface with the street frontages, creating pedestrian activity. The Downtown Design Guide encourages variations in setbacks along street frontages, and specifies that setbacks on retail streets in the Historic Downtown area are to match prevailing setbacks where appropriate. The adjacent properties along Hill and 9th Streets do not have front yard setbacks. The Downtown Design Guide also dictates that at least 95% of the Project Frontage along 9th Street and Hill Street be lined with Building Street Wall at the back of the setback and that 90% of that Building Street Wall on 9th Street and Hill Street reach a height of 75 feet. The Project would comply with all applicable requirements set forth in the LAMC and Downtown Street Standards.

#### Off-Street Parking Facilities and Loading Areas

Based on the Central City Parking Exception, the Project would be required to provide a total of 321 residential parking spaces with 242 spaces designated for residential units with

three habitable rooms or less and 79 spaces designated for residential units with three habitable rooms or more.

The commercial parking ratio for up to 6,171 square feet of new ground floor retail space would be based on the Exception Downtown Business District, according to LAMC Section 12.21-A,4(i)3 which requires at least one parking space per 1,000 square feet for business, commercial or industrial buildings, having a gross floor area of 7,500 square feet or more. Consequently, the Code does not require any commercial parking for this project.

The Project would provide six levels of parking, including one level of subterranean parking accessed from 9<sup>th</sup> Street, and five (5) levels of above grade parking. The ground level would support five parking spaces and a loading area, accessed from Hill Street. Levels 2-4 would consist entirely of parking spaces and Level 5 would support additional parking behind habitable space fronting Hill Street and 9<sup>th</sup> Street. The building's architectural façade along Hill Street, designed to be compatible in scale with the adjacent historic buildings, would obscure the parking on above grade parking levels two (2) – four (4) so as to visually screen the appearance of parking from street level. With the exception of a stairwell at the northern portion of the site, level five (5) would be completely lined with habitable space on the street frontages and therefore would not be visible from the street level. Level 6 is also wrapped with habitable space on the street frontages. The glass enclosure of the tower would come down at the corner of 9<sup>th</sup> and Hill Streets. However, the massing, scale and rhythm from the Broadway Trade Center on Hill Street would continue along 9<sup>th</sup> Street to create continuity of the historical context through the City Block. Vehicular access to the site would be from one entrance on Hill Street and one entrance on 9<sup>th</sup> Street. Loading and trash collection would take place within the interior of the ground level and would not be visible from the street.

The Bicycle Parking Ordinance, which applies to projects citywide, became effective on March 13, 2013. It includes design standards and siting requirements as well as requirements for short- and long-term bicycle parking. Pursuant to the requirements of LAMC 12.21 A.4, 12.21 A.4(c), 12.21A.16 and 12.21 A.5 (the Bicycle Parking Ordinance 182,386), The Project is required to provide a total of 342 bicycle parking spaces. A total of 34 short-term bicycle parking are proposed as well as a total of 308 long-term bicycle parking, meeting the code requirements.

As an amenity to encourage residents to use bicycles for transportation as well as recreational exercise, the Project proposes to include a bicycle lounge and repair facility that facilitates more residents to use and maintain bicycles.

The Project would include a loading area located on the ground floor level. The loading areas would serve the retail and residential uses. The location of the loading areas inside the garage would result in limited impacts on adjacent properties as all loading would occur inside the building.

#### Lighting

The plans submitted do not show the location or type(s) of lighting for the Project. The applicant has been required in Condition of Approval Number 13.f.iv. to provide exterior lighting in compliance with Section 8.F., Lighting of the Downtown Design Guide. As conditioned, the project will not result in a substantial amount of light that would adversely affect the day or night time views in the project vicinity.



### Landscaping

The project has been conditioned to attractively landscape all open areas not used for buildings, driveways, parking areas, recreational facilities, or walks. Landscaped areas will be installed with an automatic irrigation system and maintained in accordance with a landscape plan prepared by a licensed landscape architect or licensed architect.

Based on 305 proposed dwelling units, the project shall provide 76 on-site trees, pursuant to Section 12.21-G.2(a)(3) of the Los Angeles Municipal Code, or one (1) 24" box tree per every four (4) units, whichever is greater.

In the event that the 76 trees cannot be accommodated on the project site, the applicant shall make arrangements with City Plants to have the trees planted off-site. The first priority for the location of off-site plantings shall be within the Central City Community Plan Area. If trees cannot be planted within the Central City Community Plan Area, the location shall be determined by City Plants.

### Trash Collection

The Project will provide a trash collection area within the building, which will be located on the ground floor level of the Proposed Project. The central trash area for the building will be located in a central location that is accessible from the residential lobby as well as from the proposed retail spaces. Access to collect trash will be from the access driveway off Hill and 9<sup>th</sup> Streets.

### Fences and/or Walls

The Project does not incorporate fences and/or walls.

9. **That any residential project provides its residents with appropriate type and placement of recreational facilities and service amenities in order to improve habitability for the residents and minimize impacts on neighboring properties where appropriate.**

The Project includes dedicated areas for residential, social, and recreational functions. In compliance with the Los Angeles Municipal Code requirements, the development will provide 32,225 square feet of open space, which will provide common outdoor and indoor space for residents. The 7<sup>th</sup> floor would include approximately 12,437 square feet of common open space with a 9,217 square foot landscaped roof deck, including a swimming pool, and 3,220 square feet of indoor amenities. Indoor amenities on the 7<sup>th</sup> floor are proposed to include a 1,160 square foot lounge, and a 2,060 square foot fitness center. The 27<sup>th</sup> level would feature a 2,891 square foot sky deck and a 1,747 square foot indoor sky lounge. The Project also includes 15,150 square feet of private open space within balconies and terraces. The development includes specific dedicated areas for recreational activities and would meet the City's open space standards.

The Project also would encourage an active recreational lifestyle for its residents. The fitness center and swimming pool provide the opportunity for healthy exercise, while outdoor space dedicated at the podium level and on the rooftop would be designed for passive recreational opportunities and relaxation. As an amenity to encourage residents to use bicycles for transportation as well as recreational exercise, the Project proposes to include a bicycle lounge and repair facility that facilitates more residents to use and maintain

bicycles. The Project provides these recreational and service amenities to improve habitability for its residents and minimize impacts on neighboring properties.

In addition to the on-site residential amenities, the applicant will also be contributing approximately a \$1.8 million public benefit payment per Los Angeles Municipal Code Section 14.5.9 for the requested transfer of floor area. This money may be used for various public improvements around the project site, therefore positively impacting neighboring properties.

#### **ADDITIONAL MANDATORY FINDINGS**

10. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is located in Zone C, areas determined to be outside the 0.2% annual chance floodplain.
11. On April 22, 2016, the Department of City Planning released an Addendum to the previously adopted Mitigated Negative Declaration No. ENV-2006-6302-MND. The original MND was adopted on January 31, 2007.

Pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15164, the lead or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred. An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred. An addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration. The decision-making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project. A brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency's required findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

Pursuant to CEQA Guidelines Section 15162, when a negative declaration has been adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

- a. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- b. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- c. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

- d. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
- e. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- f. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
- g. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Given the fact no new significant impacts were identified as a result of the now Modified Project, an Addendum was prepared. This Addendum reflects the independent judgment of the lead agency and determined that this project would not have a significant effect upon the environment provided the potential impacts are mitigated to a less than significant level. All feasible mitigation measures have been incorporated into the project as Conditions of Approval to ensure that there will be no significant unavoidable environmental impacts.

The Proposed Modified Project may cause potentially significant impacts on the environment without mitigation. The Addendum to the environmental analysis (ENV-2006-6302-MND) concludes that none of the proposed changes to the Project would generate or result in any new significant environmental impacts and the mitigation measures identified in the adopted Mitigated Negative Declaration shall be readopted for the purposes of avoiding and mitigating all potential adverse impacts on the environment in association with the associated case(s): ZA-2006-6350-YV-ZAA-SPR and VTT-66505. Finally, based on the fact that these impacts can be feasibly mitigated to less than significant, and based on the findings and thresholds for Mandatory Findings of Significance as described in the California Environmental Quality Act, section 15065, the overall project impacts(s) on the environment (after mitigation) will not:

- Substantially degrade environmental quality.
- Substantially reduce fish or wildlife habitat.
- Cause a fish or wildlife habitat to drop below self-sustaining levels.
- Threaten to eliminate a plant or animal community.
- Reduce number, or restrict range of a rare, threatened, or endangered species.
- Eliminate important examples of major periods of California history or prehistory.
- Achieve short-term goals to the disadvantage of long-term goals.
- Result in environmental effects that are individually limited but cumulatively considerable.
- Result in environmental effects that will cause substantial adverse effects on human beings.

The prepared Addendum was not published for formal comment; however, staff has received numerous letters from interested parties. While such letters presented arguments against the Proposed Project, they did not present any new information that would warrant any changes to the environmental analysis as presented in the Addendum to the previously adopted MND. Formal responses to such letters have been prepared and are located in the subject case file.

The records upon which this decision is based are with the Environmental Review Section of the Planning Department in Room 750, 200 North Spring Street

**MODIFIED CONDITIONS OF APPROVAL****A. ENTITLEMENT CONDITIONS**

The approval is subject to the following terms and conditions:

1. **Site Plan.** The use and development of the subject property shall be in substantial conformance with the site plan and elevations labeled Exhibit "A" included in the subject case file. Minor deviations which result in a total floor area that is less than 257,569 square feet may be allowed in order to comply with provisions of the Municipal Code, the subject conditions, and the intent of the subject permit authorization.
2. **Use.** The project shall be limited to a mixed-use building with up to 305 residential units and up to 6,171 square feet of commercial floor area.
3. **Floor Area.** Development on the subject property shall be limited to a 7.45:1 Floor Area Ratio (FAR), or a total floor area of up to 257,569 square feet. No deviations which result in more than 257,569 square feet of development shall be permitted.
4. **Height.** The building height shall not exceed 320 feet, which shall be measured according to the Los Angeles Municipal Code. Any structures on the roof, such as air conditioning units and other equipment shall be fully screened from view of any abutting properties.
5. **Parking.** On-site parking shall be provided in compliance with the commercial and residential parking requirements of the LAMC.
6. **Bicycle Parking.** On-site bicycle parking shall be provided in compliance with the commercial and residential parking requirements of the LAMC.
7. **Landscaping.** All open areas not used for buildings, driveways, parking areas, recreational facilities, or walks shall be attractively landscaped, including an automatic irrigation system, and maintained in accordance with a landscape plan prepared by a licensed landscape architect or licensed architect.
8. **On-Site Trees.**
  - a. Based on 305 proposed dwelling units, the project shall provide 76 on-site trees, pursuant to Section 12.21-G.2(a)(3) of the Los Angeles Municipal Code, or one (1) 24" box tree per every four (4) units, whichever is greater.
  - b. In the event that the 76 trees cannot be accommodated on the project site, the applicant shall make arrangements with City Plants to have the trees planted off-site. The first priority for the location of off-site plantings shall be within the Central City Community Plan Area. If trees cannot be planted within the Central City Community Plan Area, the location shall be determined by City Plants.
  - c. The applicant shall provide funds to City Plants equivalent to those necessary for the trees, concrete cut, planting, and five years of watering and maintenance for each tree. An agreement with City Plants demonstrating compliance with this condition shall be furnished at the time of Building Permit Clearance. Contact City Plants, at (213) 473-9950 to execute the agreement.

- d. In the event that the number of residential units is reduced, the minimum number of 76 trees to be planted on-site shall not be reduced. However, the number of trees to be planted off-site shall be recalculated per LAMC requirements.
9. **Exterior Lighting.** Exterior lighting for the building shall comply with Downtown Design Guide Section 8.F.
  - a. Outdoor lighting shall be designed and installed with shielding, such that the light source does not illuminate any adjacent properties, the public right-of-way, or the above night skies.
10. **Maintenance.** The subject property (including any trash storage areas, associated parking facilities, sidewalks, driveways, yard areas, parkways, and exterior walls along the property lines) shall be maintained in an attractive condition and shall be kept free of trash and debris.
11. **Public Benefit Payment.** The Project is subject to and shall pay a Public Benefit Payment in conformance with Section 14.5.9 of the Los Angeles Municipal Code (LAMC). Based on the appraised value of \$19,000,000.00, the applicant shall provide a Public Benefit Payment in the amount of \$1,830,671.10. Consistent with the TFAR Ordinance, at least 50 percent of the Public Benefit Payment shall consist of a cash payment by the applicant to the Public Benefit Payment Trust Fund and up to 50 percent (or \$915,335.55) of the Public Benefit Payment may be paid as a Direct Provision of Public Benefits.
  - a. The Applicant shall pay the required Public Benefit Payment, less the cost of the Direct Provision of Public Benefits, in cash to the Public Benefit Trust Fund, pursuant to the terms of Transfer of Floor Area Rights Ordinance No. 181,574, Article 4.5 of the LAMC. The Public Benefit Payment proof of cash payment and direct provision of public benefits is required upon the earliest occurrence of either:
    - i. The issuance of the building permit for the Project; or
    - ii. Twenty-four months after the final approval of the Transfer and expiration of any appeals or appeal period should the Applicant not make the required payments within the specified time the subject approval shall expire, unless extended by the Director of Planning in writing.
  - b. The Public Benefit Payment shall be pro-rated to the amount of TFAR being acquired in the event that maximum amount of TFAR approved is not required. During clearance, the final appraised value may be subject to verification prior to payment of the Public Benefit Payment.
12. Prior to the issuance of a building permit, the designs for the proposed new building adjacent to historical resources shall be reviewed, commented on and approved for conformance with Secretary's Standards. Design review shall be performed by a preservation architect meeting the Secretary of the Interior's Professional Qualifications Standards in historic architecture and in consultation with the Department of City Planning's Office of Historic Resources and Expedited Processing Section. The preservation architect shall be an impartial third party, different than any preservation architect who may have reviewed the project previously, chosen by the Department of City Planning, and paid for by the Applicant. Any recommended modifications to the project design shall be in substantial conformance to the approved architectural plans analyzed in the Addendum to the adopted MND and

**attached to this approval as Exhibit A, and shall be administratively reviewed and accepted by the Department of City Planning prior to issuance of a building permit for the new building.**

Recommended modifications shall be incorporated in the design prior to issuance of building permits for the new building.

- a. The qualified preservation architect shall hold a valid license to practice architecture in the State of California and have a minimum of 10 years specific experience rehabilitating historic buildings and applying the Secretary's Standards to such projects. In consultation with the Department of City Planning's Office of Historic Resources and Expedited Processing Section, the qualified preservation architect will assess design of the proposed new building for its compatibility in mass, materials, relationship of solids to voids, scale and color with immediately adjacent identified historical resources and with the character of its surroundings. "The relationship of buildings to each other, setbacks... views, driveways and walkways and street trees together create the character of a district or neighborhood." Without imitating the features of historic buildings, the design for adjacent contemporary buildings should: use similar or complimentary materials, repeat and/or respect the heights of floors, rhythms and depths of bays, use compatible window/door openings and types, and correspond to roof heights and shapes, all of which will help maintain the existing character of the area. A letter summarizing the qualified preservation architect's findings shall be submitted to the Department of City Planning's Office of Historic Resources and Expedited Processing Section to establish the proposed project's conformance with the Secretary's Standards and compatibility with historical resources prior to issuance of any building permit for the proposed project.
  - b. Any approved design edits shall be stamped and included in the subject case file and serve as a supplemental to the herein approved Exhibit "A." In no case may the design edits result in a building containing more than 257,569 square feet of development.
13. **Downtown Design Guidelines.** The proposed project as depicted in Exhibit "A" shall comply with the following Downtown Design Standards:
- a. **Sidewalks and Setbacks.**
    - i. A building may project over the required sidewalk easement above a height of 40' and below a depth of 5' to accommodate street trees. Projections, which are permitted in the public ROW by the Municipal Code, such as signs, canopies and awnings, are permitted over the required easement, subject to the same approvals.
  - b. **Ground Floor Treatment.**
    - i. The project shall provide ground floor retail space to a depth of at least 25 feet from the façade and include an average 14'-0" floor-to-ceiling height.
    - ii. The primary entrance to each street level tenant space that has its frontage along a public street shall be provided from that street.



- iii. One building entrance shall be located on Hill Street. Such entrance shall provide access to the building's main lobby and shall be kept unlocked during business hours.
- iv. Wall openings on the ground floor, including storefront windows and doors, shall comprise at least 75 percent of a building's street level façade along Hill and 9<sup>th</sup> Streets.
- v. The project shall provide clear glass for all wall openings along Hill and 9<sup>th</sup> Streets. Dark tinted, reflective, or opaque glazing is not permitted for any required wall opening along both street level facades.
- vi. Ground-floor window and door glazing shall be transparent and non-reflective.
- vii. The project's electrical transformers, mechanical equipment, and other equipment shall not be located along the project's ground floor along Hill or 9<sup>th</sup> Streets.

c. Parking and Access.

- i. No more than the minimum Municipal Code required parking shall be provided on-site, unless provided for public use.
- ii. Except for the ground level frontage required for access, no parking or loading shall be visible on the ground floor of any building façade that faces Hill or 9<sup>th</sup> Streets.
- iii. Parking, loading, or circulation located above the ground floor shall be integrated into the design of the building façade.
- iv. Drop-off activities for residential and commercial uses shall be provided within the off-street parking facilities using the parking access.
- v. Parking and loading access shall be located a minimum of 25 feet from a primary building entrance, pedestrian paseo, or public outdoor gathering area.
- vi. Where a vehicular exit from a parking structure is located within 5 feet of the back of sidewalk, a visual/audible alarm shall be installed to warn pedestrians and cyclists of exiting vehicles.
- vii. The Proposed Project's parking podium's southern and eastern facing façades shall be completely enclosed and feature a green wall. The podium of the proposed project, as it wraps the Eastern Columbia Building's utility yard, shall be completely enclosed and include a green wall.
- viii. Mirrors shall be installed mirrors at the Project's garage entrances for pedestrian safety.

d. Massing and Street Wall.

- i. The project shall maintain an identifiable break between the building's ground floor commercial uses, podium parking levels, and the residential floors. This break may consist of a change in material, change in fenestration, or similar means.

e. On-Site Open Space.

- i. The project shall provide a total combined public and private open space as shown on the following table:

<u>Require Open Space</u>	<u>S.F. per Unit</u>	<u>Proposed Units</u>	<u>Square feet</u>
< 3 Habitable rooms	100	242	24,200
= 3 Habitable rooms	125	60	7,500
> 3 Habitable rooms	175	3	525
<b>Total Required</b>		<b>3058</b>	<b>32,225</b>

- ii. In the event that the number of dwelling units is reduced, the amount of open space and trees would be revised accordingly to meet the requirements of the Los Angeles Municipal Code.
- iii. At least 50 percent of the trees on-site are canopy trees that shade open spaces, sidewalks, and buildings.

f. Architectural Detail.

- i. The project shall provide well-marked entrances to cue access and use.
- ii. Main building entrances should read differently from retail storefronts, restaurants, and commercial entrances.
- iii. Different architectural treatment on the ground floor façade than on the upper floors shall be required and feature high quality materials that add scale, texture and variety at the pedestrian level.
- iv. Exterior lighting shall be shielded to reduce glare and eliminate light being cast into the night sky.

g. Streetscape Improvements.

- i. Street trees shall be spaced not more than an average of 25 feet on center and shall comply with Downtown Design Guide Section 9.F, to the satisfaction of the Bureau of Street Services, Urban Forestry Division. At least 50 percent of the provided trees shall be canopy trees in conformance with Downtown Design Guide Section 7.
- ii. The developer shall install street lights to the satisfaction of the Bureau of Street Lighting.
- iii. The applicant shall execute a Maintenance Agreement with the City by which the developer or Lead Public Agency agrees to maintain the streetscape improvements and accepts liability for them.

14. **On-Site Landscape Conditions.** The project shall comply with the Landscape Plan in Exhibit "A" as follows:

- a. Amenity decks on the 7<sup>th</sup> and 27<sup>th</sup> floors shall include attractively landscaped passive outdoor areas; including but not limited to lounge areas, communal tables, fire pits, a dog lawn and washing station, and pool and spa areas that enhance the outdoor experience of the development.
- b. All planters containing trees shall be constructed at a minimum depth of 48 inches.
- c. All rooftop equipment and appurtenances shall be screened from public view using landscaping or shall be architecturally integrated into the design of the building.

**B. Environmental Conditions**

15. **Aesthetics.** The Applicant shall ensure, through appropriate postings and daily visual inspections, that no graffiti and unauthorized materials are posted on any temporary construction barriers, pedestrian walkways, or other structures, and that any such temporary barriers and walkways shall be maintained in a visually attractive manner throughout the construction period.

**Enforcement Agency: Los Angeles Department of Building and Safety**

**Monitoring Agency: Los Angeles Department of Building and Safety**

**Monitoring Phase: Pre-construction; Construction**

**Monitoring Frequency: Once, at plan check for Project, then ongoing during construction**

**Action Indicating Compliance: Issuance of Certificate of Occupancy of Use of Land (Construction)**

16. **Air Quality.**

- a. Water or a stabilizing agent shall be applied to exposed surfaces in sufficient quantity to prevent generation of dust plumes.
- b. Track-out shall not extend 25 feet or more from an active operation, and track-out shall be removed at the conclusion of each workday.
- c. A wheel washing system shall be installed and used to remove bulk material from tires and vehicle undercarriages before vehicles exit the project site.
- d. All haul trucks hauling soil, sand, and other loose materials shall maintain at least six inches of freeboard in accordance with California Vehicle Code Section 23114.
- e. All haul trucks hauling soil, sand, and other loose materials shall be covered (e.g., with tarps or other enclosures that would reduce fugitive dust emissions).
- f. Traffic speeds on unpaved roads shall be limited to 15 miles per hour.
- g. Operations on unpaved surfaces shall be suspended when winds exceed 25 miles per hour.
- h. Heavy-equipment operations shall be suspended during first and second stage smog alerts.

**Enforcement Agency: SCAQMD; Los Angeles Department of Building and**

**Safety****Monitoring Agency: Los Angeles Department of Building and Safety****Monitoring Period: Preconstruction and construction****Monitoring Frequency: Periodic field inspections during construction****Action Indicating Compliance: Field inspection sign-off; Compliance certification report by project contractor**

17. **Biological Resources.** The proposed landscaping plan shall meet all the general goals of the Landscaping Ordinance, including a tree planning scheme that will provide sufficient shade to reduce heat attenuation around buildings. Drip irrigation will be used wherever appropriate, and highly durable, drought tolerant species will be used to the maximum extent feasible.

**Enforcement Agency: Los Angeles Department of City Planning (plan review); Los Angeles Department of Building and Safety (operation)****Monitoring Agency: Los Angeles Department of City Planning (plan review); Los Angeles Department of Building and Safety (operation and maintenance)****Monitoring Phase: Pre-construction; Construction****Monitoring Frequency: Once, at plan check for Project; Once, during field inspection****Action Indicating Compliance: Plan approval and issuance of applicable building permit (Preconstruction); Issuance of Certificate of Occupancy of Use of Land (Construction)**

18. **Cultural Resources.**

- a. Prior to commencement of construction of the new building, a qualified structural engineer shall survey the existing foundations and other structural aspects of immediately adjacent historic buildings and provide a shoring design to protect the Eastern Columbia and May Company buildings from potential damage. Pot holing or other destructive testing of the below grade conditions on the project site and immediately adjacent historic buildings may be necessary to establish baseline conditions and prepare the shoring design. If feasible, project, and in particular shoring, design shall avoid pile driving within 25 feet of the existing immediately adjacent historic buildings. The shoring design shall specify threshold limits for vibration causing activities consistent with the ATS report.
- b. The qualified structural engineer shall hold a valid license to practice structural engineering in the State of California and have a minimum of 10 years specific experience rehabilitating historic buildings and applying the Secretary's Standards to such projects. The qualified structural engineer shall submit a pre-construction survey letter establishing baseline conditions to be monitored during construction to the lead agency and to the mitigation monitor prior to issuance of any foundation only or building permit for the proposed project.
- c. The qualified structural engineer shall monitor vibration during the pile driving or other vibration-causing construction activities to ensure that the impact threshold established in the ATS report and shoring design is not exceeded. If feasible, alternative means of setting piles such as predrilled holes or hydraulic pile driving shall be employed to avoid exceeding the impact threshold established in the ATS report.
- d. At the conclusion of vibration causing activities, the qualified structural engineer shall issue a follow-on letter describing damage, if any, to immediately adjacent

historic buildings and recommendations for any repair, as may be necessary, in conformance with the Secretary's Standards. Repairs to immediately adjacent historic buildings shall be undertaken, or performance bonds securing the same, and completed in conformance with all applicable codes including the California Historical Building Code (Part 8 of Title 24) prior to issuance of any temporary or permanent certificate of occupancy for the new building.

**Enforcement Agency: Los Angeles Department of Building and Safety**

**Monitoring Agency: Los Angeles Department of Building and Safety**

**Monitoring Phase: Construction**

**Monitoring Frequency: Once, prior to issuance of building permit, then ongoing during construction**

**Action Indicating Compliance: Issuance of Certificate of Occupancy or Land Use Permit**

- e. To ensure compatibility, designs for the proposed new building adjacent to historical resources shall be reviewed, commented on and approved for conformance with Secretary's Standards by a preservation architect meeting the Secretary of the Interior's Professional Qualifications Standards in historic architecture. Modifications recommended by the preservation architect shall be incorporated in the design prior to issuance of building permits for the new building adjacent to historical resources.
- f. The qualified preservation architect shall hold a valid license to practice architecture in the State of California and have a minimum of 10 years specific experience rehabilitating historic buildings and applying the Secretary's Standards to such projects. The qualified preservation architect will assess design of the proposed new building for its compatibility in mass, materials, relationship of solids to voids, scale and color with immediately adjacent identified historical resources and with the character of its surroundings. "The relationship of buildings to each other, setbacks... views, driveways and walkways and street trees together create the character of a district or neighborhood." Without imitating the features of historic buildings, the design for adjacent contemporary buildings should: use similar or complimentary materials, repeat and/or respect the heights of floors, rhythms and depths of bays, use compatible window/door openings and types, and correspond to roof heights and shapes, all of which will help maintain the existing character of the area. A letter summarizing the qualified preservation architect's findings shall be submitted to the lead agency to establish the proposed project's conformance with the Secretary's Standards and compatibility with historical resources prior to issuance of any building permit for the proposed project.

**Enforcement Agency: Los Angeles Department of City Planning**

**Monitoring Agency: Los Angeles Department of City Planning**

**Monitoring Phase: Pre-Construction, prior to issuance of a building permit**

**Monitoring Frequency: Once, prior to issuance of building permit**

**Action Indicating Compliance: Issuance of building permit**

- g. During excavation and grading, if archaeological resources are uncovered, all work in that area shall cease and be diverted so as to allow for a determination of the value of the resource. Construction activities in that area may commence once the uncovered resources are collected by an archaeologist and properly processed.

- Any archaeological remains and/or reports and surveys shall be submitted to the South Central Coastal Information Center, California State University, Fullerton.
- h. The Applicant shall sign a covenant and agreement with the City to allow suspension of construction activities for the recovery or recordation of all archaeological resources prior to the issuance of a building permit.
  - i. During excavation and grading, if paleontological resources are uncovered, all work in that area shall cease and be diverted so as to allow for a determination of the value of the resource. Construction activities in that area may commence once the uncovered resources are collected by a paleontologist and properly processed. Any paleontological remains and/or reports and surveys shall be submitted to the Los Angeles County Natural History Museum.
  - j. The Applicant shall sign a covenant and agreement with the City to allow the suspension of construction activities for the recovery or recordation of all paleontological resources prior to the issuance of a building permit.
  - k. If human remains are discovered within either development parcel, work at the specific construction site shall be suspended, and the City Department of Building and Safety and County Coroner shall be notified. If the remains are determined by the County Coroner to be Native American, the Native American Heritage Commission (NAHC) shall be notified within 24 hours and the guidelines of the NAHC shall be implemented in the treatment and disposition of the remains.
  - l. The Applicant shall sign a covenant and agreement with the City to allow suspension of construction activities for the recovery of all human remains prior to the issuance of a building permit.

**Enforcement Agency: Los Angeles Department of Building and Safety**

**Monitoring Agency: Los Angeles Department of Building and Safety**

**Monitoring Phase: Construction**

**Monitoring Frequency: Once, prior to issuance of building permit, then ongoing during construction**

**Action Indicating Compliance: Issuance of Certificate of Occupancy or Land Use Permit**

**19. Geology and Soils.**

- a. Unless otherwise so specified by the City of Los Angeles, the proposed project shall demonstrate compliance with specific recommendations of the geotechnical engineering report prepared by Geocon West, Inc., dated January 5, 2016, and contained herein as Appendix B, to the satisfaction of the City of Los Angeles Department of Building and Safety, as conditions to issuance of any grading and building permits.
- b. The project shall conform to applicable criteria set forth in the Recommended Lateral Force Requirements and Commentary by the Structural Engineers Association of California.
- c. Seismic design for structures and foundations shall comply with the parameters outlined in the 2013 California Building Code as designated for site-specific soil conditions.
- d. The project shall be designed to conform to the City of Los Angeles Seismic Safety Plan, and additional seismic safety requirements not encompassed by compliance with the Building Code and Grading Ordinance as may be identified by the Department of Building and Safety prior to Plan Check approval.



- e. The structural design of the project shall comply with the seismic standards of the California Building Code according to the seismic zone and construction type (S<sub>c</sub> based on Table 16-J of the UBC).
- f. During inclement periods of the year, when rain is threatening (between October 1 and April 15 per Chapter IX, Division 70 of the Los Angeles Municipal Code) an erosion control plan that identifies BMPs shall be implemented to the satisfaction of the City of Los Angeles Department of Building and Safety to minimize potential erosion during construction. The erosion control plan shall be a condition to issuance of any grading permit.
- g. To the extent feasible, grading shall be scheduled for completion prior to the start of the rainy season (between October 1 and April 15 per Chapter IX, Division 70 of the Los Angeles Municipal Code) or detailed temporary erosion control plans shall be implemented in a manner satisfactory to the City of Los Angeles Department of Public Works.
- h. Appropriate erosion control and drainage devices shall be incorporated to the satisfaction of the Department of Building and Safety. Such measures include interceptor terraces, berms, vee-channels, and inlet and outlet structures, as specified by Section 91.7013 of the Building Code, as well as planting fast-growing annual and perennial grasses in areas where construction is not immediately planned. These will shield and bind the soil.
- i. If temporary excavation slopes are to be maintained during the rainy season, it will be necessary to direct all drainage away from the top of the slope. No water shall be allowed to flow uncontrolled over the face of any temporary or permanent slope.
- j. Provisions shall be made for adequate surface drainage away from the areas of excavation as well as protection of excavated areas from flooding. The grading contractor shall control surface water and the transportation of silt and sediment.
- k. The project shall comply with the following Department of Building and Safety requirements (if not already covered by 23), prior to issuance of a grading permit for the project.
  - i. Prior to the issuance of a grading permit by the Department of Building and Safety, the consulting geologist and soils engineer shall review and approve project grading plans. This approval shall be conferred by signature on the plans which clearly indicate the geologist and/or soils engineer have reviewed the plans prepared by the design engineer and that the plans include the recommendations contained in the report.
  - ii. Prior to the commencement of grading activities, a qualified geotechnical engineer and engineering geologist shall be employed for the purpose of observing earthwork procedures and testing fills for conformance to the recommendations of the City Engineer, approved grading plans, applicable grading codes, and the geotechnical report approved to the satisfaction of the Department of Building and Safety.
  - iii. During construction, Grading shall be observed, and reported by the project engineer. Grading shall be performed under the supervision of a licensed engineering geologist and/or soils engineer in accordance with applicable provisions of the Building Code and to the satisfaction of the City Engineer and the Superintendent of Building and Safety.
  - iv. Any recommendations prepared by the consulting geologist and/or soils engineer for correction of geologic hazards, if any, encountered during

grading shall be submitted to the Department of Building and Safety for approval prior to issuance of a Certificate of Occupancy for the project.

- v. Grading and excavation activities shall be undertaken in compliance with all relevant requirements of the California Division of Industrial safety, the Occupational Safety and Health Act of 1970 and the Construction Safety Act.

**Enforcement Agency: Los Angeles Department of Building and Safety**

**Monitoring Agency: Los Angeles Department of Building and Safety**

**Monitoring Phase: Construction**

**Monitoring Frequency: Ongoing during construction**

**Action Indicating Compliance: Issuance of Certificate of Occupancy or Land Use Permit**

**20. Hazards and Hazardous Materials.**

- a. **Sub-slab Vent System.** A series of perforated vent lines and an associated 2-inch thick gravel blanket must be installed beneath the floor slab of the proposed structure. The perforated vent lines must be connected to solid vent piping that extends through the walls or pipe chases of the building to outlets above the roof line. A permanent dewatering system must be installed if the design high groundwater level for the project is not at least one foot below the lowest vent piping elevation. Groundwater was not encountered during the current site investigation to the maximum depth explored (i.e., 40 feet). The project soils engineer should identify the design groundwater elevation in accordance with LADBS criteria.
- b. **Impervious Membrane.** A continuous gas membrane is required below the floor slab of the building. This membrane must be sealed against footing, pilings and utilities to form a gas-tight barrier beneath the building.
- c. **Utility Trench Dams.** A section of impervious backfill consisting of compacted native soil or sand/cement slurry must be installed in utility trenches that extend beneath the perimeter of the building in order to prevent gas from migrating through sand or backfill.
- d. **Conduit Seals.** Gas tight seals must be installed on all conduits (e.g., electrical, cable, T.V., telephone, etc.) that extend to the interior of the structure. The purpose of these seals is to prevent methane gas from entering the subsurface cracks or discontinuities in the conduits and subsequently migrating to the interior of the building.
- e. **The Applicant shall develop and implement an Emergency Procedures Plan, which includes notification to the City of Los Angeles EOO, the Central Division of the Los Angeles Police Department, Los Angeles Fire Department Central Division Headquarters, and Fire Station No. 10 (first call station) of any full or partial lane closures, movement of heavy construction equipment, construction within the 9th Street or Hill Street right-of-ways, or any use of the adjacent right-of-ways.**
- f. **The Emergency Procedures Plan shall specify a process by which any activities in the adjacent right-of-ways shall be coordinated with the emergency requirements of the EOO and the Police and Fire Departments.**

**Enforcement Agency: Los Angeles Department of Building and Safety**

**Monitoring Agency: Los Angeles Department of Building and Safety**

**Monitoring Phase: Pre-Construction and Construction**

**Monitoring Frequency: Ongoing during construction**  
**Action Indicating Compliance: Issuance of Certificate of Occupancy or Land Use Permit**

**21. Hydrology and Water Quality**

- a. The project shall comply with the requirements of the NPDES permit for stormwater discharge and with all applicable requirements of the RWQCB, USEPA and local agencies regarding water quality.
- b. The project shall implement stormwater BMPs to retain or treat the runoff from a storm event producing 0.75 inch of rainfall in a 24-hour period. The design of structural BMPs shall be in accordance with the Development Best Management Practices Handbook Part B Planning Activities. A signed certificate from a licensed civil engineer or licensed architect that the proposed BMPs meet this numerical threshold standard shall be provided.
- c. All storm drain inlets and catch basins within the project area shall be stenciled with prohibitive language (such as "NO DUMPING-DRAINS TO OCEAN") and/or graphical icons to discourage illegal dumping.
- d. The legibility of signs and stencils discouraging illegal dumping shall be maintained.
- e. Materials used on site with the potential to contaminate stormwater shall be: (1) placed in an enclosure such as, but not limited to, a cabinet, shed, or similar stormwater conveyance system; or (2) protected by secondary containment structures such as berms, dikes, or curbs.
- f. The Applicant shall prepare and execute a covenant and agreement (Department of City Planning General form (CP-6770)) satisfactory to the Department of City Planning binding the owners to post-construction maintenance of all structural BMPs in accordance with the SUSMP.

**Enforcement Agency: Los Angeles Department of Building and Safety**  
**Monitoring Agency: Los Angeles Department of Building and Safety**  
**Monitoring Phase: Pre-Construction and Construction**  
**Monitoring Frequency: Ongoing during construction**  
**Action Indicating Compliance: Issuance of Certificate of Occupancy or Land Use Permit**

**22. Land Use Planning.**

- a. Prior to the issuance of the Modified Project's building permits, the Modified Project shall demonstrate to the satisfaction of the Planning Department consistency with the goals and objectives of the City of Los Angeles General Plan, the Central City Community Plan and the requirements of the City of Los Angeles Zoning and Municipal Codes.
- b. Prior to issuance of the Modified Project's building permits, the Modified Project shall demonstrate that it fully meets the requirements of the Community Redevelopment Agency as needed to assure consistency with the goals and objectives City Center Redevelopment Plan.

**Enforcement Agency: Los Angeles Department of City Planning**  
**Monitoring Agency: Los Angeles Department of City Planning**

**Monitoring Phase: Pre-construction****Monitoring Frequency: Once, at plan check****Action Indicating Compliance: Issuance of building permit****23. Noise**

- a. Construction contracts shall specify that all construction equipment shall be equipped with mufflers and other suitable noise attenuation devices.
- b. Grading and construction contractors shall use quieter equipment as opposed to noisier equipment (such as rubber-tired equipment rather than track equipment).
- c. Equipment staging areas shall be located on the western portion of the project site as far as possible from the Eastern Columbia residential tower to the east.
- d. Construction activity involving structural framing and the application of the exterior skin shall be limited to the hours of 8:00 a.m. to 6:00 p.m.
- e. During construction activity, the applicant shall periodically conduct 24-hour noise monitoring within Eastern Columbia residential tower dwelling units facing the project site or along the western façade of the Eastern Columbia residential tower. Additional mitigation shall be implemented for residential units if exterior noise levels exceed 71 dBA CNEL or interior noise levels exceed 45 dBA CNEL. These mitigation measures may include, but are not limited to, installation of temporary vertical sheeting at sensitive points to provide greater noise attenuation and further limitations to the construction schedule.
- f. All residential units located within 500 feet of the construction site shall be sent a notice regarding the construction schedule of the proposed project. A sign, legible at a distance of 50 feet shall also be posted at the construction site. All notices and the signs shall indicate the dates and duration of construction activities, as well as provide a telephone number where residents can inquire about the construction process and register complaints.
- g. A "noise disturbance coordinator" shall be established. The disturbance coordinator shall be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and would be required to implement reasonable measures such that the complaint is resolved. All notices that are sent to residential units within 500 feet of the construction site and all signs posted at the construction site shall list the telephone number for the disturbance coordinator.

**Enforcement Agency: Los Angeles Department of Building and Safety****Monitoring Agency: Los Angeles Department of Building and Safety****Monitoring Phase: Construction****Monitoring Frequency: Ongoing during field inspection****Action Indicating Compliance: Issuance of Certificate of Occupancy or Use of Land****24. Public Services.**

- a. Project building plans shall include the submittal of a plot plan for approval by the Los Angeles Fire Department either prior to the recordation of the final map or the approval of a building permit. All structures shall be within 300 feet of an approved fire hydrant.

- b. The Applicant shall consult with the Fire Department and incorporate fire prevention and suppression features appropriate to the design of the project.
- c. Definitive plans and specifications shall be submitted to the Fire Department and requirements for necessary permits satisfied prior to commencement of any portion of the project.
- d. Any required fire hydrants to be installed shall be fully operational and accepted by the Fire Department prior to any building construction.
- e. Plot plans indicating access driveways and roads and turning areas shall be reviewed and approved by the Fire Department, prior to the issuance of a building permit.
- f. During the construction phase, emergency access shall remain clear and unobstructed.
- g. The proposed project shall comply with all applicable State and local codes and ordinances, and the guidelines found in the Fire Protection and Fire Prevention Plan, as well as the Safety Plan, both of which are elements of the General Plan of the City of Los Angeles (C.P.C. 19708).
- h. All access roads, including fire lanes, shall be maintained in an unobstructed manner, removal of obstructions shall be at the owner's expense. The entrance to all required fire lanes or required private driveways shall be posted with a sign no less than three square feet in area in accordance with Section 57.09.05 of the Los Angeles Municipal Code.
- i. Where fire apparatus will be driven onto the road level surface of the subterranean parking structure, that structure shall be engineered to withstand a bearing pressure of 8,600 pounds per square foot, unless otherwise approved.
- j. The project shall comply with all applicable State and local Codes and Ordinances found in the Fire Protection and Fire Prevention Plan, as well as the Safety Plan, both of which are elements of the General Plan of the City of Los Angeles.
- k. During the project's construction phase, the Applicant shall ensure adequate through access and emergency access to adjacent uses.
- l. The Applicant shall consult with the Police Department and comply with recommended security features for the construction site(s), including security fencing, locked entrances, lighting, and the use of a 7-day, 24-hour security patrol.
- m. Upon completion of the project, the Applicant shall provide the Central Division Commanding Officer of the LAPD with a diagram of each portion of the property including access routes and other information that might facilitate police response, as requested by the LAPD.
- n. The applicant shall provide project plans to the LAPD Crime Prevention Unit, to determine any additional crime prevention and security features appropriate to the design of the project. Any additional design features identified by the LAPD Crime Prevention Unit shall be incorporated into the project's final design and to the satisfaction of LAPD, prior to issuance of a Certificate of Occupancy for the project.
- o. The project shall incorporate design guidelines relative to security, semi-public and private spaces, which may include, but not be limited to, access control to buildings, secured parking facilities, walls/fences with key systems, well illuminated public and semi-public space designed with a minimum of dead space to eliminate areas of concealment, location of toilet facilities or building entrances in high-foot traffic areas and provision of security guard patrol throughout the

project site if needed. The applicant is referred to Design Out Crime Guidelines: Crime Prevention Through Environmental Design (CPTED) published by the Los Angeles Police Department's Crime Prevention Section located at 100 W. 1st Street, #250, Los Angeles, CA 90012; (213) 486-6000. The CPTED operates on three key concepts:

- i. Natural surveillance: The placement of physical features, activities, and people in a way that maximizes visibility.
  - ii. Natural access control: Restricting or encouraging people to come into a space through the placement of entrances, exits, fencing, landscaping, and lighting.
  - iii. Territorial reinforcement: The use of physical attributes to define ownership and separate public and private space.
- p. The Applicant shall pay fees related to capital acquisitions and improvements in effect at the time of building permit issuance in accordance with California Government Code Section 65995.
  - q. The project Applicant shall carry out one or more of the following: (1) dedicate additional parkland such that the project would provide a total of three acres per 1,000 project residents; (2) pay in-lieu fees for any land dedication requirement shortfall; or (3) provide onsite improvements equivalent in value to said in-lieu fees.
  - r. The applicant shall pay per capita mitigation fees in accordance with the requirements of the Los Angeles Department of Public Libraries.

**Enforcement Agency: Los Angeles Department of Building and Safety**

**Monitoring Agency: Los Angeles Department of Building and Safety**

**Monitoring Phase: Pre-Construction**

**Monitoring Frequency: Once, at plan check**

**Action Indicating Compliance: Issuance of building permits**

## **25. Utilities and Service Systems.**

- a. The Applicant shall comply with City ordinances limiting connections to the City sewer system, in accordance with City Bureau of Sanitation procedures.
- b. The Applicant shall install low-flow water fixtures and further encourage reduction of water consumption to minimize wastewater flow to the sewer system, in accordance with City water conservation requirements.
- c. Any required connections or mains shall be designed by a registered civil engineer and approved by the Los Angeles Department of Public Works, Bureau of Engineering. Any construction within the public right-of-way shall be approved by the Los Angeles Department of Transportation.
- d. Prior to the issuance of a building permit, the applicant shall consult with LADWP to identify feasible and reasonable measures that reduce water consumption per City adopted California Building Code requirements.
- e. The project shall incorporate Phase I of the City of Los Angeles Emergency Water Conservation Plan.
- f. The project shall comply with any additional mandatory water use restrictions imposed as a result of drought conditions.



- g. Automatic sprinkler systems shall be installed to irrigate landscaping during morning hours or during the evening to reduce water losses from evaporation. Sprinklers shall be reset to water less often in cooler months and during the rainfall season, so that water is not wasted in excessive landscape irrigation.
- h. Prior to issuance of building permits, the Applicant shall pay any appropriate fees imposed by the Department of Building and Safety. A percentage of building permit fees is contributed to the fire hydrant fund, which provides for citywide fire protection improvements.
- i. The Applicant shall implement a demolition and construction debris recycling plan, with the explicit intent of requiring recycling during all phases of site preparation and building construction.
- j. In order to reduce the deposition of construction materials at solid waste landfills serving the City of Los Angeles, the grading contractor shall identify suitable private sites that accept all fill and earth materials for re-use. Sites in the City currently accepting construction/demolition debris include Browning Ferris Industries Recycling and Transfer Station and Mission Road Recycling and Transfer Station. Documentation of which site(s) is used shall be provided to the Bureau of Engineering, prior to the issuance of haul route permits.
- k. A Source Reduction and Recycling Plan (SRRP) shall be developed by the Applicant to the satisfaction of the Bureau of Engineering and Department of Sanitation. This plan shall identify methods to promote recycling and re-use of materials, as well as safe disposal consistent with the policies and programs contained in the City's Source Reduction and Recycling Element and the City's Solid Waste Management Policy Plan. The SRRP shall provide tenants and occupants with the means to recycle and compost materials in a manner that is practical and accessible. Specifically, the SRRP shall include a statement describing the methods by which the designated recyclables shall be separated from the waste stream, collected, and stored to facilitate transportation of these materials to a recycler or hauler providing such services. The SRRP shall identify an adequate storage area for collection and removal of recyclable materials within the project and establish standards for collection/storage of recyclable, and green waste (if applicable), materials.
- l. The proposed residential buildings shall be designed to be permanently equipped with clearly marked, durable, source sorted recyclables bins to facilitate the separation and deposit of recyclable materials.
- m. Primary collection bins shall be designed to facilitate mechanized collection of recyclable wastes for transport to on- or off-site recycling facilities.
- n. Applicant shall coordinate with the City of Los Angeles to continuously maintain in good order for the convenience of residents clearly marked, durable and separate bins in the same location to facilitate the commingled recyclables and deposit of recyclable or commingled waste metal, cardboard, paper, glass, and plastic; to maintain accessibility to such bins at all times; and to require waste haulers to utilize local or regional material recovery facilities as feasible and appropriate.

- o. The Applicant shall comply with the provisions of City of Los Angeles Ordinance No. 171687 with regard to all new structures constructed as part of the proposed project.

**Enforcement Agency: Los Angeles Department of Building and Safety**

**Monitoring Agency: Los Angeles Department of Building and Safety**

**Monitoring Phase: Pre-construction**

**Monitoring Frequency: Once, at plan check**

**Action Indicating Compliance: Plan approval**

### **C. ADMINISTRATIVE CONDITIONS**

- 26. **Final Plans.** Prior to the issuance of any building permits for the project by the Department of Building and Safety, the applicant shall submit all final construction plans that are awaiting issuance of a building permit by the Department of Building and Safety. All plans that are awaiting issuance of a building permit by the Department of Building and Safety shall be stamped by Department of City Planning staff "Final Plans". A copy of the final plans, supplied by the applicant, shall be retained in the subject case file.
- 27. **Notations on Plans.** Plans submitted to the Department of Building and Safety, for the purpose of processing a building permit application shall include all of the Conditions of Approval herein attached as a cover sheet, and shall include any modifications or notations required herein.
- 28. **Approval, Verification, and Submittals.** Copies of any approvals, guarantees or verification of consultations, review of approval, plans, etc., as may be required by the subject conditions, shall be provided to the Department of City Planning prior to clearance of any building permits, for placement in the subject file.
- 29. **Code Compliance.** Use, area, height, and yard regulations of the zone classification of the subject property shall be complied with, except where granted conditions differ herein.
- 30. **Department of Building and Safety.** The granting of this determination by the Director of Planning does not in any way indicate full compliance with applicable provisions of the Los Angeles Municipal Code Chapter IX (Building Code). Any corrections and/or modifications to plans made subsequent to this determination by a Department of Building and Safety Plan Check Engineer that affect any part of the exterior design or appearance of the project as approved by the Director, and which are deemed necessary by the Department of Building and Safety for Building Code compliance, shall require a referral of the revised plans back to the Department of City Planning for additional review and sign-off prior to the issuance of any permit in connection with those plans.
- 31. **Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning.
- 32. **Covenant.** Prior to the issuance of any permits relative to this matter, an agreement concerning all of the information contained in these conditions shall be recorded by the property owners in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent owners, heir, or assigns. Further, the agreement must be submitted to the Planning Department for approval before being recorded. After recordation, a Certified Copy bearing the Recorder's number and date must be given to the City Planning Department for attachment to the subject case file.

33. **Expiration.** In the event that this grant is not utilized within three years of its effective date (the day following the last day that an appeal may be filed), the grant shall be considered null and void. Issuance of a building permit, and the initiation of, and diligent continuation of, construction activity shall constitute utilization for the purposes of this grant.
34. **Prior to the clearance of any conditions.** The applicant shall show proof that all fees have been paid to the Department of City Planning, Expedited Processing Section.
35. **Indemnification and Reimbursement of Litigation Costs.**

Applicant shall do all of the following:

- (i) Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
- (ii) Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
- (iii) Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$25,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (iv) Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (v) If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

The City shall notify the applicant within a reasonable period of time of its receipt of any action and the City shall cooperate in the defense. If the City fails to notify the applicant of any claim, action, or proceeding in a reasonable time, or if the City fails to reasonably cooperate in the defense, the applicant shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the Applicant fails to comply with this

condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

"City" shall be defined to include the City, its agents, officers, boards, commissions, committees, employees, and volunteers.

"Action" shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims, or lawsuits. Actions includes actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the Applicant otherwise created by this condition.

Prior to the issuance of any permits relative to this matter, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Development Services Center for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.