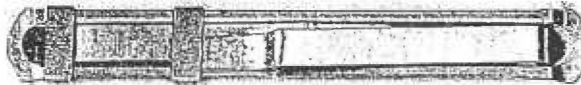


EXHIBIT 3



THE SILVERSTEIN LAW FIRM, APC
 ROBERT P. SILVERSTEIN (State Bar No. 185105)
 DANIEL E. WRIGHT (State Bar No. 144490)
 215 North Marengo Avenue, 3rd Floor
 Pasadena, CA 91101-1504
 Telephone: (626) 449-4200
 Facsimile: (626) 449-4205
 Email: Robert@RobertSilversteinLaw.com

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 ORIGINAL FILED
 Superior Court of California
 County of Los Angeles

FEB 14 2017

Sherri R. Carter, Executive Officer/Clerk
 By Barbara Hall, Deputy

Attorneys for Petitioner
 SOCIETY FOR THE PRESERVATION OF DOWNTOWN
 LOS ANGELES, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF LOS ANGELES

SOCIETY FOR THE PRESERVATION OF
 DOWNTOWN LOS ANGELES, INC., a
 California non-profit corporation,

Petitioner,

vs.

CITY OF LOS ANGELES, a municipal
 corporation; the LOS ANGELES
 CENTRAL AREA PLANNING
 COMMISSION; CRA/LA, the successor
 agency to the former Community
 Redevelopment Agency of the City of Los
 Angeles; CRA/LA Governing Board;
 CRA/LA Oversight Board, and DOES 1
 through 10, inclusive,

Respondents

MAPLE MULTI-FAMILY LAND CA,
 L.P., a Delaware limited partnership doing
 business in California; GARTH ERDOSSY,
 an individual; COAST PRIME
 INVESTMENTS, LLC, a California limited
 liability company, and ROES 1-10
 inclusive,

Real Parties in Interest.

CASE NO. BS167470

VERIFIED FIRST AMENDED
 PETITION FOR WRIT OF
 MANDAMUS AND COMPLAINT
 FOR DECLARATORY AND
 INJUNCTIVE RELIEF

[Code Civ. Proc. §§ 1060, 1085,
 1094.5; Los Angeles Municipal Code
 § 14.5.7, *et seq.*; § 16.05, *et seq.*;
 Los Angeles City Charter
 § 562; Constitutional Due Process &
 Fair Hearing Violations]

Conformed Copy

Petitioner Society for the Preservation of Downtown Los Angeles, Inc. ("Petitioner" or "SPDTLA") seeks writs of mandamus and declaratory relief against Respondents City of Los Angeles and the Central Area Planning Commission ("CAPC") of the City of Los Angeles (sometimes collectively the "City"), as well as writs of mandamus and declaratory relief against the CRA/LA, successor agency to the former Community Redevelopment Agency of the City of Los Angeles, and its Governing Board and Oversight Board (sometimes collectively "CRA/LA"), and alleges as follows:

INTRODUCTION

1. This petition and complaint challenges the City's November 15, 2016 decisions in connection with the approval of a glass and steel high-density, 27-story mixed use development in the Historic Downtown area of the City of Los Angeles (the "Alexan" or "Project"). Two land use entitlements at issue in this petition relate to the City's illegal approvals of the Project via a "Site Plan Review," and a "Director's Determination for Floor Area Deviation" (sometimes collectively referred to as the "Project Approvals"). Petitioner seeks a writ of mandamus invalidating and setting aside all Project Approvals on the bases that: (1) the City acted without fundamental jurisdiction to grant the Project Approvals in that jurisdiction to do so resides solely in the CRA/LA; but (2) even if the City possessed the fundamental jurisdiction and authority to grant the Project Approvals, the City's purported findings are legally inadequate and the City failed to proceed in the manner required by other laws, including the City Charter.

2. This petition and complaint also seeks relief declaring unlawful and enjoining the City and the CRA/LA's pattern and practices that: (1) violate the City's Site Plan Review law (LAMC § 16.05G), which mandates that the CRA/LA perform the lead agency duties under the California Environmental Quality Act ("CEQA"); and (2) violate the City's Transfer of Density law (LAMC § 14.5.1, *et seq.*), which does not authorize the Planning Director or CAPC to grant a Floor Area Deviation for projects situated in the City Center Redevelopment Project Area, where the Project is. A present and actual controversy now exists between Petitioner on the one hand, and the City and CRA/LA on

1 the other, regarding the City's usurpation of powers from the CRA/LA, which powers and
2 fundamental jurisdiction to act reside solely with the CRA/LA. Unless compelled by this
3 Court, the City and CRA/LA's illegal pattern and practices of violating mandatory duties
4 required by law will continue both in the City Center Redevelopment Project Area, and in
5 other redevelopment plan and project areas across the City.

6 3. This petition and complaint also challenges the City's violations of
7 Petitioner's due process and fair hearing rights.

8 4. As to any administrative remedies that were applicable, Petitioner has
9 exhausted its administrative remedies.

10 5. Petitioner as well as members of the general public will suffer irreparable
11 harm if the relief requested herein is not granted, if the City is not required to vacate and
12 set aside the above-described Project approvals, and if the Project is commenced based
13 upon the City's unlawful approvals.

14 6. Petitioner has no plain, speedy or adequate remedy available to it in the
15 ordinary course of law to redress the claims alleged in this petition.

16 **THE PARTIES**

17 7. Petitioner Society for the Preservation of Downtown Los Angeles is a
18 California non-profit corporation comprised of residents, business owners and visitors of
19 and to Downtown Los Angeles who seek to preserve the unique and protected architectural
20 gems of Downtown Los Angeles, promote sensible urban planning, and protect its
21 exceptional culture and history. Petitioner supports the preservation of physical and visual
22 access to historic districts and landmarks, and opposes City-facilitated densification of
23 Downtown Los Angeles beyond the levels contemplated by the City's General Plan
24 Framework, the Central City Community Plan, and the Central City General Plan
25 Consistency/Zoning Program. Petitioner seeks to promote responsible land use policies
26 and decisions that preserve and protect Los Angeles' history, and that prevent
27 environmental impacts such as the destruction, alteration, or impairment of historical
28 resources.

1 8. Petitioner has a substantial interest in ensuring that the City's and
2 CRA/LA's decisions are in conformity with the requirements of law, and in having those
3 requirements properly executed and the public duties of the City and the CRA/LA
4 enforced. Petitioner will be adversely affected by impacts resulting from the City's and
5 CRA/LA's actions, approvals and/or inactions as described herein, and is aggrieved by the
6 acts, decisions and omissions of the City and CRA/LA as alleged in this petition.
7 Petitioner is suing on its behalf, and on behalf of others who will be affected in the Historic
8 Downtown area, as well as all citizens of the City of Los Angeles.

9 9. Respondent City of Los Angeles is a California charter city located in the
10 County of Los Angeles, California.

11 10. Respondent Central Area Planning Commission ("CAPC") is an
12 administrative decision making body of the City which purported to grant the Project
13 Approvals at issue in this petition.

14 11. Respondent CRA/LA is a Designated Local Authority and successor to the
15 Community Redevelopment Agency of the City of Los Angeles. The CRA/LA retains
16 jurisdiction and authority over the City's adopted redevelopment plans, including the City
17 Center Redevelopment Plan where the Project is proposed.

18 12. Respondent CRA/LA Governing Board is the appointed governing body of
19 the CRA/LA pursuant to Health and Safety Code Section 34173(d)(3), and is the decision
20 making body with jurisdiction over various approval processes at issue in this matter.
21 Respondent CRA/LA Oversight Board is the appointed oversight board of the CRA/LA,
22 and is the body that has oversight responsibilities over certain CRA/LA Governing Board
23 decisions, including possibly the decisions and/or omissions at issue herein.

24 13. Petitioner is informed and believes, and based thereon alleges, that Real
25 Party in Interest Maple Multi-Family Land CA, L.P. ("Maple") is a Delaware limited
26 partnership doing business in California, is listed as an "Applicant" in filings for the
27 Project Approvals at issue herein, is the proposed developer of the Project, and is an entity
28 to whom the City purported to grant the Project Approvals in Letters of Determination

1 dated July 28, 2016 and November 15, 2016. Because, as a listed Applicant and recipient
2 of approvals Maple Multi-Family Land CA, L.P. is an entity whose interest is directly
3 affected by the proceeding, it is named as a Real Party in Interest.

4 14. Petitioner is informed and believes, and based thereon alleges, that Real
5 Party in Interest Garth Erdossy ("Erdossy") is an individual who is listed as an "Applicant"
6 in filings for the Project Approvals at issue herein, is a principal of or closely affiliated in a
7 manner currently unknown with Real Party in Interest Maple Multi-Family Land CA, L.P.,
8 and is a person to whom the City purported to grant the Project Approvals in Letters of
9 Determination dated July 28, 2016 and November 15, 2016. Because, as a listed Applicant
10 and recipient of approvals Erdossy is a person whose interest is directly affected by the
11 proceeding, Erdossy is named as a Real Party in Interest.

12 15. Petitioner is informed and believes, and based thereon alleges, that Real
13 Party in Interest Coast Prime Investments, LLC, is the current owner of the Project site that
14 is the subject of the Project Approvals at issue in this case, and would be beneficially
15 interested, directly or indirectly, in the Project Approvals. Although Petitioner is unsure
16 whether Coast Prime Investments, LLC must be named as a Real Party in Interest, in an
17 abundance of caution and based on information and belief that Coast Prime Investments,
18 LLC has entered into a contractual relationship with at least Maple Multi-Family Land CA,
19 L.P. related to the Project Approvals at issue herein, it is an entity whose interest is directly
20 affected by the proceeding, and thus satisfies the definition of a Real Party in Interest.

21 16. Petitioner is ignorant of the true names of respondents sued herein as DOES
22 1 through 10, inclusive, and therefore sues said respondents by those fictitious names.
23 Petitioner will amend the petition to allege their true names and capacities when the same
24 have been ascertained. Petitioner is informed and believes, and based thereon alleges, that
25 each of these fictitiously named respondents is in some manner responsible for the
26 wrongful conduct alleged in this petition. Petitioner is informed and believes, and based
27 thereon alleges, that these fictitiously named respondents were, at all times mentioned in
28 this petition, the supervisors, agents, servants, and/or employees of their co-respondents

1 and were acting within their authority as such with the consent and permission of their co-
2 respondents.

3 17. Petitioner is ignorant of the true names of real parties sued herein as ROES
4 1 through 10, inclusive, and therefore sues said real parties by those fictitious names.
5 Petitioner will amend the petition to allege their true names and capacities when the same
6 have been ascertained. Petitioner is informed and believes, and based thereon alleges, that
7 each of these fictitiously named real parties is in some manner responsible for the wrongful
8 conduct alleged in this petition. Petitioner is informed and believes, and based thereon
9 alleges, that these fictitiously named real parties were, at all times mentioned in this
10 petition, the supervisors, agents, servants, and/or employees of their co-real parties and
11 were acting within their authority as such with the consent and permission of their co-real
12 parties.

13 JURISDICTION AND VENUE

14 18. Jurisdiction over Respondents and Real Parties, and each of them, exists
15 because each of the Respondents and Real Parties named in this litigation are present and
16 operating within the jurisdictional limits of the County of Los Angeles.

17 19. Venue is proper because most or all of the acts and omissions complained of
18 in this litigation took place within this judicial district in connection with the Project which
19 is located within the City and County of Los Angeles.

20 STATUTORY FRAMEWORK

21 The City of Los Angeles General Plan and Elements

22 20. The City of Los Angeles was once a California pioneer as one of the first
23 jurisdictions to place the general plan at the top of the hierarchy of enforceable land use
24 plans of the City. A May 1969 Charter amendment approved by voters after an extensive
25 investigation and report in a July 1968 Blue Ribbon Citizens Committee report overhauled
26 City planning processes. For instance, the Charter amendment changed the name of the
27 City's former "master plans," which were not always legally enforceable, to the "General
28 Plan" to designate a change that would be enforceable under law of the City. It was not

1 until two years later that the Legislature adopted State Planning Code provisions that
2 thereafter required every city in California, including charter cities, to adopt a "general
3 plan" to serve as a "comprehensive, long-term general plan for the physical development"
4 of the city (Gov. Code § 65300), and all zoning ordinances and land uses within the city
5 must be consistent with the general plan (Gov. Code §§ 65300, 65860 & 66473.5). State
6 law now requires that all general plans include certain mandatory "elements": Land Use,
7 Circulation, Housing, Conservation, Open Space, Noise, and Safety. (Gov. Code § 65302.)

8 21. The City of Los Angeles General Plan's Land Use Element consists of two
9 parts: the Framework Element and the subordinate 35 community plans. The Framework
10 Element provides a strategy for the City's long-term growth in a citywide context.

11 22. The Framework Element is intended to guide the updates of the 35 various
12 community plans that comprise, together, the Land Use Element. The Framework Element
13 contains policy 3.3.2, "monitor population, development, and infrastructure and service
14 capacities within the City and each community plan area. . . . The results of this
15 monitoring effort . . . shall be used in part as a basis to . . . change or increase the
16 development forecast within the City and or community plan area . . . when it can be
17 demonstrated that (1) transportation improvements have been implemented or funded that
18 increase capacity and maintain the level of service, (2) demand management or behavioral
19 changes have reduced traffic volumes and maintained or improved levels of service, and
20 (3) the community character will not be significantly impacted by such increases."
21 Moreover, policy 3.3.2 provides that this monitoring shall be used to "consider regulating
22 the type, location, and/or timing of development, when all preceding steps have been
23 completed, additional infrastructure and services have been provided, and there remains
24 inadequate public infrastructure or service to support land use development." The City has
25 described this policy as requiring "that type, amount, and location of development be
26 correlated with the provision of adequate supporting infrastructure and services." This
27 policy was also provided as a mitigation measure for the General Plan Framework Element
28

1 Environmental Impact Report as a specific mitigation of impacts on Fire and Police
2 Emergency Services.

3 23. The 35 community plans set forth limits on land uses, residential unit
4 density, and floor area ratios in order to accommodate anticipated growth up to a future
5 date, and identify policies and programs the City will pursue to carry out the goals of the
6 framework and community plan for each named community of the City.

7 24. The Central City Community Plan ("CCCP") is the portion of the General
8 Plan of the City of Los Angeles that sets forth the land use law governing development in
9 that area of the City where the site for the proposed Alexan Project is located. All
10 development within that area must proceed in accordance with the CCCP, and the Plan
11 includes specific substantive and procedural policies and mandatory guidelines for
12 obtaining Land Use Entitlements, such as those at issue here. The CCCP includes all
13 permanent [Q] Qualified and "D" Development Conditions enacted into zoning in
14 compliance with the City's 1986 Central City General Plan/Zoning Consistency Program
15 in order to comply with Government Code Section 65680(d) and the court settlement
16 referenced herein.

17 General Plan Consistency Program Background

18 25. The City's General Plan is the "constitution" of land use. It sits atop a
19 hierarchy of subordinate land use zoning regulations in the Los Angeles Municipal Code
20 ("LAMC"). All zoning regulations and Zoning Administrator Interpretations of the zoning
21 code must be consistent with the General Plan land use designations, density limits, and
22 related policies and programs regarding future physical development of the City set forth
23 in the General Plan. Zoning regulations or interpretations thereof which are inconsistent
24 with the General Plan are void and unenforceable.

25 26. After Los Angeles voters in the City Charter (1969), and the state
26 Legislature in the State Planning Code (1971), required the City to prepare and follow its
27 General Plan, the City Council of Los Angeles refused to do so. The Los Angeles zoning
28 code was enacted in 1946 before general plans were mandatory and enforceable. If the

1 City were built out at the densities permitted under the 1946 zoning code, the City would
2 hold about 8 million people – twice as dense as the just over 4 million people Los Angeles
3 cannot comfortably accommodate now. In the 1970s and 1980s, the City studied
4 population projections and public infrastructure capacity and concluded the 1946 zoning
5 densities would cause devastating environmental impacts if allowed to be fully built out
6 with the essentially unrestrained densities of the 1946 zoning allowed throughout the City.
7 Accordingly, many, if not all, of the City's 35 community plans included mitigation,
8 *incorporated into the Plans* as a policy/program to reduce authorized density in order to
9 avoid overwhelming public infrastructure and municipal service delivery systems
10 including police, fire, and paramedic response times which, if too long, result in premature
11 deaths of persons the City is unable to reach with emergency services in a timely manner.

12 27. By the late 1970s, however, the City Council had failed to downzone the
13 City's properties to be consistent with the reduced densities required by its 35 community
14 plans. The City Council continued to approve projects based upon the 1946 zoning code
15 even though it was inconsistent with the reduced density land use designations in the new
16 community plans of the General Plan. In response, the State Legislature passed AB 283.
17 It added Government Code Section 65680(d). That subsection mandated that the City of
18 Los Angeles make its zoning consistent with its general plan and maintain that consistency,
19 as all other general law cities and counties were required to do, and most other chartered
20 cities were voluntarily doing.

21 28. The Los Angeles City Council sued the state to avoid being required to
22 make Los Angeles' zoning consistent with its community plans. In City of Los Angeles v.
23 State of California (1982) 138 Cal.App.3d 526, 534, the City lost its effort to evade
24 downzoning. After dragging its feet for several more years and failing to show a good
25 faith effort at implementing the statutory mandatory duty of land use consistency, the City
26 was sued in Federation of Hillside and Canyon Associations v. City of Los Angeles (LA
27 Superior Ct. Case No. 526616) and entered into a settlement agreement requiring it to
28 rezone all parcels within three years to conform to its General Plan's (the 35 community

1 plans) lower density land use designations and General Plan intent. The City was placed
2 under the supervision of a court monitor to assure it was done. It took more than ten years
3 for the parties to agree that the City had made a credible effort to try to bring its zoning
4 into conformity with its General Plan.

5 AB 283 Was Implemented In The 1986

6 Central City General Plan/Zoning Consistency Program

7 29. As part of the City's General Plan Consistency/Zoning Program mandated
8 by AB 283 and Government Code Section 65860(d), in the Central City Community Plan
9 area the City implemented downzoning to make the zoning applicable to lots in the
10 Community Plan consistent with the capacity of the land to support population so that
11 overdevelopment would not overwhelm the City's infrastructure and public emergency
12 services. The Central City General Plan/Zoning Consistency Program was analyzed and
13 implemented in Planning case CPC 1986-606-GPC. In Ordinance 164307, Subarea 2030,
14 which implemented General Plan/Zoning Consistency for the Project site, a permanent
15 Development Limitation ("D Limitation") was placed upon the Project site. Like much of
16 the land in the Central City Community Plan, the parcel where the Alexan Project is now
17 proposed had a permanent D Limitation imposed limiting the total floor area ratio ("FAR")
18 to not more than 6:1, unless the project met one of five exceptions. As City staff reports in
19 CPC-1986-606-GPC acknowledged at the time the D Limitation was imposed, it was
20 necessary to incorporate a downzoning mitigation measure into the Central City
21 Community Plan in the form of D Limitations in order to avoid significant environmental
22 impacts identified in the Central City Community Plan EIR. "The maximum bulk of each
23 new building will be reduced by about one half from the presently permitted by the various
24 zoning categories [of the 1946 zoning code], which will reduce automobile and pedestrian
25 traffic generated by those buildings, microclimate effects, and potential damage to the
26 building from ground shaking during earthquakes. . . . Mitigation Measures Proposed to
27 Minimize the Impact: This proposal is essentially a mitigating measure designed to reduce
28 the impact of projected construction in Central City." (EIR at p. 19.) Based upon this

1 background, actions to remove these D Limitations or to increase density above the D
2 Limitation inconsistent with any of the authorized exceptions listed in the D Limitation
3 would be potentially significant land use impacts because they would purport to override
4 density limits previously imposed as mitigation measures in the Central City General
5 Plan/Zoning Consistency Program.

6 **Downtown Redevelopment Plans**

7 30. Over the years, the Downtown area had several redevelopment plans
8 adopted by the former Community Redevelopment Agency of the City of Los Angeles.
9 Originally, the Central Business District Redevelopment Plan Area encompassed a large
10 portion of downtown, including the lot where the Alexan Project is proposed. In 2002, the
11 City adopted two redevelopment areas out of portions of the former Central Business
12 District Redevelopment Plan Area: the City Center Redevelopment Plan Area, and the
13 Central Industrial Redevelopment Plan Area. Upon the formation of the City Center
14 Redevelopment Plan, the lot where the Alexan Project is proposed was included in that
15 Plan and Project Area. In the period between 2002 and 2010, two redevelopment plans
16 encompassed most, if not all of the Central City Community Plan Area.

17 31. As reconfigured in 2002, remaining portions of the original Central
18 Business District Redevelopment Plan, and the City Center Redevelopment Plan in which
19 the Alexan Project site is located, largely overlaid the Central City Community Plan (the
20 City General Plan Land Use Element for the Downtown area). Both of these
21 Redevelopment Plans purported to authorize the CRA Board to approve floor area ratio
22 ("FAR") density higher than the FAR allowed by right in the Redevelopment Plan. From
23 2002 up to 2010, upon an applicant filing requests to Transfer Floor Area Rights of 50,000
24 square feet or more ("TFAR") to exceed the FAR limit specified in the applicable
25 redevelopment plan, the LAMC (§ 14.5.1 *et seq.*) and the two redevelopment plans called
26 for the CRA to first environmentally review and approve the proposed increase in density
27 on a property, and thereafter the City Planning Commission would review and approve the
28 TFAR from a Donor Site to the Recipient Site. (LAMC § 14.5.6.) Such transfers

1 theoretically have no impact on the 1986 General Plan/Zoning Consistency Program, and
2 were an authorized exception to the D Limitation imposed on many downtown parcels,
3 including the Alexan Project site, because the transfer process permanently reduces
4 authorized FAR on one property and transfers it to another, resulting in no net increase in
5 authorized density that might have negative environmental impacts. For proposals to
6 increase FAR density less than 50,000 square feet above the FAR allowed by right, an
7 applicant had to apply for a variance under the applicable redevelopment plans, and such a
8 “density variation” in CRA/LA parlance was also an authorized exception to the D
9 Limitation of 6:1 FAR if required findings for hardship and unique circumstances could
10 legally be made under the redevelopment plan’s variation requirements.

11 32. Circumstances changed in 2010 when the Central Business District
12 Redevelopment Plan expired. The former redevelopment agency continued to have
13 decision making authority over requests for increases of FAR on project sites located
14 within the City Center Redevelopment Project Area (where the Alexan Project site is
15 located), but the former redevelopment agency no longer could consider and approve
16 requests to increase FAR in the areas of the expired Central Business District
17 Redevelopment Plan.

18 33. In 2011, the City amended former Article 4.5, Chapter 1 (LAMC § 14.5.1,
19 *et seq.*) to address the expiration of the Central Business District Redevelopment Plan
20 (Ordinance 181574), apparently so that the City itself could consider and approve
21 exceptions to increase FAR above the D Limitation, **in the non-redevelopment plan**
22 **areas** of the Central City Community Plan Area. Consistent with the CRA’s jurisdiction
23 and authority to environmentally review and approve increases in FAR for properties
24 within the redevelopment area, the 2011 amendments, as detailed herein, made clear that a
25 new provision permitting a Director’s Determination for Floor Area Deviation only applied
26 outside the boundaries of the City Center Redevelopment Plan Project Area.

GENERAL ALLEGATIONS REGARDING THE APPROVED PROJECT

34. In 2015, Real Party Maple applied to the City to construct a dense, steel and glass residential and retail building on a lot located within the City's Historic Core, at 850 S. Hill Street, called the Alexan Project.

35. The Project location is surrounded on all sides by historically significant buildings: the Eastern Colombia Building, Los Angeles Historic-Cultural Monument No. 294, noted as a *visual landmark* representative of the vitality of the city's architectural history; the May Company Garage, Los Angeles Historic-Cultural Monument No. 1001; the Coast Federal Savings Building, Los Angeles Historic-Cultural Monument No. 346; Hamburger's Department Store, Los Angeles Historic-Cultural Monument No. 459; and Blackstone's Department Store, Los Angeles Historic-Cultural Monument No. 765.

36. The Project as approved would be located immediately adjacent to and abutting the west side of the officially-registered Historic-Cultural Monument Eastern Columbia Building. 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 No. 294 in 1985. The building with its historic four-sided clock tower is one of the City's most treasured visual landmarks. 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 was spent in restoration and renovation of the Eastern Columbia Building, attracting residents both enamored with the building's illustrious history, and willing to spearhead a revitalization of the City's Historic Core.

37. Pursuant to Ordinance No. 164,307, adopted by the City Council on December 20, 1988, the proposed Project site at 850 S. Hill Street is regulated under the ordinance as Sub-Area 2030, and subject to a "D Limitation." That means that development of the property may not exceed an FAR of 6:1. Imposition of the D

1 Limitation for the properties described in the ordinance was “part of the City’s General
2 Plan/Zoning Consistency Program, pursuant to California Government Code Section
3 65860(d).”

4 38. In 2007, a previous owner of 850 S. Hill Street sought entitlements to build
5 a 21-story mixed use development containing 158 residential condominiums, which was
6 approved by the Department of City Planning. Contrary to the present matter, that
7 proposed development did not exceed the 6:1 FAR, and therefore did not require an
8 entitlement permitting development in excess of the D Limitation on the property.
9 Contrary to the present matter, the 2007 project applicant did not request a transfer of floor
10 area rights. That proposed project’s design preserved substantial views to and from the
11 Eastern Columbia building and did not exceed the height of the Clock Tower. That project
12 was approved with a Mitigated Negative Declaration (“MND”). That project was never
13 built (the “Abandoned Project”). Petitioner is informed and believes, and based thereon
14 alleges, that it was determined that the Abandoned Project would cause significant
15 environmental impacts, including, *inter alia*, to neighboring historic resources, but that
16 conditions of approval and mitigation measures would, allegedly, sufficiently reduce those
17 impacts to less than significant.

18 39. In 2015, Real Parties Maple and Erdossy submitted an application to build
19 the Alexan Project, a different development that would seek a total square footage for 850
20 S. Hill Street that would be 24% over the total square footage allowed under the City
21 Center Redevelopment Plan and the D Limitation on the property. They applied for a
22 Director’s Determination for a Floor Area Deviation of 49,999 square feet, purportedly
23 under LAMC § 14.5.7. The new proposed structure would be 27 stories (six stories taller
24 than the Abandoned Project), and up to 320 feet tall. The new Project would tower over
25 the neighborhood including the Eastern Columbia Building, which at 264 feet tall is the
26 tallest building in this portion of the Historic Core.

27 40. The tower of the Project is positioned directly in front of the Eastern
28 Columbia Building on its west side. The siting and massing of the Project’s tower would

1 create a monolithic, slab-like structure that would almost completely block one side of the
2 iconic Eastern Columbia's four-sided clock tower from public view.

3 41. The City Planning Department acted as lead agency for purposes of
4 purported CEQA review of the Project, preparing an "addendum" to the 2007 MND for the
5 Abandoned Project. Despite the fundamental differences between the two projects, the
6 City purported to adopt the same mitigation measures approved in the 2007 MND for the
7 Abandoned Project.

8 42. On July 28, 2016, the Planning Director issued his Determination granting
9 Conditional Approval of the Floor Area Deviation and a Site Plan Review.

10 43. Petitioner timely filed an appeal of the Director's determination to the
11 CAPC on or about August 11, 2016.

12 44. The matter was set for a September 13, 2016 hearing in front of the CAPC.

13 45. On or about September 6, 2016, Petitioner submitted further objections in
14 support of its appeal in advance of the September 13, 2016 CAPC Hearing.

15 46. On or about September 9, 2016, Petitioner's representative was orally
16 notified by City Planning staff that the CAPC Hearing would be "cancelled" because,
17 according to the City Planning Department staff, the CAPC lost jurisdiction over
18 Petitioner's appeal because staff neglected to schedule the hearing so as to assure a
19 decision within a certain number of days from issuance of the Planning Director's
20 Determination Letter.

21 47. On or about September 12, 2016, Petitioner submitted a demand letter to the
22 CAPC that they could not lawfully "deem denied" Petitioner's appeal of the Director's
23 decision. Petitioner demanded that the City hold a hearing on the appeal consistent with
24 due process and multiple trial court decisions that had previously ordered the City to
25 rescind "deemed denied" land use appeals under similar circumstances.

26 48. On or about September 13, 2016, the CAPC issued a letter stating that
27 because it lost jurisdiction over Petitioner's appeal, the appeal was "deemed" denied.
28

1 49. On or about September 30, 2016, the City rescinded its September 13, 2016
2 deemed denied letter, and stated an appeal hearing would be conducted.

3 50. On or about October 4, 2016, the CAPC set a hearing on the matter for
4 October 25, 2016.

5 51. On or about October 18, 2016, Petitioner submitted to the CAPC a further
6 objection letter and exhibits in support of its appeal in advance of the October 25, 2016
7 CAPC hearing.

8 52. On October 24, 2016, Petitioner submitted to the CAPC a second further
9 objection letter in support of its appeal.

10 53. On October 25, 2016, Petitioner submitted to the CAPC a third objection
11 letter in support of its appeal, *inter alia*, notifying the CAPC that the CRA/LA is the
12 designated lead agency for purposes of environmental review of the Project and that the
13 City's Director was required to submit the Site Plan application to the CRA/LA prior to
14 any City review or approvals for the Project, which indisputably had not happened.

15 54. On October 25, 2016, the CAPC held a hearing on the entitlements and
16 Petitioner's land use appeal. The CAPC voted 3-0 to deny the appeal and approve the
17 Director's determination and the entitlements.

18 55. On November 15, 2016, the CAPC issued a Letter of Determination
19 approving the Project and denying the appeal. This letter did not mention the role of the
20 CRA/LA as mandatory lead agency, nor did it address Petitioner's arguments in that
21 regard.

22 56. On or about December 20, 2016, the CAPC issued a Corrected Letter of
23 Determination.

24 **FIRST CAUSE OF ACTION**

25 **(Against City, CAPC, CRA/LA and its Governing and Oversight Boards)**

26 **(Code Civ. Proc. § 1085; Violation of LAMC § 16.05G**

27 **Illegal Site Plan Review)**

28 57. Petitioner realleges and incorporates herein by reference the allegations of

1 Paragraphs 1 through 56, inclusive, of this petition and complaint.

2 58. AB1x26 and follow up legislation abolished community redevelopment
3 agencies, and became effective in 2012. This legislation required successor agencies, such
4 as the CRA/LA, to wind down the activities of the former redevelopment agencies to
5 which they are the legal successors. Although some financial obligations of the CRA/LA
6 are terminated and others continue to wind down, the various CRA redevelopment plans
7 remain in effect, and the CRA/LA retains all land use approval and administration powers
8 over the redevelopment plans, as well as over all building permits issued within those
9 redevelopment plan areas. Thus, the CRA/LA retains power and authority for
10 development approvals in the City Center Redevelopment Project Area – where the Project
11 is located.

12 59. The CRA/LA has publicly declared on its website at
13 <http://www.crala.org/internet-site/index.cfm>, “Notice: ABx1-26 does not abolish the 31
14 existing Redevelopment Plans. The land-use authorities in the Redevelopment Plans
15 remain in effect and continue to be administered by the CRA/LA until transferred to the
16 Department of City Planning.”

17 60. The land use authorities in the Redevelopment Plans have not been
18 transferred to the Department of City Planning. The City has not accepted responsibility
19 for administering environmental review and land use approval authority from the CRA/LA.
20 Although legislation to transfer the CRA/LA environmental review and land use authority
21 responsibilities to the Department of City Planning has been considered by the Los
22 Angeles City Council for several years, it has repeatedly declined to enact any such
23 legislation. Until such enactment occurs, and only if it occurs, the CRA/LA is required to
24 perform its mandatory environmental and land use approval duties under law.

25 61. Both the City and CRA/LA have publicly acknowledged that the City of Los
26 Angeles has not assumed jurisdiction over the CRA/LA’s duties, nor effectuated a transfer
27 of authority from the CRA/LA to the City.

28 62. In its October 18, 2016 letter to the CAPC, Real Party Maple admitted that

1 the CRA/LA has jurisdiction in the redevelopment areas, including where the Project sits.

2 63. CEQA, found at Public Resources Code Section 21000, *et seq.*, provides
3 procedures for determination of a project's environmental impacts and for full public
4 disclosure of the potential adverse effects on the environment of discretionary projects that
5 governmental agencies propose to approve. CEQA requires a description of feasible
6 alternatives to such proposed projects and feasible mitigation measures to lessen their
7 environmental harm. (Pub. Res. Code § 21002.)

8 64. The "lead agency," under CEQA is the public agency that is responsible for
9 conducting an initial study to determine whether an environmental impact report, a
10 negative declaration, or a mitigated negative declaration, among other documents, will be
11 prepared for a project. (Pub. Res. Code §§ 21067; 21080.1(a); 21083(a).) The lead agency
12 must also provide for public review and comment on a project and its associated
13 environmental documentation. The lead agency makes the first critical, and threshold,
14 environmental project review approvals. Subsequently, and based on the work first
15 performed by the lead agency, other responsible agencies might make secondary
16 approvals.

17 65. In addition to duties imposed on a lead agency under CEQA, the LAMC
18 designates the CRA/LA's predecessor agency as the "lead agency" for projects – like the
19 Alexan Project – requesting site plan review in an adopted redevelopment project area.
20 LAMC Section 16.05G2 mandates that environmental review of a project's Site Plan
21 Review proposed within adopted redevelopment project areas be conducted by the CRA
22 (and now the CRA/LA as successor agency), not the City of Los Angeles. LAMC Section
23 16.05G2 provides:

24 "Environmental Review. As part of the application for site
25 plan review, the applicant shall file necessary forms and
26 information for environmental review as prescribed by the
27 Director. The Director, or his/her designee, shall cause to be
28 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.”

(Emphasis added.)

66. The Project is located in the adopted and still-valid City Center Redevelopment Plan Area.

67. The Project is subject to the provisions of LAMC Section 16.05 because the Project, due to its proposed size, requires Site Plan Review.

68. Under LAMC Section 16.05G2, the lead agency responsible for preparing the CEQA environmental review for the Project, and determining in the first instance whether an EIR must be prepared, was and is the CRA/LA.

69. The CRA/LA had a clear, present and ministerial duty to perform environmental review of the Project as the lead agency, and to “prepare the required environmental studies and notices,” as mandated by LAMC Section 16.05G2, including in connection with the Project’s Site Plan Review. Despite this clear, present and ministerial duty, the CRA/LA has failed to carry out its responsibilities of administering adopted and active redevelopment plans such as the instant City Center Redevelopment Plan. Petitioner is informed and believes, and based thereon alleges, that the CRA/LA has illegally stood by as the City Planning Department, which lacks fundamental jurisdiction to do so, unlawfully undertook lead agency duties in Site Plan Reviews of projects in redevelopment plan areas, including the Alexan Project, instead of the CRA/LA fulfilling its mandatory duties as lead agency to environmentally review all Site Plan Review projects proposed in the City’s redevelopment plan areas.

70. Prior to the City’s approval of the Project, the CRA/LA failed to “assume lead agency responsibilities for environmental review” of the Project or “prepare the required environmental studies and notices,” as required by LAMC Section 16.05G2. Accordingly, the CRA/LA failed to perform its mandatory duties under LAMC Section 16.05G.

1 71. Because the CRA/LA never assumed lead agency responsibilities for the
2 Project nor made the determination whether the Project required an EIR, the City's actions
3 purportedly acting as lead agency and in approving the Project and its Site Plan Review in
4 violation of LAMC Section 16.05G, were without fundamental jurisdiction, *ultra vires*,
5 unauthorized and void.

6 72. Based on the facts as alleged herein, Petitioner is entitled to a writ of
7 mandamus compelling the City to set aside and invalidate the Project Approvals, including
8 the Site Plan Review, and simultaneously mandating that the CRA/LA conduct
9 independent environmental review of the Project, beginning with the preparation of an
10 initial study under CEQA, should Real Parties reapply for Project approvals following their
11 invalidation by this Court.

12 SECOND CAUSE OF ACTION

13 (Against City, CAPC, CRA/LA and its Governing and Oversight Boards)

14 (Declaratory and Injunctive Relief; Violation of LAMC § 16.05G)

15 73. Petitioner realleges and incorporates herein by reference the allegations of
16 Paragraphs 1 through 72, inclusive, of this petition and complaint.

17 74. Under LAMC Section 16.05G, the City has a clear, present and ministerial
18 duty to send Site Plan Review applications to the CRA/LA as lead agency for
19 environmental review of Site Plan Reviews of projects within the Redevelopment Plan
20 area, as was applicable to the Alexan Project. The CRA/LA, *not* the City, is the legally-
21 mandated lead agency responsible for assessing environmental impacts for projects within
22 the Redevelopment Plan Areas that require Site Plan Review. The CRA/LA has the
23 corresponding mandatory duty to exercise its jurisdiction to assess environmental impacts
24 for projects within the Redevelopment Plan Areas that require Site Plan Review, including
25 but not limited to the Alexan Project.

26 75. Petitioner is informed and believes, and based thereon alleges, that the City,
27 including through its City and Area Planning Commissions, has developed an overarching,
28 quasi-legislative policy, and engaged in an illegal pattern and practice, of failing and

1 refusing to send Site Plan Review applications to the CRA/LA as lead agency for
2 environmental review of Site Plan Review applications for projects within the
3 Redevelopment Plan areas that the CRA/LA continues to administer and oversee. The
4 City's actions in usurping lead agency and other approval status in such circumstances
5 was, and is, lacking in fundamental jurisdiction and *ultra vires*. In turn, Petitioner is
6 informed and believes, and based thereon alleges, that the CRA/LA has developed an
7 overarching, quasi-legislative policy, and engaged in an illegal pattern and practice, of
8 failing and refusing to assert its jurisdiction and to fulfill its mandatory duties as the lead
9 agency for environmental review of Site Plan Review applications for projects within
10 Redevelopment Plan areas that the CRA/LA continues to administer and oversee.

11 76. As a result of the City and CRA/LA's ongoing violations of LAMC
12 §16.05G, Petitioner and other members of the public have been and will continue to be
13 injured by the City and CRA/LA's actions in violating the law.

14 77. An actual and present controversy has arisen and now exists between
15 Petitioner, on the one hand, and the City and CRA/LA, on the other, requiring a declaration
16 of rights from this Court as to the issues alleged herein, and securing permanent injunctive
17 relief to prevent the City and CRA/LA's pattern and practice of violating their mandatory
18 duties, as alleged herein.

19 **THIRD CAUSE OF ACTION**

20 **(Against City and CAPC)**

21 **(Violation of LAMC § 16.05F;**

22 **Improper Approval of and Findings for Site Plan Review)**

23 78. Petitioner realleges and incorporates herein by reference the allegations of
24 Paragraphs 1 through 77, inclusive, of this petition and complaint.

25 79. LAMC Section 16.05F requires that Site Plan Review approval be supported
26 by written findings of all of the following:

1 (a) that the project is in substantial conformance with the
2 purposes, intent and provisions of the General Plan,
3 applicable community plan, and any applicable specific plan;

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

10 (c) that any residential project provides recreational and
11 service amenities to improve habitability for its residents and
12 minimize impacts on neighboring properties.

13 80. Without conceding that the City had fundamental jurisdiction over, or was
14 in any manner the proper decision maker related to, the Site Plan Review, to the extent the
15 Court determines otherwise, Petitioner is informed and believes, and based thereon alleges,
16 that the City abused its discretion in that the findings for the Site Plan Review approval are
17 incomplete, improper and erroneous, and as to those findings that were made and the
18 subsequent approvals which relied thereon, the evidence does not support the findings and
19 the findings do not support the decision, because the findings were unsupported in fact or
20 in law. As a result, the City failed to proceed in the manner required by law, and
21 mandamus should issue to invalidate, overturn and void the City's approvals on this
22 additional ground.

23 FOURTH CAUSE OF ACTION

24 (Against City, CAPC, CRA/LA and its Governing and Oversight Boards)

25 (Code Civ. Proc. § 1085; Violation of LAMC § 14.5.1, *et seq.*,

26 **Illegal Director's Determination for Floor Area Deviation**)

27 81. Petitioner realleges and incorporates herein by reference the allegations of
28 Paragraphs 1 through 80, inclusive, of this petition and complaint.

1 82. Properties located in the City Center Redevelopment Project Area are
2 subject to an FAR limitation of 6:1. (City Center Redevelopment Plan § 512.1(1).)
3 (“Redevelopment Plan”).

4 83. The Project is located in the City Center Redevelopment Project Area.

5 84. Real Parties sought an increase in FAR density from 6:1 to 7.45:1, which is
6 49,999 square feet of FAR above that authorized by the 6:1 limit of the Redevelopment
7 Plan.

8 85. When an applicant seeks an increase of FAR that is less than 50,000 square
9 feet and the property is located within the Redevelopment Project Area, Section 512.6 of
10 the Redevelopment Plan potentially allows such an increase if and only if the applicant
11 applies for a variation under the procedure set forth in Section 520 of the Redevelopment
12 Plan. Under Section 520, in order to qualify for increased FAR, the applicant must
13 demonstrate hardship and exceptional circumstances supported by substantial evidence.

14 86. Specifically, Section 520 requires that the former CRA Board (now
15 CRA/LA and/or its Governing Board and/or its Oversight Board) must be able to find that:
16 (1) application of the plan “would result in practical difficulties or unnecessary hardships”;
17 and (2) “[t]here are exceptional circumstances or conditions applicable to the property”;
18 and (3) the requested increase in FAR would not be “materially detrimental” to the public
19 welfare, so as to justify allowing an increase of up to 49,999 square feet of additional FAR.

20 87. For lots located within the City Center Redevelopment Project Area, the
21 CRA/LA is the sole agency with jurisdiction to grant a variation to increase the FAR above
22 the 6:1 limit applicable to the Alexan Project site.

23 88. Instead of applying to the CRA/LA for the increase in FAR on the Project
24 site, which is located within the Redevelopment Plan Area (perhaps because findings of
25 “hardship” and “exceptional circumstances” would be impossible to make), Real Parties
26 illegally applied to the City Planning Department for a Director’s Determination for a
27 Floor Area Deviation of 49,999 square feet.

28

1 89. The City Planning Director purported to grant Real Party's 49,999-square
2 foot FAR increase as a Director's Determination for Floor Area Deviation under LAMC
3 Section 14.5.7. The CAPC sustained the Planning Director's Determination and denied
4 Petitioner's appeal.

5 90. The City Planning Director, and the CAPC on appeal, lacked fundamental
6 jurisdiction to consider or approve a request for increase in FAR below 50,000 square feet
7 for a property located within the Redevelopment Plan Project Area. Article 4.5, Chapter 1
8 of the LAMC, which addresses aspects of transferred density in portions of Downtown,
9 incorporates and recognizes the sole authority of the CRA/LA within the City Center
10 Redevelopment Project Area.

11 91. LAMC Section 14.5.4A(2), in the "PROHIBITION" provisions of Section
12 14.5.4, expressly provides that:

13 "No building permit shall be issued for a Project, on any lot
14 within the Central City TFAR [Community Plan] Area, which
15 is not located within the City Center Redevelopment Project
16 Area, that exceeds a Floor Area Ratio greater than 6:1 or 3:1,
17 as set forth by the applicable zoning and in the Community
18 Plan, except for the following:

19

20 2. Development permitted as a result of a Transfer of
21 Floor Area Rights [this only applies to FAR increases of
22 50,000 square feet and more] or a **Director's Determination**
23 **for a Floor Area Deviation** [this only applies to FAR
24 increases of less than 50,000] approved pursuant to this
25 article. . . ." (Emphasis and explanatory bracketed portions
26 added.)

27 Thus, the "Director's Determination for a Floor Area Deviation" – the entitlement
28 issued for the Alexan Project as set forth in the operative City Letters of Determination –

1 may only apply to projects outside the boundaries of the Redevelopment Plan but within
2 the Central City TFAR [Community Plan] Area. Since the Alexan Project site is located
3 within the boundaries of the City Center Redevelopment Project Area, a Director's
4 Determination for a Floor Area Deviation was not available to it.

5 92. LAMC Section 14.5.4B(2), which tracks the format for prohibitions and
6 exceptions listed in LAMC Section 14.5.4A(2), lists the entitlements authorized for an
7 exception to the FAR limit within the Redevelopment Plan Area. A Director's
8 Determination for Floor Area Deviation is not listed as an entitlement authorized for an
9 exception within the Redevelopment Plan Area:

10 "No building permit shall be issued for a Project, or any lot
11 within the City Center Redevelopment Project Area, which
12 exceeds a Floor Area Ratio greater than 6:1 . . . as set forth
13 with respect to a particular lot in Section 512 of the
14 Redevelopment Plan and in the Community Plan, except the
15 following:

16

17 2. Development permitted as a result of Transfer of Floor
18 Area Rights [again this only applies to FAR increases of
19 50,000 square feet and more] approved pursuant to this
20 article. . . ."

21 Thus, through Section 14.5.4B(2)'s omission of the Director's Determination for
22 Floor Area Deviation, a Director's Determination for Floor Area Deviation is not an
23 appropriate entitlement vehicle within the boundaries of the City Center Redevelopment
24 Project Area. If it were permissible, it would have been listed in Section 14.5.4B(2), as it
25 was in Section 14.5.4A(2). The language of the LAMC establishes that a Director's
26 Determination for Floor Area Deviation is not a permissible exception to increase FAR
27 above 6:1 for properties within the City Center Redevelopment Plan Project Area.

93. Other portions of LAMC Section 14.5.1, *et seq.* and the City Center Redevelopment Plan further establish that only the CRA/LA possesses the fundamental jurisdiction and authority to grant a variation exceeding the 6:1 FAR limit on the Alexan Project site. The CRA/LA had a clear, present and ministerial duty to consider a proper application from Real Parties and to comply with the mandatory variation findings of Section 520 of the Redevelopment Plan, prior to consideration of any potential approval of a variation exceeding the 6:1 FAR limit on the Alexan Project site. Despite knowing that this clear, present and ministerial duty resides with itself for projects on properties inside redevelopment plan areas, the CRA/LA has failed to carry out its duties of administering adopted and active redevelopment plans such as the instant City Center Redevelopment Plan by asserting its fundamental jurisdiction and authority when it became and becomes aware of the City's actions to usurp the CRA/LA's authority. Petitioner is informed and believes, and based thereon alleges, that the CRA/LA has illegally stood by as the City Planning Department, which lacks fundamental jurisdiction to do so, unlawfully purported to consider and approve an increase in FAR above the 6:1 FAR limit for the Alexan Project. Furthermore, the plain language used by the City Council in drafting LAMC Section 14.5.7 never mentions the defined term "Floor Area Deviation," which the City claims is authorized by that section. Examination of the language used includes the defined terms associated with increases of FAR of 50,000 square feet or more, which mandates the existence of a "Donor" and "Recipient" site. For instance, Section 14.5.7 repeatedly refers to "the Transfer" approvable under the section, but "Transfer" is defined in LAMC Section 14.5.3 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." Thus, as adopted by City Council, LAMC Section 14.5.7 does not even contain the name of the entitlement the City in its Letters of Determination says it is granting, i.e., a Floor Area Deviation. This reinforces the language in the Prohibition Section (§ 14.5.4) set forth above, providing that a Director's Determination for Floor Area Deviation is permitted only **outside** the City Center Redevelopment Area.

1 94. Additionally, the City Staff Recommendation Report and draft redlined
2 changes to the original Article 4.5, Chapter 1 further establish that the Director's
3 Determination for Floor Area Deviation was intended to, and could only, apply to
4 properties outside the City Center Redevelopment Plan Project Area.

5 95. Because the City did not have the authority to grant a Floor Area Deviation
6 for the Project, the Project approvals are void. As a result, mandamus should issue to
7 invalidate, overturn and void the City's approvals on this additional ground.

8 **FIFTH CAUSE OF ACTION**

9 **(Against City, CAPC, CRA/LA and its Governing and Oversight Boards)**

10 **(Declaratory and Injunctive Relief; Violation of LAMC § 14.5.1, *et seq.*)**

11 96. Petitioner realleges and incorporates herein by reference the allegations of
12 Paragraphs 1 through 95, inclusive, of this petition.

13 97. Under LAMC Section 14.5.4, the City has a clear, present and ministerial
14 duty not to process or approve a Director's Determination for Floor Area Deviation such as
15 was applicable to the Alexan Project. Instead, it is the CRA/LA that is the legally-
16 mandated agency responsible for such processing and potential approval of increases in
17 FAR of less than 50,000 square feet under the Redevelopment Plan's Section 520 variation
18 process.

19 98. Petitioner is informed and believes, and based thereon alleges, that the City,
20 including through its City and Area Planning Commissions, has developed an overarching,
21 quasi-legislative policy, and engaged in an illegal pattern and practice, of failing and
22 refusing to send such Floor Area Deviation, or in CRA/LA parlance, Floor Area Variation
23 applications to the CRA/LA as to applicable projects, like the Alexan Project, within the
24 Redevelopment Plan areas that the CRA/LA continues to administer and oversee. The
25 City's actions in usurping lead agency and other approval status in such circumstances
26 was, and is, lacking in fundamental jurisdiction and *ultra vires*. In turn, Petitioner is
27 informed and believes, and based thereon alleges, that the CRA/LA has developed an
28 overarching, quasi-legislative policy, and engaged in an illegal pattern and practice, of

1 failing and refusing to assert its jurisdiction and to fulfill its mandatory duties with regard
2 to applicable Floor Area Deviations sought by projects within Redevelopment Plan areas
3 that the CRA/LA continues to administer and oversee.

4 99. As a result of the City and CRA/LA's ongoing violations of LAMC §14.5.1,
5 *et seq.*, Petitioner and other members of the public have been and will continue to be
6 injured by the City and CRA/LA's actions in violating the law.

7 100. An actual and present controversy has arisen and now exists between
8 Petitioner, on the one hand, and the City and CRA/LA, on the other, requiring a declaration
9 of rights from this Court as to the issues alleged herein, and securing permanent injunctive
10 relief to prevent the City and CRA/LA's pattern and practice of violating their mandatory
11 duties, as alleged herein.

12 SIXTH CAUSE OF ACTION

13 (Against City and CAPC)

14 (Violation of City Charter § 562)

15 101. Petitioner realleges and incorporates herein by reference the allegations of
16 Paragraphs 1 through 100, inclusive, of this petition and complaint.

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

22 " (1) that the strict application of the provisions of the zoning
23 ordinance would result in practical difficulties or unnecessary
24 hardships inconsistent with the general purposes and intent of
25 the zoning regulations; (2) that there are special
26 circumstances applicable to the subject property such as size,
27 shape, topography, location or surroundings that do not apply
28 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

1 which, because of the special circumstances and practical
2 difficulties or unnecessary hardships, is denied to the property
3 in question; (4) that the granting of the variance will not be
4 materially detrimental to the public welfare, or injurious to
5 the property or improvements in the same zone or vicinity in
6 which the property is located; and (5) that the granting of the
7 variance will not adversely affect any element of the General
8 Plan.” (Charter § 562.)

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

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

24 105. “[M]unicipalities must follow statutory or charter zoning procedures strictly
25 whenever they propose a substantial interference with land use” City of Escondido v.
26 Desert Outdoor Advertising, Inc. (1973) 8 Cal.3d 785, 790. Variances constitute a
27 substantial interference with allowed land use. “If . . . preventing unjustified variance
28 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

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

3 106. Without conceding that the City had fundamental jurisdiction over, or was
4 in any manner the proper decision maker related to, an application for a Floor Area
5 Deviation inside the City Center Redevelopment area, to the extent the Court determines
6 otherwise, LAMC Section 14.5.7 regarding potentially granting a deviation in excess of the
7 allowable floor area of up to 50,000 square feet, is a “deviation from the standard,” and
8 thus a variance subject to Charter Section 562. Thus, *a floor area deviation granted*
9 *pursuant to a Director’s Determination is a type of variance*, and the City of Los Angeles,
10 as it has in other cases recently decided against it, must conform with the limitations on
11 variances mandated in City Charter Section 562. (See, e.g., Kottler v. City of Los Angeles,
12 Case No. BS154184 [Los Angeles Superior Court decision finding Charter variance
13 findings mandatory in considering and granting a Zoning Administrator’s adjustment].)

14 107. The City’s approval is invalid on this additional ground because it purported
15 to allow a deviation (variance) from the D limitation of a 6:1 FAR, but without requiring
16 and making legal findings showing hardship for a variance, among other required findings,
17 as mandated by Charter Section 562.

18 108. The City had no authority to grant the variance in the form of the Floor Area
19 Deviation and without making the required findings. As a result, the City failed to proceed
20 in the manner required by law, and mandamus should issue to invalidate, overturn and void
21 the City’s approvals on this additional ground.

22 **SEVENTH CAUSE OF ACTION**

23 **(Against City and CAPC)**

24 **(Violation of LAMC § 14.5.7;**

25 **Improper Approval of and Findings for Floor Area Deviation)**

26 109. Petitioner realleges and incorporates herein by reference the allegations of
27 Paragraphs 1 through 108, inclusive, of this petition and complaint.

110. LAMC Section 14.5.7A(3) requires that any approval be supported by written findings of all of the following: (1) that the Project is in proper relation to the adjacent uses or the development of the community; (2) that the Project will not be materially detrimental to the character of development in the immediate neighborhoods; (3) that the Project is in harmony with the General Plan; (4) that the Project is consistent with the Redevelopment Plan; (5) that the Transfer serves the public interest by providing public benefits equivalent in value to the dollar amount otherwise required for a Public Benefit Payment, in conformance with Section 14.5.9 of the LAMC; (6) that the Project, as conditioned, complies with urban design standards and guidelines adopted by the City Planning Commission for the area, including the Downtown Design Guide, and other applicable design guidelines; and (7) that the Project incorporates feasible mitigation measures, monitoring measures or alternatives sufficient to substantially lessen the significant environmental effects of the project.

111. Without conceding that the City had fundamental jurisdiction over, or was in any manner the proper decision maker related to, the Floor Area Deviation application, to the extent the Court determines otherwise, Petitioner is informed and believes, and based thereon alleges, that the City abused its discretion in that the findings for the Floor Area Deviation approval are incomplete, improper and erroneous, and as to those findings that were made and the subsequent approvals which relied thereon, the evidence does not support the findings and the findings do not support the decision, because the findings were unsupported in fact or in law. As a result, the City failed to proceed in the manner required by law, and mandamus should issue to invalidate, overturn and void the City's approvals on this additional ground.

EIGHTH CAUSE OF ACTION

(Against City and CAPC)

(City's Violation of Due Process and Fair Hearing Rights)

112. Petitioner realleges and incorporates herein by reference the allegations of Paragraphs 1 through 111, inclusive, of this petition and complaint.

Petitioner's Entitlement to Procedural Due Process

113. Petitioner SPDTLA has an interest in the maintenance of historic Downtown's integrity. Some of SPDTLA's members have property interests in close proximity to the Project site and they, along with SPDTLA, will be aggrieved by the impacts of the Project in terms of degradation of historic Downtown's integrity.

114. Without conceding that the City had fundamental jurisdiction over, or was in any manner the proper decision maker related to, the Project Approvals at issue herein, to the extent the Court determines otherwise, LAMC Section 12.36 grants to a person aggrieved by a quasi-judicial decision of the Director of Planning the right to appeal that decision to the CAPC. When a person aggrieved by a Director's decision exercises his or her right to appeal the decision to the CAPC, that person comes before the CAPC with a right to due process of law as a land use appellant. A land use appellant comes to a public hearing on its appeal with rights different from and greater than a person interested in the project who did not file an appeal, or a person simply seeking to give public comment under the Brown Act (Gov. Code §§ 54950, *et seq.*).

115. In California, the right to due process includes the right to a hearing of quasi-judicial matters, including regarding a Site Plan Review and a Floor Area Deviation, before decision makers who are unbiased. The CAPC issued a statement on its notice of public hearing, as follows: "The Commission members are not City employees. They are citizens who have been appointed by the Mayor. They function in a quasi-judicial capacity and therefore, cannot be contacted before the hearing."

116. Under the California Constitution and California case law such as Horn v. County of Ventura (1979) 24 Cal.3d 605, Petitioner is entitled to minimum procedural due process because: (1) some of its members own property and/or reside in the immediate vicinity, and their significant interests have been impaired; and (2) municipal law (LAMC §§ 16.05 and 14.5.7) entitles a person perfecting an appeal of a land use approval such as those at issue herein to an appeal hearing, and thus, as a land use appellant in a quasi-

1 adjudicatory proceeding, Petitioner, and its members, were entitled to receive a fair hearing
2 before the CAPC.

3 Proceedings Before The CAPC

4 117. On October 25, 2016, the Project was scheduled for a hearing before the
5 CAPC. The CAPC consists of five (5) members. Prior thereto, Petitioner submitted a
6 letter to the record requesting that all CAPC members disclose on the record at the October
7 25, 2016 hearing all *ex parte* communications that had occurred “with the Applicant, its
8 attorneys and other representatives, and to provide copies” of all written communications
9 reflecting same.

10 118. Petitioner is informed and believes, and based thereon alleges, that some or
11 all of the CAPC members prior to the October 25, 2016 hearing had engaged in and/or
12 received *ex parte* communications related to the Project from some or all of the Real
13 Parties, their attorneys and other representatives, and/or that some of the CAPC members
14 who had engaged in such *ex parte* communications, in turn, discussed the Project prior to
15 the October 25, 2016 hearing with their CAPC colleagues, including those who voted to
16 deny Petitioner’s appeal. In connection therewith, Petitioner objected that “[t]he only cure
17 for this violation of due process and fair administrative hearing rights would be for the
18 affected commissioners to recuse themselves. We ask that the quasi-judicial process for
19 this matter not be tainted by these circumstances, and that a new decision making body be
20 appointed, as may be necessary, to conduct this quasi-judicial hearing.”

21 119. At the October 25, 2016 hearing, three (3) members of the CAPC heard the
22 appeal. No CAPC member disclosed whether or not they had had any *ex parte*
23 communications with Real Parties or their attorneys or representatives about the Project.
24 None of the CAPC members present recused themselves. However, two members of the
25 CAPC were absent from the hearing.

26 120. Unlike Petitioner’s constraints at the hearing, including being given only
27 five minutes to try to explain to lay CAPC members the complex land use matters set forth
28 above, Petitioner is informed and believes, and based thereon alleges, that there was no

1 time limit constraining the opportunity of Real Parties, their attorneys and/or other
2 representatives to make their case before members of the CAPC outside of the public
3 record and process, and to explain Real Parties' positions concerning the matters being
4 appealed and their arguments regarding the merits of the Project – with no opportunity for
5 Petitioner or other members of the public to know, meet, respond to or rebut such private,
6 non-public-record, *ex parte* communications and arguments. Further, Petitioner has made
7 repeated requests of the CAPC and City Planning Department under the California Public
8 Records Act for all documents related to the Project addressed to, from or with the CAPC
9 members, including emails and text messages from CAPC members' personal and alias
10 email accounts, but has repeatedly received incomplete and evasive answers from the City.
11 The conduct of the CAPC, and its members, was fundamentally unfair, constituted a
12 disqualifying bias, and violated Petitioner's due process and fair hearing rights.

13 121. At the hearing, the CAPC, with the three participating CAPC members who
14 failed to disclose or deny engaging in *ex parte* communications, voted to deny Petitioner's
15 appeal and approve the Project.

16 122. Had even one of the three voting members of the CAPC recused themselves
17 from participating in the hearing, there would have been no quorum to vote to deny
18 Petitioner's land use appeal or to approve the Project. Therefore, the actions of the voting
19 CAPC members in failing to deny having had *ex parte* communications with Real Parties
20 and their representatives, or with the non-voting CAPC members who, Petitioner is
21 informed and believes, and based thereon alleges, had *ex parte* communications about the
22 Project and proposed Project Approvals with Real Parties and/or their representatives, and
23 then communicated with those CAPC members who ultimately voted, was prejudicial to
24 Petitioner.

25 123. Because the CAPC's decision was void as a result of the taint of biased
26 decision makers and other due process violations suffered by Petitioner, issuance of the
27 November 15, 2016 and December 20, 2016 letters of determination denying Petitioner's
28 appeal and approving the Project was void. Petitioner is entitled to a writ of mandamus

1 compelling the City and the CAPC to set aside the CAPC appeal determination and Project
2 approvals on this additional ground.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Petitioner prays for entry of judgment as follows:

5 **On the First, Third, Fourth, Sixth, and Seventh Causes of Action as to City:**

6 1. For a peremptory writ of mandamus directing the City, Central Area
7 Planning Commission, and all applicable City officers, employees, agents, boards,
8 commissions and other subdivisions, to vacate and set aside the actions adopting all the
9 Project Approvals (Site Plan Review approval, findings, conditions, and consideration of
10 environmental addendum under LAMC § 16.05, Director's Determination for Floor Area
11 Deviation approval, findings, conditions, and consideration of environmental addendum
12 under LAMC § 14.5.7).

13 2. That the Court enjoin the City, City Council, City and Area Planning
14 Commissions, their officers, employees, agents, boards, commissions and other
15 subdivisions, including but not limited to the Planning Dept. and Dept. of Building &
16 Safety, from granting any authority, permits or entitlements as part of the Project pursuant
17 to the City's Project Approvals.

18 3. That the Court enjoin Real Parties, and each of them, and any successors
19 and assigns from undertaking any Project construction or other activities pursuant to the
20 City's Project Approvals.

21 **On the Second Cause of Action as to City:**

22 4. That the Court grant declaratory relief holding that the City's pattern and
23 practice of usurping the CRA/LA's lead agency duties for environmental review of Site
24 Plan Review projects located in adopted redevelopment areas of the City is unlawful.

25 5. That the Court grant injunctive relief to enjoin the City from further carrying
26 out lead agency duties for environmental review and other approval of Site Plan Review
27 and Site Plan Review projects located in adopted Redevelopment Plan Areas of the City.
28

On the First, Second and Fourth Causes of Action as to the CRA/LA:

6. For a peremptory writ of mandamus directing the CRA/LA and its Governing Board to assume its lead agency responsibilities for Site Plan Review if Real Parties submit a new Project application following invalidation of the City and CAPC's current Project Approvals.

7. That the Court enjoin the CRA/LA, its Governing Board, and their officers, employees, agents, boards, commissions and other subdivisions, from granting any authority, permits or entitlements as part of the Project pursuant to the City's Project Approvals, unless and until the CRA/LA first performs its duties as lead agency, including under LAMC Section 16.05G.

8. That the Court enjoin Real Parties, and each of them, and any successors and assigns from undertaking any Project construction or other activities pursuant to the City's Project Approvals.

9. That the Court grant declaratory relief holding that the CRA/LA and its Governing and Oversight Boards' pattern and practice of failing to assert its jurisdiction and to carry out its lead agency duties for environmental review of Site Plan Review projects and applications located in adopted redevelopment areas of the City is unlawful.

10. That the Court grant injunctive relief to enjoin the CRA/LA and its Governing and Oversight Boards from further carrying out any pattern and practice to evade its lead agency duties for environmental review of Site Plan Review projects and other applications located in adopted redevelopment areas of the City.

On the Fifth Cause of Action as to City and CRA/LA:

11. That the Court grant declaratory relief holding that the City's pattern and practice of usurping the CRA/LA's sole fundamental jurisdiction to consider and approve increases of FAR less than 50,000 square feet in the City Center Redevelopment Project Area via the City and Central Area Planning Commission considering and approving Director's Determinations for Floor Area Deviations for properties located in the City Center Redevelopment Project Area is unlawful.

12. That the Court grant declaratory relief holding that the CRA/LA and its Governing and Oversight Boards' pattern and practice of evading its sole fundamental jurisdiction to consider and approve increases of FAR less than 50,000 square feet in the City Center Redevelopment Project Area is unlawful.

13. That the Court grant injunctive relief to enjoin the City and Central Area Planning Commission from further carrying out any pattern and practice to consider and approve increases of FAR less than 50,000 square feet in the City Center Redevelopment Project Area via the City and Central Area Planning Commission considering and approving Director's Determinations for Floor Area Deviations for properties located in the City Center Redevelopment Project Area.

14. That the Court grant injunctive relief to enjoin the CRA/LA and its Governing and Oversight Boards from further carrying out any pattern and practice to evade its duty to consider and approve increases of FAR less than 50,000 square feet in the City Center Redevelopment Project Area.

On the Eighth Cause of Action as to City and CAPC:

15. For a peremptory writ of mandamus directing the City, Central Area Planning Commission, and Planning Director to vacate and set aside all Project Approvals (Site Plan Review approval, findings, conditions, and consideration of environmental addendum under LAMC § 16.05, Director's Determination for Floor Area Deviation approval, findings, conditions, and consideration of environmental addendum under LAMC § 14.5.7), and, to the extent this Court does not find that the City and CAPC lack fundamental jurisdiction, to conduct a new hearing before the CAPC, or an unbiased alternate tribunal, consistent with constitutional due process and fair hearing principles as determined by the Court.

///

///

///

On All Causes of Action:

16. For attorney fees, including pursuant to Code Civ. Proc. Section 1021.5.
17. For costs of suit; and
18. For such other and further relief as the Court may deem just and proper.

DATED: February 14, 2017 THE SILVERSTEIN LAW FIRM, APC

By: 

ROBERT P. SILVERSTEIN

DANIEL E. WRIGHT

Attorneys for Petitioner SOCIETY FOR THE
PRESERVATION OF DOWNTOWN LOS
ANGELES, INC.

VERIFICATION

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss:

I, ALEX HERTZBERG, declare as follows:

I am an authorized officer of Society for the Preservation of Downtown Los Angeles, Inc., Petitioner in this action.

I have read the foregoing Verified First Amended Petition for Writ of Mandamus and Complaint for Declaratory and Injunctive Relief and am familiar with its contents.

The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Los Angeles, California, this 14th day of February, 2017.



ALEX HERTZBERG

EXHIBIT 4

CITY OF LOS ANGELES
CALIFORNIA

JUNE LAGMAY
City Clerk

HOLLY L. WOLCOTT
Executive Officer



ANTONIO R. VILLARAIGOSA
MAYOR

Office of the
CITY CLERK

Council and Public Services
Room 395, City Hall
Los Angeles, CA 90012
General Information - (213) 978-1133
Fax: (213) 978-1040

SHANNON HOPPE
Council and Public Services
Division

www.cityclerk.lacounty.org

When making inquiries relative to
this matter, please refer to the
Council File No.

December 17, 2012

To All Interested Parties:

The City Council adopted the action(s), as attached, under Council File No. 12-0014-S4, at its meeting held December 12, 2012.

City Clerk
srb

27

12/12/12

TO THE COUNCIL OF THE
CITY OF LOS ANGELES

FILE NO. 12-0014-S4

Your

PLANNING AND LAND USE MANAGEMENT

Committee

reports as follows:

PLANNING AND LAND USE MANAGEMENT COMMITTEE REPORT relative to the transition of the Community Redevelopment Agency (CRA) land use authorities to the Department of City Planning (DCP).

Recommendation for Council action:

RECEIVE and FILE Motion (Huizar - Reyes) relative to the transition of the CRA land use authorities to the DCP, inasmuch as the DCP and the City Administrative Officer reported back and no Council action is required.

Fiscal Impact Statement: Not applicable.

Community Impact Statement: None submitted.

(Housing, Community and Economic Development Committee waived consideration of above matter.)

Summary:

At the public hearing held on December 11, 2012, the Planning and Land Use Management Committee considered Motion (Huizar - Reyes) relative to the transition of the CRA land use authorities to the DCP. Representatives from the City Administrative Officer (CAO) and the DCP gave the Committee background information on the matter. After an opportunity for public comment, the Committee recommended Council to receive and file the Motion, inasmuch as the DCP and the CAO reported back and no Council action is required. Housing, Community and Economic Development Committee waived consideration of above matter. This matter is now forwarded to the Council for its consideration.

Respectfully submitted,

PLANNING AND LAND USE MANAGEMENT COMMITTEE



ADOPTED

DEC 12 2012

LOS ANGELES CITY COUNCIL

FORTHWITH

MEMBER	VOTE
REYES:	YES
HUIZAR:	YES
ENGLANDER:	YES

SG
12/12/12

12-0014-S4_rpi_plum_12-11-12

- Not Official Until Council Acts -

12-0014-S4

HOUSING, COMM & ECON. DEVELOP.

JUN 29 2012

PLANNING & LAND USE MANAGEMENT

MOTION

In June 2011, the State of California passed ABX1 26 which eliminated redevelopment agencies statewide, including the Community Redevelopment Agency of the City of Los Angeles (CRA/LA). When the dissolution of CRA/LA became effective on February 1, 2012, the City did not elect to become the successor entity, and a Designated Local Authority (DLA) was appointed by the Governor to close out the operations of the former CRA/LA.

The state-appointed DLA is continuing to administer the provisions of the existing redevelopment plans in the City, which include a number of land use authorities. The Department of City Planning has submitted a report summarizing CRA/LA's land use authorities and outlining an approach, including a staffing plan and funding requirements, for transitioning these important land use protections back to the City of Los Angeles. Importantly, in the past week the State has passed additional legislation authorizing the transfer of land use authorities and controls from the former redevelopment agency to the City, subject to the City's concurrence of such transfer.

I THEREFORE MOVE that the City Council INSTRUCT the Department of City Planning and CAO to report back at the next available meeting of the Planning and Land Use Management (PLUM) Committee on the status of the City's collaborative efforts to transition CRA/LA's land use authorities back to the City of Los Angeles.

I FURTHER MOVE that the City Council request that all land use related plans and functions of the former redevelopment agency (CRA/LA) are hereby transferred to the City of Los Angeles.

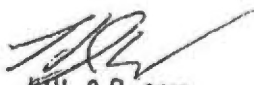
Presented by:


JOSE HUIZAR

Councilmember, 14th District

Seconded by:




JUN 29 2012

ORIGINAL

EXHIBIT 5

Historical Assessment Report



Alexan Project

840-856 S. Hill Street and 217-225 West 9th Street

ENV-2006-6302-MND and ZA-2006-6350-YV-ZAA-SPR

2015-16 Addendum: DIR 2015-2976-TDR-SPR

APN 5144-017-037

Prepared by:

Charles J. Fisher, Historian
140 S. Avenue 57
Highland Park, CA 90042

© January 2017

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Section I

Executive Summary

This report reviews an MND Addendum and its attached Appendix H “Historic Assessment” for a proposed new “Alexan” high rise residential building Project at 840-856 So Hill Street in Los Angeles. The MND is adjunct to a 2015/16 Master Land Use application filed with the City of Los Angeles Planning Department on January 14, 2016 (dated August 12, 2015). The land use application includes the following: Entitlement Request & Project Description, Site Plan Review, and TFAR Application

This report demonstrates that the Project as analyzed in the MND Addendum Appendix H and other sections is incompatible with the neighboring historic resources, in contrast with the findings of the MND Addendum submitted to the City Planning Department by the developer. At first reading, the MND Addendum appears logically argued; however, this report shows that when an historic assessment under CEQA looks at new construction and its possible effects on historic buildings and districts, the argument used in the MND Addendum is inaccurate and misapplied.

The author is a professional historian with extensive experience in property research and historic preservation, dating from the mid 1980’s. The author’s background includes the research, preparation and/or advocacy of over 160 Historic Cultural Monument Nominations for the City of Los Angeles, three for Ventura County, one in the City of Ojai and one in the City of Sierra Madre, as well as research and documentation of numerous other historic structures. Other qualifications include work as a past president and board member of the Highland Park Heritage Trust, past co-chair of the Cultural Resources Committee of the Los Angeles Conservancy, president of the Heritage Coalition of Southern California and 28 years doing property research for Transamerica Real Estate Tax Service.

Of particular note is the Historic Cultural Monument nomination of the Sun Realty Building, 629 S. Hill Street, which was designated HCM 985 on June 8, 2010. This building was designed by Claude Beelman, concurrently with the Eastern Columbia Building, using the same materials and a similar Art Deco design.

This report points to other “best practices”—new interpretations of the Secretary of the Interior Standards by the National Park Service, as well as applicable guidelines put forth by the City of Los Angeles and other jurisdictions, and other experts. When the Project is viewed using these guidelines-- which are the appropriate approaches for reviewing effects on new construction on historic buildings and districts-- the effect is significant and adverse. By challenging the argument and conclusions of the MND Addendum and Historic Assessment, this report is additionally challenging findings in the entitlement case which were also based on the same work. The Alexan project applicant is asking to be granted special entitlements pursuant to LAMC sections 14.5.7 and 16.05, which rely on findings which this report finds deficient and inaccurate as well.

Section II

Summary of Findings

REVIEW OF APPENDIX H “HISTORIC ASSESSMENT” OF ALEXAN DTLA MND ADDENDUM

1. Historic Resource Identification Incomplete:

The proposed Alexan project is evaluated in the MND Addendum as being “near” 4 specific historic buildings and a district. This significantly under-reports the significance and concentration of historic buildings, and thus the area of potential effect of the Project. This undercounting creates a false impression that the effect is on a small circumscribed area, leading to a false argument that the proposed modern Alexan building design is not an adverse effect on historic resources.

- a. The Alexan is embedded in the richest concentration of recognized historic buildings and districts in Los Angeles, numbering in the hundreds, all of which were “height limit” buildings at 13 stories or below.
- b. A fuller population of historic resources was evaluated in the 2006 MND. The reduction in this Addendum is unjustified.
- c. Many additional historic buildings and historic districts have been identified as significant since the 2006 MND was published, thus changing the understanding of the setting for the new Alexan building.

2. Project Location Misstated In MND Addendum:

The Addendum Historic Assessment offers an erroneous concept that the tall, modern, glassy, slab block of the Alexan Building is not squarely located amongst historic buildings, but instead is in “hybrid” or “transitional” district or geographical portion of Downtown, bridging between the Downtown Historic Core and recently-developed modern South Park. All the evidence, based on mapping from 9 different sources, shows that this is not true. The Alexan is squarely located in the Historic Core of Downtown, not in South Park.

3. Findings of Impacts Incomplete and Inaccurate:

The 2015-16 MND Addendum erroneously concluded that the new project would not impact the significance of an historic building or district because it would not cause a “material” impact on existing historic resources. This conclusion was reached based on the following errors:

- a. Because, in CEQA Guidelines, Section 15064.5 (b) 2 (A) cited, the criteria for significant adverse effect of a project assumes the project itself is an historic resource. The “material” damage to that historic resource, such as demolition or overwhelming alteration, must be such that it loses its significance and will no longer be eligible for the California Register. This definition of “material” damage is misapplied in this case of a new building on a vacant lot. There is no way that a new building on a vacant lot will cause hundreds of buildings which are not on its site to lose their historic status, even though they are significantly adversely affected. Thus the CEQA analysis relies on application of the Secretary of the Interior Standards per CEQA Sec 15064.5 (b) 3. The MND Addendum Historic Assessment says that the Standards are the definitive analytical tool, and are the determinant of impacts under CEQA, and rests its case primarily on Standard #9. However, the Addendum erroneously concludes that the Alexan has no adverse impact under Standard #9. That error stems from two reasons: the National Park Service has documented that Standard #9 is not written to analyze effects of new building construction on historic resources, and the National Park Service has re-issued Preservation Brief #14 to start correcting the way these analyses were conventionally presented, as in this MND Addendum.
- b. Because the MND Addendum misinterprets Standard #9, it over-emphasizes the differentiation of the Alexan building design from its historic environs, trumpeting its modern design. Nationwide, the discussion of new buildings and their effect on surrounding historic districts centers today on compatibility, not differentiation. The proposed Alexan is clearly not compatible with neighboring historic resources.
- c. Following the “best practices” of Standard #9’s recent interpretation, as well as many other authorities examined in this report, the Alexan’s six-story increase in height which makes its overall height excessively exceed all nearby historic buildings is at the forefront of the reasons the proposed new building is incompatible. It is thus non-compliant with the Standards, unmitigated, and thus a significant adverse effect.

4. Analysis of Compatibility Is Forced and Misleading:

While there are some efforts made by the project’s designers to make a mid-century modern-revival high-rise share isolated features with its historic neighbors, the MND Addendum analysis is erroneous, as it is based on false premises:

- a. The evaluation chooses to limit the discussions of impacts to only positive items. Design guidelines and other analyses are cherry -picked to make points, which in the aggregate are minor, while the overwhelming evidence on major aspects of the design using design guidelines and similar measures in their entirety demonstrates that the proposed Alexan is inconsistent with these guidelines.

- b. The evaluation chooses to limit the places in the project environs where the Project is seen and has effects. The analysis posits that the new construction is seen from the sidewalk, and thus certain aspects of its effect don't matter. The analysis omits the fact that the new construction is also seen from many other vantages, such as from other buildings, where it has a major adverse effect, and that limiting the analysis of impacts to views of historic architecture to a sidewalk vantage point is not an accepted method.
- c. The view corridors which are blocked by the Alexan project affect buildings quite distant from the Alexan.

5. Infeasible Mitigation Measures:

The 2006 MND found that the height of the building proposed at that time exceeded the "height limit" of 150' for the historic areas, but was somewhat mitigated because it was not exceeding the tower of the Eastern Columbia building, and the tower remained visible. That project, it argued, did not totally block views by employing setbacks; and its design was "mitigatable" through a MND Mitigation Measure requiring architectural review to ensure compatibility.

- a. Mitigation Measures 15 and 16 have been carried forward to this Addendum. It requires Design Review by a Preservation Architect to make the project compatible with the surroundings
- b. However, due to the Modified project, this is not a feasible Mitigation as defined by CEQA. The Mitigation Measure "kicks the can down the road", calling for a future design reviewer (preservation architect) to review plans and the Applicant to make required changes. The major issues of incompatibility of the Alexan project are known now and must be corrected prior to approval. The added 6 stories of habitable space cannot feasibly be removed by a preservation architect reviewing plans.
- c. This report outlines supplemental specific procedures (such as reviews at each of 4 design phases and oversight and decisions by "arms length" officials) which have been demonstrated to be necessary to make any Design Review process effective.

This Mitigation Measure could only be proposed if the base project is first altered during the entitlements process to eliminate the major incompatible adverse effects of height, design, and materials.

6. Aesthetics and Neighborhood Quality Nexus Missing:

The 2015-16 MND Addendum Historic Assessment fails to "connect the dots" between the aesthetic appearance of the new construction and its interruption and incompatibility with historic buildings and the District. It actually looks at the new

mid-century modern revival building as a positive contribution because it is not compatible. It fails to fully illustrate the characteristics of historic buildings in the vicinity which are affected by the new construction, the most notable one of which is building height. It then fails to relate the incompatibility of the Project with the District's historic character-defining features, which are also its aesthetics.

The Assessment also cherry-picks the Design Guidelines to score points for compliance on a single issue, when the Alexan Project is out of compliance on many other guidelines. Findings of compatibility and positive effects on the neighborhood are needed for other City approvals, not only for CEQA analysis. These findings which are based on the 2006/7 and 2015/16 MND Addendum Historic Assessments are in error.

CHANGES TO "APPROVED" PROJECT IN CURRENT "MODIFIED" PROJECT

How did the Project, its context, and the ordinances which apply to its planning change from the 2006 "Approved" Project to the current 2015 "Modified" Project?

The Alexan DTLA Project is called the "Modified Project" by the City and the Applicant's consultants to differentiate the project designed in 2015/16 from the project presented in 2006/7, which the City and Applicants call "Approved Project".

A different project was assessed under a different project application and design in 2006/7. The Historic Assessment analysis by the Applicant differs in significant ways from the Historic Assessment prepared in 2006/7. This report reviews the Project based on the 2015/16 Addendum Historic Assessment, and also analyzes the difference between the project design in 2006/2007 and the Alexan. This report concludes that the Alexan project design differs substantially from the 2007 project and that project changes represented by the Alexan will cause significant impacts to historic resources. The Addendum avoids finding obvious incompatibilities between the Alexan and adjacent and nearby historic resources. The originally approved project limited the height, massing, scale and other features to that comparable to adjacent historic resources, namely the Eastern Columbia Building. The 6 story increase in height and increases in massing represented by the proposed Alexan render the project incompatible with the nearby resources, the Eastern Columbia and the Historic District and would result in significant impacts to historic resources.

Beginning on the next page is a brief outline of changes in the project, historic context and entitlement request:

Table 1: Modified Project Changes to the Building's Physical Characteristics

	"Approved Project"	"Modified Project"	Modified Project Changes by Applicant
Height	246' 21 stories	320' 27 stories	6 floors increase. 30% height increase "Modified project" blocks 100% of iconic and character-defining clock tower of Eastern Columbia building as seen from the west
Size	182,895 sf	257,569 sf	40% size increase from Approved Project
FAR	6.0:1	7.45:1	24% increase over allowable FAR of 6.0 set by D limitation and by Center City Redevelopment Plan. LAMC Sec 12.22.C.3.c does NOT allow additional FAR (verify)
Podium Height	4 th level Approx 40'	7 th level 76' above street	Almost 100% increase in podium height, effectively bringing 3 additional floors closer to neighboring residences in the EC historic building and eliminating views from more floors of the EC building,
Sky deck	No sky deck	27 th level	Sky deck added
Retail	5,780 sf	6,171 sf	At ground floor
Parking	2 levels subterranean 3 levels above ground 245 spaces	1 level subterranean 5 levels above ground 336 spaces	Parking which was formerly below grade pushed up above grade. Increased podium height is result of more parking required for nearly doubling the number of apartment units, cheapening cost by eliminating a subterranean level, and needing to wrap above-ground parking due to limits on above-ground parking
Visible materials	Unclear	Modern panelized lightweight-appearing materials	Glass; metal panels, perforated metal screens, and metal louvers; precast concrete cladding

Table 2: Modified Project--Changes to the Project Setting and Land Use/Planning

	"Approved Project"	"Modified Project"	Change
Planning Ordinance Changes	2006-7	2014-15	<u>Planning change:</u> Downtown Design Guide issued 2009.
Effects on Neighborhood	EC was an office building	EC now condominium residences	<u>Planning change:</u> Yard Variance that was requested in 2006 to reduce setbacks around the proposed building affected office uses inside the EC building. <u>Neighborhood change:</u> At that time no homes were adjacent to the site, while today historic Eastern Columbia building's condominiums to the east are affected
Vicinity affected		Larger population of affected historic buildings	<u>Planning change:</u> Additional neighboring buildings were designated as historic. <u>Planning change:</u> Survey LA conducted a City-wide survey to identify potential historic resources. Although the Downtown area was delayed until last, those results are expected soon. Survey LA does already report additional historically significant districts nearby the Alexan site
Units	158 condominiums	305 apartments	<u>Planning change:</u> "Greater Downtown Housing Incentive Area" LAMC 12.22-C.3 allows unlimited quantity of residential units, but not to exceed 6:1 FAR

Section III

Review of Applicant's Historic Assessment

Section 1 - Error: That Current Project Design Is Compatible With The District

The MND Addendum for the "Modified" Alexan project concludes that the proposed modern design of the Alexan steel and glass residential tower "would comply with Standards 9 and 10 of the Secretary of the Interior's Standards for Rehabilitation," leading the authors to conclude that "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." This, in spite of the unavoidable fact that the project "will alter existing (historic) spatial relationships" between the historic buildings which has the potential of an unavoidable adverse effect on those resources.

By retracing the steps of the Appendix H analysis, this report investigates whether the conclusion of "no adverse effect" is supported by the evidence provided. Further, it investigates whether the evidence, criteria, and analyses which are omitted are, in fact, more compelling and important than the information presented.

This report's analysis shows that the Project has substantial adverse effects on historic resources, as well as on the aesthetics of the environs, as measured by multiple analytical tools. This report finds that the analytical framework, facts, and impacts disclosed in the Addendum were self-limited, leading to an erroneous conclusion. The project as proposed will cause significant, unmitigable impacts to historic resources and as such, an EIR should be prepared to fully address those impacts.

Section 1- Error: The Addendum Inaccurately Identifies The Location Of The Project

The Project's site is a vacant lot the northeast corner of Hill and 9th Streets in Downtown Los Angeles. Appendix H of the Addendum leads into its analysis by inaccurately identifying the location as in a "transitional" area and located in South Park. This is not accurate. The Project is located solely in the Historic Core, not in South Park.

This error is pertinent because the Addendum subsequently uses the South Park location as a justification for the Project's height and mid-century modern revival appearance.

The following tables review these issues:

Table 3: Inaccurate Statements of Project Location

Statements in Historic Assessment	Is the MND Addendum Accurate?
Approved project and modified project: "A similar mixed use project"	Inaccurate: Section 1 of this report shows point-by-point how the approved project and modified project are not

	“similar”.
“It (project) is also considered to be located in the South Park area just south of the Historic Core”	Inaccurate: As shown in Table 4 below, the site cannot be considered to be in South Park.
Location “can be considered a transitional zone between the Historic Core and South Park”	Inaccurate: As shown in Table 4, multiple, detailed design guidelines, plans, and districts specifically locate this Project within the boundaries of the “historic” portion of Downtown. The Project must be evaluated as a new infill building in an historic area.

The Alexan locale has long been recognized by planning expert after planning expert as being amidst the richest collection of historic buildings in the City, having two National Register Historic Districts nearby in a compact commercial area in Downtown Los Angeles-- as well as two new historic districts identified by Survey LA, and a third new district recently identified.

Table 4: Alexan Project Location Universally Accepted as Historic, Not South Park

Project is located in		Location Historic?	Shown on
Central City Community Plan Area	Ch. 3 (Land Use Policies and Programs) and Ch. 5 (Urban Design) Figure 1 map does not show specific boundaries for “Historic Core” Page 1-9 states “The Historic Core, extending from First Street to approximately 11th Street between Los Angeles and Hill Street”	Yes	Map # 1
City Center Redevelopment Plan Area	Locates site in “Historic Downtown Subarea” Exhibit 6 Redevelopment Plan down to 11th St. South Park Subarea located at east side of Hill Street	Yes	Map #2

Historic Downtown Los Angeles Design Guidelines	Locates site in area covered by Historic Downtown Los Angeles Design Guidelines	Yes	Map # 3
Downtown Design Guide Area	Locates Project in "Historic Downtown" area and 9th Street as a "Retail Street"	Yes	Map # 4
Historic Core	Locates site in Historic Core Business Improvement District	Yes	Map # 5
SurveyLA	Locates site in Central City Community Plan Area	Yes	Map # 6
Proposed Art Deco District Study Boundary	Identifies overlay of historic Art Deco buildings which includes Alexan site	Yes	Map # 7

Every planning document clearly shows this site within boundaries of an area officially classified as historic, not in South Park.

Section 2 – Error: Historic Resources Are Undercounted And Significance Is Under-Reported

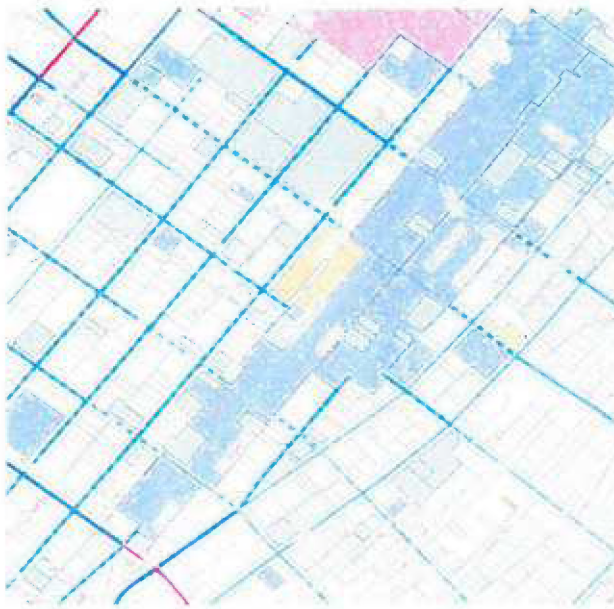
The Historic Assessment next narrowly limits the amount of historic resources potentially impacted by the Alexan project, and similarly underplays the significance of the historic buildings in the vicinity.

- Map #8 shows buildings and surrounding areas deemed historic, as noted below.
- Map #9 shows the historic area identified by the Appendix H of the MND Addendum
- MND Addendum identifies 12 fewer adjacent landmarks than the 2006 MND, although the added building height potentially affects those and more.
- Since the 2006 MND, new individual landmarks and districts have been identified and according to the consultants' own criteria, should have been evaluated for effects.

The Alexan MND Addendum limits the "Area of Potential Effect" as a first step in under-reporting impacts of the Alexan project. Federal guidelines, implemented by the State of California in 36 CFR § 800.16, suggest that the vicinity to be evaluated is: "geographic area

or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking”.

Map 8



Map 9



Because the Project may indirectly cause effects, the population of historic resources evaluated should be cast as large as possible. The MND Addendum identifies only a small number of neighboring buildings; that is effective in identifying direct impacts such as that of shoring, drilling and vibration. However, this report shows that the discussion of impacts other than direct physical impacts should include a much broader population of historic resources.

Section 3 - Error: 2015/16 Addendum Historic Assessment Limits Analysis To Historic Resources Immediately Adjacent To The Project

The Historic Assessments asserted that the historic resources analyzed were selected in accordance with criteria in Appendix B that Assessment. Based on these criteria-- noted below in Table 5-- the MND Addendum offers an incomplete identification of resources.

Table 5: Addendum Fails to Follow Guidelines For Identifying Historic Resources Impacted By Proposed Project

Identification of Historic Resources	Is the MND Assessment Complete?
<p>Appendix B addresses what resources are required to be evaluated as “historic resources” and “historically significant “under CEQA—</p> <ul style="list-style-type: none"> • Mandatory : National and California Registers • Presumptive : Local register or deemed significant • Discretionary: Not listed but meeting criteria for California Register listing 	<p>Incomplete: The Assessment offers an accurate statement of requirements but then proceeds to omit many historic resources from all 3 categories</p>
<p>Appendix A shows 2 historic buildings and a District “immediately adjacent” to the proposed project,</p>	<p>Incomplete</p>
<p>Appendix A shows 2 additional buildings “in the near vicinity”</p>	<p>Incomplete</p>

The Master Land Use application states that proposed structure is located in the Historic Core (MLUP p.6) and is completely surrounded on all sides by historic buildings (MLUP p.9). But then it fails to accurately report the preponderance of historic buildings in the environs. Instead it points to new modern buildings that might be built in the future as an attempt to justify its finding of the Alexan’s compatibility. This comparison is irrelevant and erroneous and thus does not support a finding of compatibility with historic resources.

The 2015/16 Historic Assessment identifies 1 historic district and 4 adjacent listed historic resources as the historic resources which may be affected. The analysis is insufficient by omitting the preponderance of surrounding historic buildings and thereby avoiding evaluating any effect on them.

Table 6: Historic Resources Identified by Appendix H of the 2015/16 MND Addendum

Adjacent Historic District	Height	Year Built Architect	Materials	Listed
Broadway Theater and Commercial District • Styles: Art Deco and Beaux Arts • District includes 70 contributing buildings plus non-contributors within its boundary	13 stories max	1927-1937 Various	Terra cotta, stone	<u>National Register:</u> US ID # #79000484 Expansion: US ID # 02000330
Adjacent Historic Buildings (individually listed)	Height	Year Built Architect	Materials	Listed
Eastern Columbia Building 849 South Broadway Art Deco style	13 stories	1929 Claude Beelman	Turquoise glazed terra cotta, gold spandrels and trim, steel mullions, cast decorative ventilation grilles	<u>National Register:</u> District Contrib #79000484 <u>Local: HCM</u> #294
Coast Federal Savings 855 South Hill St Beaux Arts Classicism style	12 stories	1925/26 Morgan Walls and Clements	Rusticated stone base, face brick, terra cotta cap and cornice	<u>National Register:</u> 3S Eligible per 2006 MND <u>Local: HCM</u> #346
Hamburgers Department Store (known as “May Company”) 800- 830 S. Hill St; 801 South Broadway Beaux Arts Classicism style	10 stories equiv	1906 Alfred Rosenheim; Expanded ca 1924 and 25—Albert C Martin	Ornamented cast iron; cream colored glazed terra cotta cladding	<u>National Register:</u> District Contributor #79000484 <u>Local: HCM</u> #459
May Co Garage 900-910 South Hill St Beaux Arts Classicism style	6 stories Equiv.	1926 Beelman and Curlett	Terra cotta/stone like	<u>Local: HCM #</u> 1001 Listed after 2006

Resources Omitted Include Newly Listed Buildings And Districts As Well As 12 Historic Buildings Reviewed In The 2006 MND:

Table 7a: Historic Resources Omitted From Addendum Appendix H

Historic districts not included in MND analysis	Height	Year Built Architect	Materials (Appearance)	Listed
Hill Street Commercial Historic District	13 stories	1906-1934	Stone, brick, terra cotta	Survey LA
7th Street Commercial Historic District	13 stories	1906-1928	Stone, brick, terra cotta	Survey LA
Spring Street Financial National Register Historic District	13 stories	1900-1924, 1925-1949	Stone, brick, terra cotta	National Register
Art Deco District	13 stories	1922-1932	Stone, brick, terra cotta	Proposed
Historic buildings not included in MND analysis	Height	Year Built Architect	Materials (Appearance)	Listed
Union Bank and Trust (Beaux Arts style) 760 South Hill	11 stories	1922 Curlett and Beelman	Rusticated masonry base, stone	<u>Local:</u> HCM #1030 Listed 2013
Foreman and Clark Building (Art Deco Gothic influence) 701 South Hill	13 stories	1929 Claude Beelman	Cast stone	<u>Local:</u> HCM # 953 Listed 2008
9th and Broadway (Art Deco style) 850 South Broadway at 9th	13 stories	1929 Claude Beelman	Terra cotta; dark metal spandrels	<u>National Register</u> District Contributor #02000330

**Table 7b: Historic Resources Omitted From Addendum Appendix H,
But Included In 2006 MND**

Historic buildings Not included in MND analysis	Height	Year Built Architect	Materials (Appearance)	Listed
Tower Theater 802 South Broadway	NA Includes Deco- like tower	1927 S. Charles Lee	Terra cotta; cast stone – like ornament	<u>National Register</u> District Contributor Local: HCM #450
Singer Building 806-808 South Broadway	8 stories (equiv)	1922 Milwaukee Building Company	Stone-like facing	<u>National Register</u> District Contributor
Rialto Theater Building 812 South Broadway	2 stories (equiv)	1926 Curlett and Beelman	Altered	<u>National Register:</u> District Contributor #79000484 Local: HCM #472
Apparel Center Building 814-818 So. Broadway	13 stories	1923 Walker and Eisen	Terra cotta	<u>National Register:</u> District Contributor #79000484
Braun Building 820-822 South Broadway	7 stories	1913	Stone like	<u>National Register:</u> District Contributor #79000484
Anjac Fashion Building 830 S. Broadway (Gothic influenced Art Deco)	13 stories	1927 Walker and Eisen	Terra cotta/stone- like with continuous vertical glass/ metal spandrels	<u>National Register:</u> District Contributor #79000484
Orpheum Theater 842 -846 South Broadway	13 stories	1925 G. Albert Lansburgh		<u>National Register:</u> District Contributor

				#79000484
Blackstone's Department Store /USPO Metropolitan Station 901 S. Broadway	6 stories	1916-1918 John Parkinson 1939 alter Stiles O. Clement	Terra cotta/stone- like	<u>National Register</u> District Contributor #02000330 <u>Local: HCM</u> #765
Broadway Leasehold Building 908-10 South Broadway	6 stories	1914 Mayberry and Parker	Stone like	<u>National Register</u> District Contributor #02000330
United Artists Theater/Ace Hotel 921-929 South Broadway	13 stories	1927 Walker and Eisen	Terra cotta/stone- like	<u>National Register</u> District Contributor #02000330 <u>Local: HCM</u> #523
Commercial Exchange Building 416 West 8th Street	13 stories	1923	Brick; terra cotta cap	National Register eligible
Garfield Building 401-415 West 8th Street	13 stories	1929 Claude Beelman	<u>Cast stone</u>	<u>Local: HCM</u> #121

Section 4 - Error: 2015/16 Addendum Omitted An Important Description Of The Treatment Of Above-Grade Parking Structures In Historic Downtown

The Modified Alexan Project design has a parking podium consistent with the above-grade parking garage design of many post-war high rise office buildings. The Downtown Los Angeles area has a surprising number of above-grade parking structures; stylistically they are treated with equal architectural detail, excellence, and style as the adjoining buildings.

As one most visible portion of the proposed Project involves a parking garage—and the usual offensiveness of night lighting, unattractive entrances, etc.—the Historic Assessment should have provided a guide to understanding how to treat the design of these levels in an historically appropriate and urbanistically attractive manner.

Section 5 - Error: 2015/16 Addendum Downplays Significance Of Surrounding Areas

- The high national level of significance of Downtown Los Angeles' historic core, its overall feeling and association, and its visibility from many vantages means that the proposed new Project's effects have elevated significance, and may be precedent-setting.

- The Alexan project is embedded in an historic area with an identifiable consistency of style ---all have no habitable level over 13 stories; all are constructed principally of masonry-like materials with deep punched openings; all observe a street-front building line; all have detail and ornamentation. This overwhelming consistency and the historicity of the entire setting are glossed over by the Addendum.
- The fact that certain historic buildings are not a full 150' tall (or 13 stories) is used in the MND Addendum Historic Assessment to turn the argument of building height on its head. Los Angeles' Downtown for all its historic areas had an absolute 13 story height limit which is one of the most significant and fundamental facts of Los Angeles architectural history. The Addendum asserts that the fact that there are shorter buildings in the area means there is "height variation" in the historic districts, and this somehow excuses the Alexan Project's habitable floors being nearly double the historic height. This is a blatant misapplication of historic analysis and runs counter to the findings in the 2007 MND Assessment, which specifically pointed to a slight variation of height for the 2007 project.
- The Addendum fails to recognize the iconic significance of the Eastern Columbia Building and the clock tower and its relationship to its surroundings in assessing impacts due to the Modified Project. By contrast, the 2006 IS/MND recognized the neighboring Eastern Columbia Building's historical significance and spatial relationship with the historic core and historic setting. Although the occupied floors of the Eastern Columbia Building conformed to regulations that required buildings to have fewer stories than City Hall, the distinctive and prominent clock tower pushed its total height to 264 feet, slightly higher than that of City Hall. As such, it has been a long-standing visual landmark, seen from many public vantage points. Claude Beelman originally designed the building with the intention that the four-sided clock tower could be viewed from the entire Downtown area. He was working under the city's limit of 13 stories for any building (the City Hall was the only exemption from the ordinance.). The tower, being of a purely mechanical nature, was considered to be a housing for rooftop equipment. *The Eastern Columbia Building's clock tower is one of the only 4-sided Art Deco clock towers in the United States.* All four sides are meant to be viewed from several vantage points as part of its historical significance. The 2006 IS/MND at p. III-32 included height limitations and setbacks that "would ensure views to and from all elevations and character-defining features of the Eastern Columbia Building will be preserved and that the historical resource will retain visual prominence." The Alexan's new design (specifically height, massing and setbacks) would block *the majority of* one entire side of the clock tower such that the visual prominence of this landmark would be substantially diminished, causing a substantial adverse effect. This significant impact is not mitigated (nor can it be) and is not addressed in the Addendum and should be addressed in an EIR.

Section 6 –Error: The Historic Assessment’s Analytical Framework Is Misapplied Because The Project Is A New Building On A Vacant Lot

This section of the Historic Assessment cites the “analytical framework” by which the assessment will be conducted, citing National, State, and local guidelines. (This section is supplemented by Appendix B, which further cites specific regulations).

The principal basis for the analysis derives from the City of Los Angeles CEQA Thresholds Guide section for Cultural Resources, which incorporates and refers to CEQA (California

Environmental Quality Act Sec 15064 addressing historic preservation, which incorporates the Secretary of the Interior Standards.

This is the standard approach for assessing effects of a proposed project when the project itself involves, rehabilitates, or adds to an historic building:

1. Cites the basis for concluding that a Project has a “significant impact on historic resources” if the project “*would* result in a substantial adverse change in the significance of an historic resource”. (*This author’s italics added*).
2. The above citation in the MND Addendum does alter the language of the California statute, which actually reads: “A project with an effect that *may* cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment.” (*This author’s italics added*).
3. Because there is no historic building on the site to be affected, only the fourth example quoted by the MND Addendum of a possible effect on cultural resources is applicable for this analysis: #4 “Construction that reduced the integrity or significance of important resources on the site *or in the vicinity*.” (*This author’s italics added*).
4. “A substantial adverse change in the significance of a(n) historic resource means demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of a (n) historical resource would be materially impaired.”
5. ‘Materially impaired’ means “Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources.”

A critical and seriously debated topic for cities, design review boards, and historic neighborhoods nationwide has been exactly these questions and problems. The conventional analysis of new infill construction and its effect on historic surroundings is recognized today

as having been misguided and misapplied. A bibliography at the end of this report points to many of the scholarly papers and efforts in other cities to correct this erroneous analytical framework, and articulate what makes a new building appropriate and non-adverse for its historic neighbors.

The mistake has been twofold: “materially impaired” should not mean that the historic resources on neighboring properties or in a surrounding district would have to be demolished or destroyed in order for the Project to have adverse effect. These resources are not a part of the project of a new infill building to begin with.

Secondly, “materially impaired” does not mean that the neighboring properties or a surrounding district must lose so many defining characteristics that they lose their eligibility to be historic in order to have any adverse effect. A discussion of “materially impaired” should look at “those physical characteristics of an historical resources *and district (inserted by this writer)* that justified “its inclusion in, or eligibility for, inclusion in the California Register”. In other words, it should explain what about the district summarizes its characteristics, and how those characteristics can be supported and maintained.

Rather than ask whether entire buildings or districts would lose their eligibility for the Register because a single new building is built on a vacant lot, the proper question is: “would the new infill building—if it had been present at the time of the district boundaries—have qualified as a district contributor to the historic district?” “Would the district boundaries have been drawn to include it”—as with the May Company next door? The answer for the Alexan project is “no”. Thus, the Alexan Project if approved and built, would cause the significance of the historic district to be materially impaired.

Section 7 – Error: Analytical Framework Misapplies Standard #9 Of The Secretary Of The Interior Standards; Revised Preservation Brief #14 Is Today’s “Best Practice”

The Addendum Historic Assessment next points to the Secretary of the Interior Standards for the Treatment of Historic Properties as the “useful analytical tool for understanding and describing the potential impacts of substantial changes to historic resources...Projects that comply with the Standards benefit from the regulatory presumption that they would have less than a significant impact on a historic resource.” (This last sentence cites CEQA Sec 15064(b)(3).)

Standard #9 is appropriate for looking at the Project’s direct physical effects on the adjacent May Company Building, and the Historic Assessment in 2006 and 2015 Addendum handled that well. The failing is in the interpretation of Standard #9 and its application to the Alexan’s effect on the surrounding highly significant historic environs:

- Using Standards #9 and #10 in the conventional way sets up a false sense that the Alexan Project cannot possibly have a significant adverse effect -- under this narrow view of the standards, the argument for the Alexan’s compatibility is that this a new construction project which purportedly doesn’t directly impair the materials of adjacent historic buildings (except for possible vibration effects and impacts to the May Company), or directly affect the physical characteristics of historic buildings or districts.

- The National Park Service—which is the Federal governmental agency which leads technical assistance for historic preservation and promulgates the Standards—clarified when revising its Preservation Brief #14 that “Although often asked about infill construction, because this is technically not a rehabilitation issue, the NPS does not have specific guidance that address this.”
- Current thinking is that the conventional use of Standard #9 (and #10), like the analysis for the Alexan project, to assess impacts on historic Districts has over time been a misapplication. This is described in more detail under Section 8.

Section 8—Direct Impacts To Adjacent Historic Resources. The MND Addendum Historic Assessment proceeds to assess impacts using Standards #9 and #10 of the Secretary of the Interior Standards. As noted above, the report does identify direct impacts, which must be mitigated.

Table 8: Are Project Direct Impacts on Individual Historic Resources Accurately Analyzed in the Addendum?

Secretary of the Interior Standards	Is the Addendum Analysis Accurate?
Standard #9: “New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and special relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.”	<p>Accurate but misleading: Addendum states Project “will not demolish, rehabilitate, or relocate” any historic resource.</p> <p>While the statement is accurate, it is also misleading and an evasion because a Project that is a new building is by definition NOT an historic resource. The Project’s design is not compatible in massing, size, and scale with adjacent historic resources.</p>
<ul style="list-style-type: none"> • Infill 27 windows of the 157 windows at the south façade of 	Inaccurate: Assessment states “Both the Approved Project and the Modified Project would alter the May Company to the North”, but argues that because the Modified Project

the May Co.	fills in fewer windows than the “Approved” project, the impact is lessened and thus not an environmental effect. Having less of an impact than stated in an outdated MND does not remove the impact.
<ul style="list-style-type: none"> Excavate adjacent to existing historic buildings 	Inaccurate: Excavation adjacent to existing buildings is mentioned as potentially damaging. In the “Approved Project” MND a Mitigation Measure was required for Vibration Protection and Design Review. The current design has a deeper garage excavation, and is inadequately described for impacts on neighboring properties, especially the May Company (<i>Note Mitigation Measures were issued late in a separate document after this comment was prepared</i>)
Standard #10: New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired”	Misleading: Discussion of Standard #10 – known in historic preservation as “reversibility”— has no place in the discussion of a newly constructed high rise building. The investment in a high rise building is unlikely to be reversed (the building demolished) in a foreseeable future. Mitigation Missing: However, if reversibility is claimed to mitigate the filling in of windows at the May Company building, then a Mitigation Measure should be added so that at the end of the land lease—if the building is removed—the windows are reopened.

Section 9: Error: The Conclusion That There Are “No Impacts To Surrounding Historic Resources” Is Incorrect

The Historic Assessment then asks whether the Alexan Project—which alters the surroundings of the Historic District—affects the National Register Historic District and the surrounding 4 important landmarks by its new construction. The Historic Assessment uses Standard #9 again to assess these “indirect impacts”.

The Historic Assessment concludes that “the proposed new building’s height will not significantly alter or detract from the historic character of the area and will not diminish the ability of any district contributor to convey its historic significance.” This conclusion is in error.

As noted above, the Addendum analysis implies that as long as adjacent historic buildings maintain their status, and the Broadway District maintains its historic status, there must have been no adverse effect.

The errors in reaching a conclusion of “no effect” are described point by point in the following tables:

Table 9: Are Project Impacts on District Resources Accurately Analyzed in MND Addendum?

District features	Is the 2015/16 Historic Assessment Accurate?
Buildings built to street line with articulated facades and entrances oriented to the street. Pedestrian-oriented street frontages	Accurate: Alexan proposed to be built to street line
Significance of district contributors and their architectural articulation is largely conveyed by their primary street-facing facades along Broadway and 9th	<p>Inaccurate: Although this discussion does portray characteristics of buildings in this dense urban environment, it is not entirely correct, and thus leads to a wrong conclusion. Although buildings are indeed seen and experienced from the street, the historic district is also experienced from inside the buildings by the people inhabiting them; from a distance where towers provide important landmarking function.</p> <p>Many buildings also have character-defining ornamentation throughout the façade—not just at street level, and the Standards would never encourage its removal. The statement that differences in height above five or six floors are not discernable is untrue.</p> <p>The Alexan at 6 stories taller than previously approved represents a substantial change that causes a drastic height incompatibility and would substantially impact the character of the historic setting.</p>
<p>Architectural articulation largely confined to street-front facades.</p> <p>Side and rear-facing facades typically constructed with minimal articulation in anticipation of future adjoining buildings</p> <p>“Their historic significance is experienced primarily from the street whereby differences in height above five or six stories are not readily discerned.</p> <p>“The proposed new building will not detract from the historic character of the area ... all (district) contributors will remain intact and their street facades fully visible.”</p>	
Building heights vary in the older nearby buildings, and newer buildings are taller	
Height of historic buildings generally no higher than 150’—the	Inaccurate: The Eastern Columbia Building and other

<p>“height limit line” set by City Hall. Addendum argues that building heights aren’t always the same in historic buildings, and new building are being built that are taller.</p>	<p>buildings had non-habitable spires or towers.</p>
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Section 10 - Error: Standard #9 Analysis Finding Contemporary Building Compatible

As discussed in Section 3, the Historic Assessment states: “The ...guidance provided by the Park Service for reviewing new construction that may affect an historic resource...be it...an infill building within an historic district, strives for the same outcome: a balance between compatibility and differentiation.”

This is a misinterpretation of the Standards. The Standards, when following best practices today, would find the differentiation of the over-height, glassy, tower slab-on-podium building to be the antithesis of compatibility.

The Historic Assessment falls into a conclusive fatal trap: “Like the Approved Project, the Modified Project will be clearly differentiated from the surrounding historic buildings by its contemporary design and modern materials.” By this statement alone, the Project would have an adverse effect on the historic environment.

The Historic Assessment cherry-picks through applicable design guidelines promulgated to protect Downtown’s historic character and guide new construction. By falsely stating compliance, and by omitting important guidelines, the Assessment gives a false impression of compliance.

Table 10: Is Compatibility Measured by the Standards Accurate in MND Addendum?

Secretary of the Interior Standards	Is the MND Assessment Accurate?
<p>Standard #9:... “new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.”</p>	<p>Inaccurate:</p> <p>The project’s 30% height increase and 40% size increase from Approved Project make the project incompatible under Standard #9.</p>
<p>• Massing: rectangular plan, solid six story</p>	<p>Inaccurate: The massing fails in compatibility due to #1 The rectangular plan fails in compatibility because it is a modernistic slab rather than a conventional</p>

<p>massing of podium, pedestrian-oriented retail storefronts, articulation of adjacent and surrounding building</p>	<p>building body with wings</p> <p>#2 The treatment as an above-ground parking structure façade, not as a building with windows. The podium as an architectural massing is a non-existent type in the historic districts and in American architecture prior to the 1960's.</p> <p>#3 The attempt to articulate the façade has led to design improvement, but has not reached the level where it would pass a conventional Design Review. The articulation is consistent with mid-century modern horizontality, in direct contract to the vertical or balanced horizontal/vertical articulation of all of the Downtown historic buildings.</p>
<p>• <u>Base, shaft, and cap or base, middle, and top</u></p>	<p>Inaccurate:</p> <p>#1 The base of historic buildings was typically the entrance level plus a mezzanine, scaled to humans and accentuating the building entry and storefronts at street level. It was not a six story parking podium.</p> <p>#2 The building top was generally ornamented and highly detailed. The top was built up or stepped back from the overall massing-- often pyramidally or "bookend" massed as an accentuation of verticality, for Deco-period buildings, or articulated with a cornice or other ornament for Beaux Arts buildings. A brise-soleil at the Alexan is out-of character.</p> <p>#3 The middle was treated with masonry or a terra cotta façade, with deeply punched openings accentuated vertically in Deco and as framed horizontally and vertically in Beaux Arts building</p>
<p>• <u>Height</u></p>	<p>Fails, is a pre-eminent topic omitted from discussion: The single most important component of compatibility is height. The Alexan height is virtually double its surrounding historic buildings. The increase in height of 6 stories from the 2007 Project is substantial and renders the project incompatible.</p>
<p>• <u>Materials</u></p>	<p>Inaccurate :</p> <p>#1 The materials of the historic district were predominantly "lithic"—based in earth materials such as stone, terra cotta, brick, cast stone (concrete) etc. The exterior wall had deep returns of the same materials, emphasizing solidity and permanence. The lithic materials were always "dressed", worked, ornamented, or otherwise developed in an architectural language to eliminate the bare and uncivilized basic materials. In the Alexan all materials are treated as thinly as possible, raw, and</p>

	<p>panelized like a clipped on curtain wall rather</p> <p>#2 The proportion of glass in punched window openings was often large, but nothing as large as at the Alexan. Glass is treated as the wall material in the Alexan, which is never the case in historic buildings of Downtown.</p>
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Table 11- Compatibility Cited in MND Addendum as Measured by Compliance with Downtown Design Guidelines (Selected Items)

Downtown Design Guide	Project complies?
Above grade parking limited to 3 level	No
Townhouse units at 5th story	No- See below
Southeast corner of podium pulled 12' away from northwest corner of Eastern Columbia Building	Yes
Sidewalks and setbacks section: On Retail Streets...the building street wall shall be located at or within a few feet of the back of the required average sidewalk width.	Yes
Fig 3-2 shows ground floor retail sidewalk treatment with human-scaled punched wall opening with awnings, individual storefront /display windows, and no visible security grilles.	No Alexan has block long glass curtain wall/storefront), thin uprights
Wall openings such as storefront windows and doors, shall comprise at least 75% of a building's street level façade. Clear glass shall be used.	The implication is that there is a wall and visible support at street level wall—not all glass
If at least 50% of the building frontage along a block face is occupied by one or more designated Historic Resources, the average setback of any new building shall match the average setback of the Historic Resources	No: Setback of 26' for the residential slab above the parking podium does not comply
Parking, loading, or circulation located above the ground floor shall be 1) lined by habitable floor area along all street frontages or 2) if the project sponsor demonstrates that it is not feasible to line the parking with habitable space above the ground floor, integrated into the design of the building façade	No
Fig 5-1 diagram shows a maximum of 3 parking levels	No

Any portion of a building that is above 150'—the pre 1957 height limit Downtown, is subject to tower standards and guidelines	No
Monolithic slab-like structures that wall off views and overshadow the surrounding neighborhood are discouraged	No
Generally, buildings should maintain a consistent street wall	No
Figure 6-3 shows “Tower set into a Base”—Usually the tower rises above the base and steps back from the street wall 20' or more. The minimum street wall must be met by the base This form is not generally preferred (authors emphasis)	No
Base in Historic Downtown required to be 75' minimum- 6 stories high—at street front	Yes

Table 12- Compatibility as Measured by Compliance with Historic Downtown Design Guidelines Cited in MND

Historic Downtown Los Angeles Design Guidelines (HDTLADG)	Project complies?
Page 131: “respond to the existing building context within a block”	No
Page 129-131 “build to the street”	Yes/ No
Build on corner lots and vacant parking lots	Yes

Table 12 (cont'd) Compatibility Omitted as Measured by Compliance with Historic Downtown Design Guidelines Cited in MND

Historic Downtown Los Angeles Design Guidelines (HDTLADG)	Project complies?
P. 28 Hill Street regularity	No
Consult design professionals who have expertise in design within historic districts	No
Build consistently with the street wall, particularly at corner sites	Yes, and No above podium
Design new buildings to respond to the existing building context within a block.	No—responds in an abstract way to heights, and uses balconies aggressively which are not found in historic buildings; openings have overwhelmingly large scale ; horizontal mid-century emphasis with exposed floor slab in contrast to vertical massing of Deco

	buildings or balanced vertical/horizontal massing of Beaux Arts buildings
Use compatible types of masonry such as terra cotta when constructing new structures in Historic Downtown	No- building is glassy materials, exposed concrete slabs, and panelized large scale materials
“Hill Street has less spectacular decorative building ornament on its buildings than found elsewhere downtown. But what Hill Street lacks in brilliance, it makes up for in regularity, order, rhythm, and balance”	No- building interrupts regularity of street. Busyness of façade “outshouts” the resolved aesthetics of all surrounding historic buildings
Street wall: “The street wall in Hill Street remains fairly continuous throughout—is created by the lack of setbacks at the line of the sidewalk and by the consistent building heights that span from block to block”	No- Alexan height is aggressively taller, interrupting the consistency of the district. The 26’ setback above the podium is a mid-century stylistic approach, has no relationship to block or U shaped historic buildings
Scale: “The historic buildings... on Hill Street are the same as those on other streets, but their widths are slightly, yet consistently wider	No – the width of the Alexan building with a horizontal treatment for over 200 feet of street frontage
Scale: Storefront enclosure ensures that at night the entire lower façade does not assume the form of a metal roll-down door”	Unclear
Building Type and style: Building styles found on Hill Street include the classical Beaux Arts and Romanesque.	No

**THE PROJECT’S IMPACTS ARE SIGNIFICANT
WHEN ANALYZED USING BEST PRACTICES**

The interpretation of Standards #9 and 10 in the MND Addendum Historic Assessment to evaluate impacts of the Alexan DTLA provides an incomplete analysis and thus an erroneous conclusion. The cherry-picking through design guidelines to make a case for compatibility when the building is not compatible supports that erroneous conclusion.

- There are better analytical tools to analyze effects of new infill construction such as the Alexan on historic districts and adjacent historic buildings. They look not at whether a district’s or a building’s entire significance will be lost, or whether portions of a building or district will be materially damaged, but

whether the new building's form and integrity contributes to or does not harm the significance of the surrounding whole.

- Standard #9 has been re-examined and the National Park Service has issued new and corrected guidelines ("Revising Preservation Brief 14"), which recognize that the Standard itself was somewhat "off target" when evaluating new infill buildings in or adjacent to historic Districts.
- Standard #9 might be paraphrased to read "The new Alexan Project shall not destroy historic materials, features, and special relationships that characterize the District. The new Alexan Project shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features of the neighboring listed buildings and the buildings within the District boundary to protect the historic integrity of the District and environs."

The revised Preservation Brief:

- "Does include a section on new additions in densely-built urban environments, which is much the same as infill construction...*Height and setback from the street should generally be consistent with those of the historic building and other surrounding buildings of the district.*" (This author's italics)
- "Another topic that is not included in the brief because it is not a new addition is new construction on the site of an historic building or adjacent to a historic property. New construction as it relates to historic buildings may sometimes also be considered infill. It is reviewed in rehabilitation projects from the standpoint of how it impacts the character of the historic building and, when applicable, the historic district in which it is located. *The historic property must remain predominant.*" (This author's italics)

The Alexan Project was not analyzed in the MND Addendum from this most critical perspective. In fact, this perspective is the overarching most valid perspective for assessing the Project's impacts on the overwhelmingly historic environs. *The Project's violation of long-standing height limits and its predominance over the entire population of historic resources is the predominant analysis which the Addendum omitted and which should be addressed in an EIR.*

Nationwide the practice of using Standard #9 has been changing:

- Because experience showed that the "faking" of incompatible styles into historic districts was not a real problem, and "differentiation" was achievable with a "hyphen" or subtle materials changes, not a complete reversal of style.

- The real problem was compatibility of new construction and the necessity of allowing the historic buildings to remain whole, visible, and predominant. Most jurisdictions who have tackled the issue emphasize compatibility when

it comes to district infill or adjacent new construction. **“Differentiation” is achieved by knowledgeable and nuanced design rather than stark contrast or aggressive cookie cutter contemporary design such as Alexan.**

- Because the adverse effects of new buildings affecting historic districts were not only the issues of rehabilitation (avoiding material damage and loss of historic features). They were the issues of the new building’s height, color, visual effect, design, setbacks, etc. **The historic consultant needed a broader focus and an understanding of district integrity.** Then the analysis could carefully elucidate whether new construction’s effect might divide a district; overwhelm the district buildings; draw attention away from the signature focus of the district; disrupt the patterning of lots and buildings of the district; etc.

Table 13: Compatibility of Alexan Project using Preservation Brief #14:

Compatibility of new construction adjacent to historic buildings or district—Preservation Brief #14	Compatible?
Height consistent with those of historic buildings	No
Setback from the street should be consistent	Yes and No
Historic propert(ies) must remain predominant	No

National Park Service Integrity Guidelines:

Appendix B of the Historic Assessment Memorandum cites the National Park Service definition of integrity as the appropriate standard to assess the integrity of an historic resource. If Standard #9 is used as the analytical tool, then the analysis should have described the character and integrity of the Broadway Commercial and Theater National Register District and the other surrounding historic resources and districts, and evaluated whether that integrity is enhanced or diminished by the Alexan DTLA Project. **As addressed in the table below, the Alexan Project fails on all counts.**

Table 14: Effects from Alexan Project on District Integrity

	Description of Vicinity	Description of Project	Alexan Enhance District?
Design: Combining of elements	Form: Historic resources share an aesthetic which	Emphasis on horizontality and aesthetic emphasis on	No

creating form, plan, space, structure and style	emphasizes the articulation of structure and civilizes it—most often emphasizing in the Deco period the verticality. Deep set windows with	raw projecting concrete slabs a modernistic and incompatible expression	
	<u>Plan:</u> Massing of buildings in dense urban areas generally involves an aesthetic base shaft and top. Greatest artistic expression is in pyramidal massing of Deco buildings and exuberance at base and top	Massing on “the matchbox and the muffin”—the 1960’s era podium building—is a direct contrast and conflict with historic resources. Using a podium to hide parking expresses the parking function of a building near street level, obscuring the opportunity for interaction of humans with urban life.	No
	<u>Plan:</u> Due to need for daylight in historic buildings for office, hotel, or residential use, the plan for certain sites involved a U shape oriented to the street or other form with wings.	Plan is a “slab plan”	No
	<u>Space:</u> Spaces, openings, entrances are shaped and appropriately scaled to human occupancy and relative importance	Abstract spaces with human scale unimportant. Focus on looking out exclusively—entire glass walls abstract and dematerialize space. Lobbies and retail spaces architecturally unshaped—shell spaces which get veneered with materials	No

	Style: The styles in the District stem from the eras preceding, during, and after the Depression--predominantly Beaux Arts and Art Deco.	The style of the building is mid-century modern revival, recalling the post-war development of Los Angeles residences.	No
	Structure: The use of steel and concrete structures, as opposed to the bearing wall structures of earlier eras, characterize the District. The structures are always clad in a unit material	The proposed Project does not clad the building—as in post 1960's buildings, the exterior is a “skin” hung beyond in large panels, arranged as if a 2D drawing rather than as a work of architecture.	No
Setting: Physical environment	Urbanistic features addressed above... Street wall created urbanistically has articulated planes. Balconies are rarely if ever found, except as a feature integrated into	Use of balconies and accentuation of unadorned “layer cake” floor slabs	No
Materials: Physical materials and their use and configuration	Exterior façade: Visible materials employed for cladding are “lithic” or originating from earth—terra cotta, stone, concrete.	Exterior façade: Exterior materials are predominantly glass. Horizontal expression of projecting floor slabs.	No
	Exterior façade: Configuration of glass is deep set, often with spandrels of a differing material	Exterior façade: Modern planar treatment of glass and other materials as a thin and taut stretched “skin”	No
	Exterior façade: Proportion of glass		No
Workmanshi	Craftsmanship and	Elimination of craft and	No

p: Physical evidence of crafts from given period	“hand of man” evident is ornamentation: all buildings provide extensive high-quality materials with artistically designed ornament in a known language of ornament.	art—emphasis on assembling factory-made planar parts	
	Concentration of ornament at specific locations: Ornament is visible, principally owing to its use at bases (public entrances), principal facades, and “crowns” (tops) of buildings	Absence of scale and detail at any level- large scale planar finishes	No
	Workmanship is evident in the use of materials which can be handled by a man—unit masonry and terra cotta for example;	Giant scale in panelized building materials	No
<u>Feeling:</u> Expression of the time	The era of the 1920’s and 30’s buildings expressed optimism and exuberance in verticality—a celebration of building height (with elevators and new structural systems)	Mid century modern revival that is currently in vogue harks back to the late 1950’s and 60’s Los Angeles residences with horizontal expression	No
<u>Association:</u> Direct link to important event or person	Connection to local historical development of downtown LA at a time when the center city around Spring Street and	Mid-century modern revival style has no connection to Los Angeles downtown	No

	Broadway was indeed the center for retail and merchandising, for finance, for theater and movies, etc.		
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Analysis: Los Angeles CEQA Thresholds Guide- Aesthetics:

The Alexan meets the threshold for a significant impact on aesthetics. The Los Angeles CEQA Thresholds Guide states:

“Urban features that may contribute to a valued aesthetic character or image include: structures of architectural or historic significance or visual prominence; consistent design elements (such as setbacks, massing, height, and signage)...Aesthetic character may be purposely generated, nurtured, or preserved, as is the case with City-generated scenic corridors and historical districts...The introduction of contrasting features or development into aesthetically valued urban areas can overpower familiar features, eliminate context or associations with history, or create visual discord where there have been apparent efforts to maintain or promote a thematic or consistent character.”

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.)

Table 16: Alexan Project Significant Impacts Under LA CEQA Thresholds Guide

Los Angeles CEQA Thresholds Guide	Is Project compliant?
<u>Preservation of aesthetic character of district</u>	No
<u>Do not introduce features to overpower</u>	No Alexan substantially overpowers the adjacent Eastern Columbia building and neighboring historic buildings due to its massive height and bulk.
<u>Do not create visual discord</u>	No.

	Project creates visual discord with surroundings due to modern sub-slab architecture and height and mass that is out of scale with surrounding historic buildings.
<p><u>Altering views valued for visual character</u> 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).)</p>	<p>No.</p> <p>The impacts to the Eastern Columbia Building are significant, 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. The height, bulk, and spacing of the project in relation to the Eastern Columbia Building would remove the historic landmark from the view shed of the public, and is thus a significant impact under the Thresholds.</p>
<p><u>Compatibility of massing, size, scale and architectural features</u> “If new construction is proposed, give key consideration to compatibility with the massing, size, scale, and architectural features of the historical resources.”</p>	No
<p><u>New construction reduce viability of a district</u> Determine the impacts to the setting and character of the area as well as whether the new construction might indirectly reduce the viability of a district or grouping of historic resources. (Page D 3-5)</p>	<p>No.</p> <p>The impacts to the historic setting of the Eastern Columbia Building and neighboring historic resources will be substantial due to the new Alexan having the</p>

	potential to reduce the viability of the historic district and the grouping of the nearby historic resources.
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Section IV *Mitigation Measures*

Further, both the 2006/7 MND and this 2015/16 MND provide an unacceptable Mitigation Measure that “kicks the can down the road”. According to the mitigation measure, in order for the design of the building to be compatible with adjacent historic resources, a qualified preservation architect must review the plans after approval and prior to issuance of building permits. However, as addressed in this report, the core elements of height, massing, placement of the tower and configuration are already incompatible with adjacent historic resources. Thus, the mitigation measure is unacceptable and infeasible to mitigate significant impacts. Only minor design changes should be reviewed in this type of post-approval mitigation, and even then, only when it is clear that such measures will in fact be enforced to protect the adjacent resources. Such a potential mitigation measure might be considered a satisfactory solution:

- when a proposed project is not as egregiously out of character
- when the future clearance is delegated to a Preservation Officer – perhaps at the State level because of the National Register District.
- when the mitigation is required in steps—at Schematic Design, Design Development, and Construction Documents.

Section V - Figures

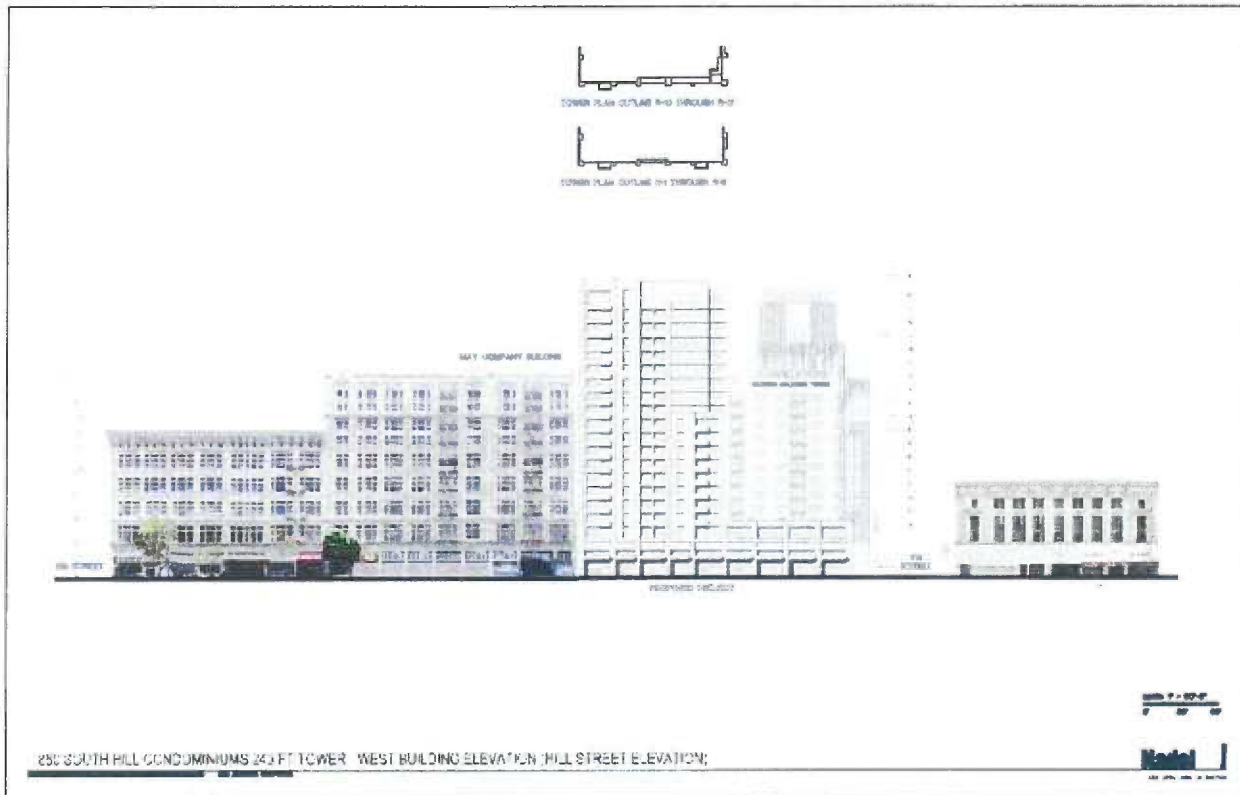


Figure I - The 2006 design assessed in the 2006 MND is shorter and offset to the Eastern Columbia Building, thereby not obscuring the historic view of the clock tower.



Figure II - View of the Hamburgers/May Company building seen from corner of Hills Street and 8th Street, which is the only present angle that the view of the clock tower is blocked. The original design's tower height and location would have had a much smaller impact as the historic view was partially blocked from this location. By moving the tower to

the South, the new design covers the Western face of the clock tower blocking the historic view. (Photo was taken from the Northwest corner 8th and Hill.)

Current



View Looking North on Hill Street



Figure III - The Addendum provided several discrepancies in depicting the views to the Eastern Columbia Building due to the new design. As seen on the left, the addendum depicts as a view from Hill Street, which is really looking Northeast from Ninth Street. The specific view is likely simulated from what could be window of the building situated on the Southwest corner. The clock tower would not be visible if the view was actually from 9th Street as the angle would cause it to be obscured by the proposed tower in the new design. These images obscure the true views of the building, making the visibility of the Eastern Columbia actually larger than it would be.

Section VI

Conclusion

Based on the foregoing analysis, this report concludes that the differences in project design between the Alexan Project as addressed in the Addendum, and the 2007 Project analyzed in the 2007 MND, cause significant unmitigated impacts to historic resources. The Alexan Project's significant impacts to historic resources were not addressed in the MND nor properly addressed in the Addendum and should be fully addressed in a comprehensive Environmental Impact Report.

Section VII

Bibliography

Reports:

Chattel Architecture.....Historic Resources Assessment and Impacts for 850 S. Hill Street © June 27, 2006
Historic Resources GroupHistoric Assessment 850 S. Hill Street © January 9, 2016
National Park Service...National Register Inventory for Broadway Theater and Commercial District Sept. 12, 1978
Parker Environmental ConsultantsAlexan Project Initial Study/Addendum © April 22, 2016

Other Official Records:

Los Angeles County Assessors Office Maps and Tax Records

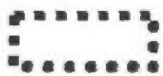
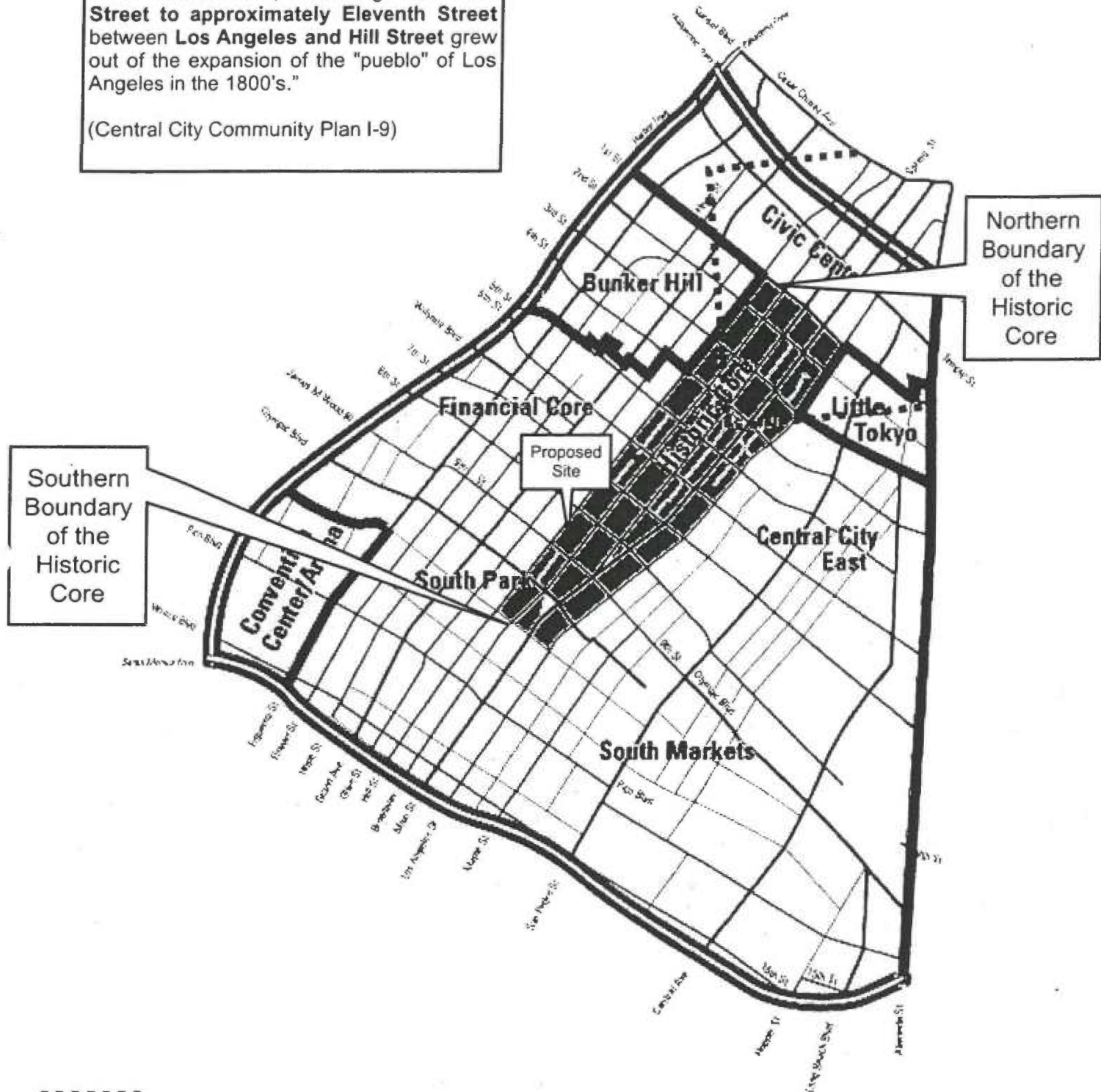
Los Angeles City Building Permits

MAP 1

Central City Community

"The Historic Core, extending from **First Street** to approximately **Eleventh Street** between **Los Angeles** and **Hill Street** grew out of the expansion of the "pueblo" of Los Angeles in the 1800's."

(Central City Community Plan I-9)

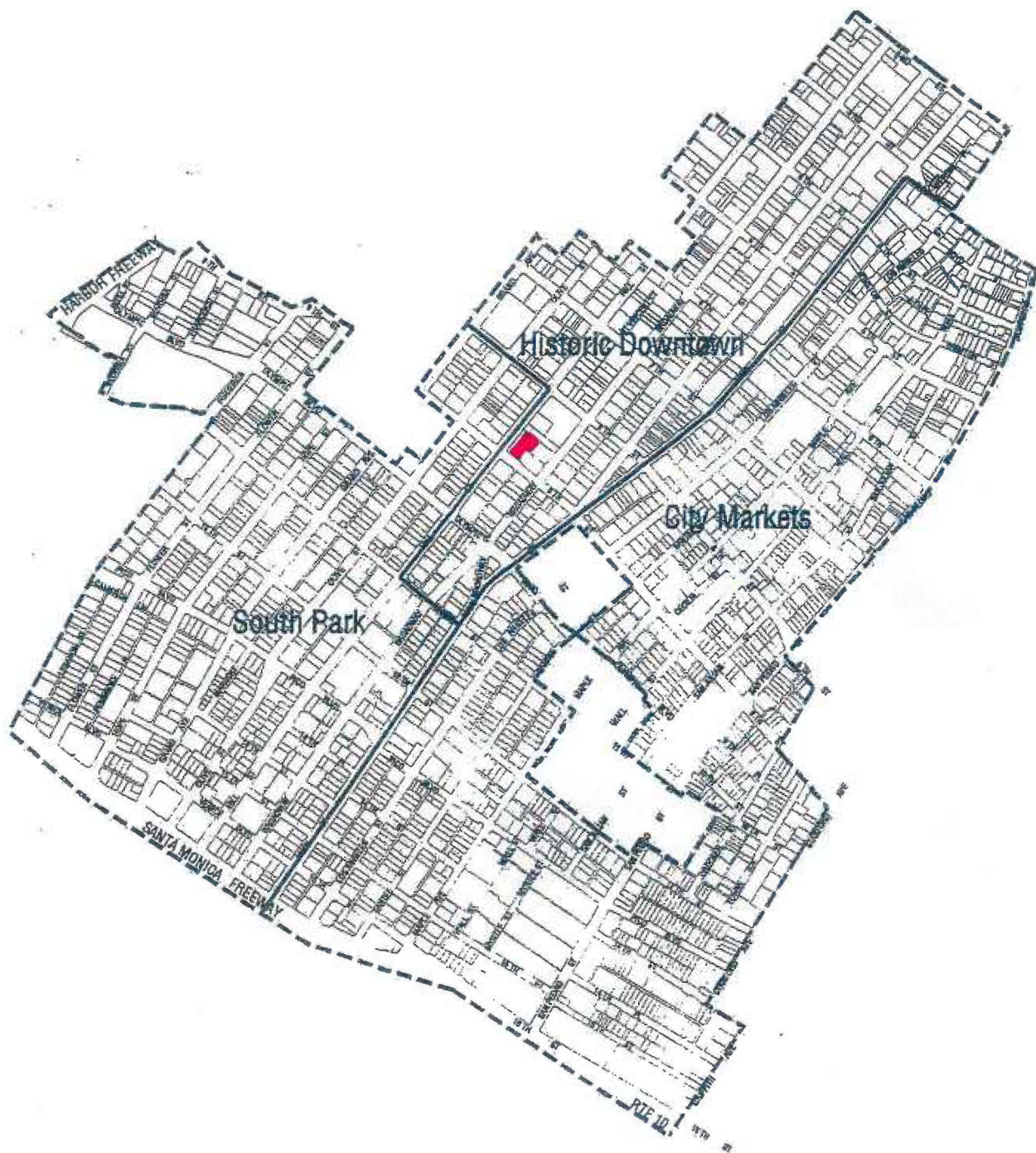


10 Minute Diamond as shown in the Los Angeles Shared Facilities and Enhancement Plan

Figure 1
Downtown Neighborhoods & Districts



MAP 2



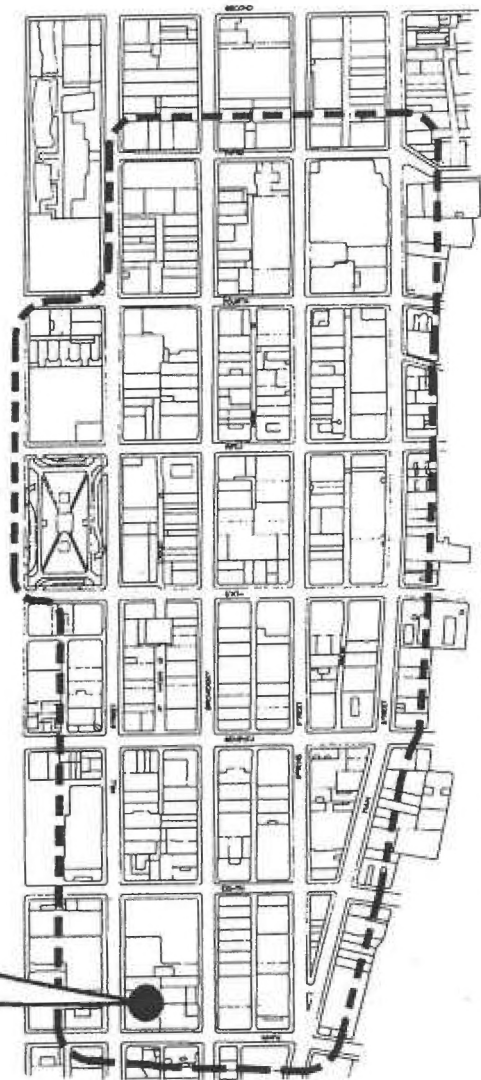
MAP 3

MAP OF
STUDY
AREA

STUDY
AREA
BOUNDARY

Proposed
Site

ARCHITECTURAL RESOURCES GROUP
Architects, Planners & Conservators, Inc.



MAP 4

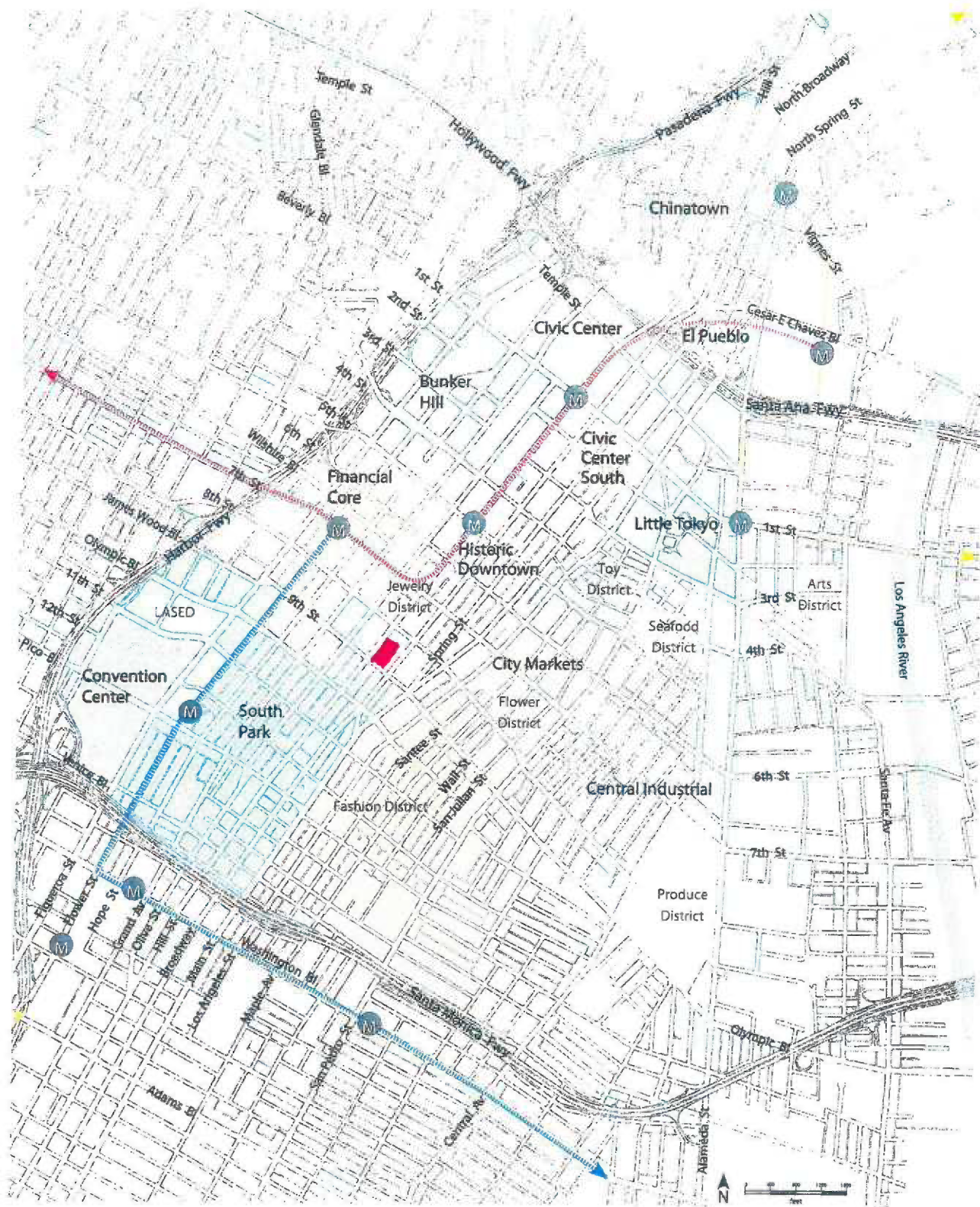
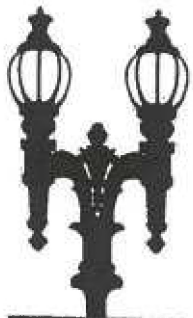


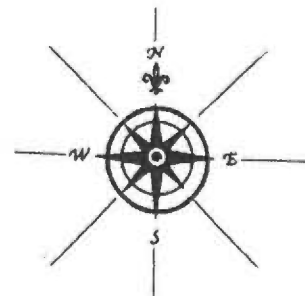
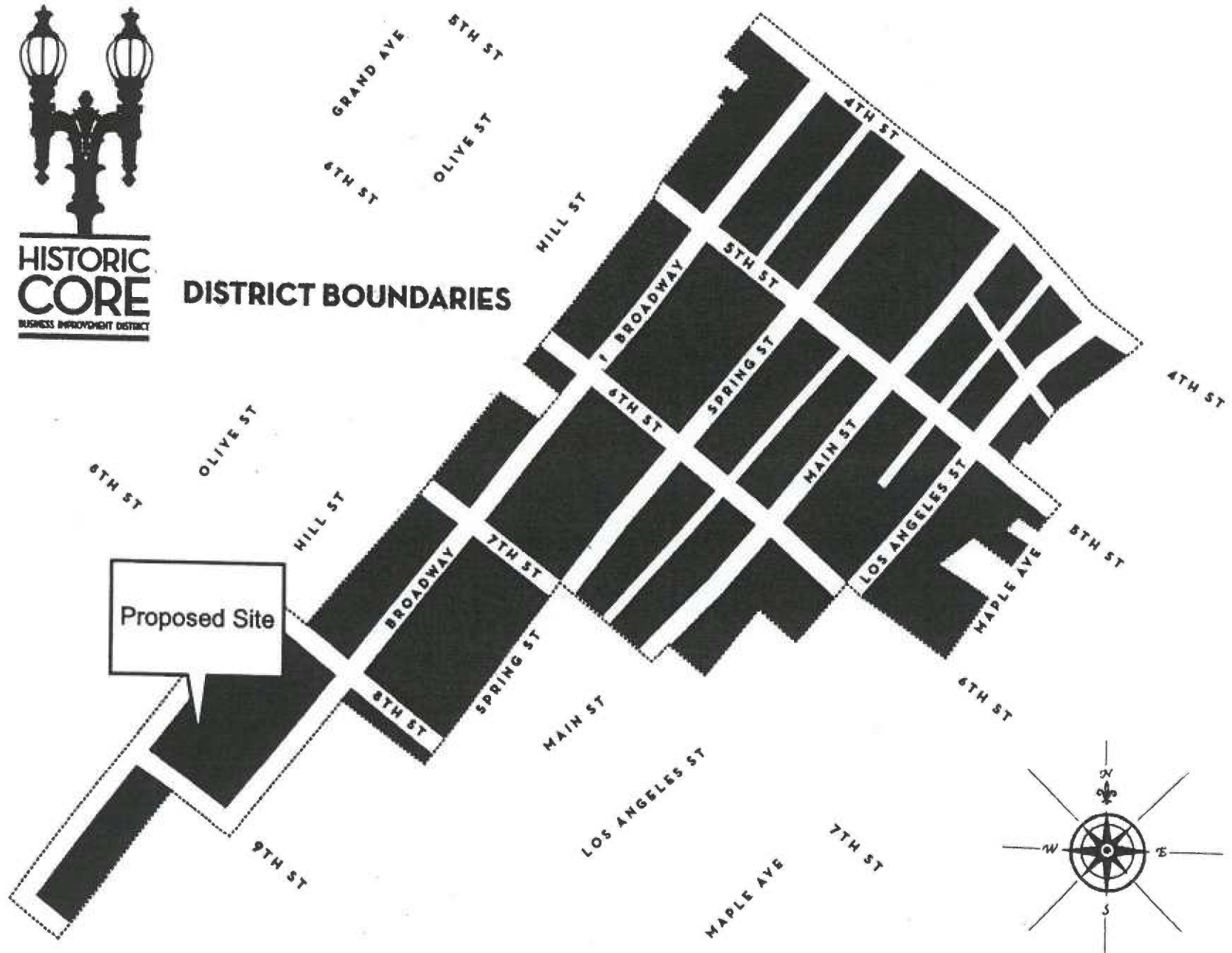
Figure 1-1 The Design Guide Applies to the Highlighted Districts

MAP 5

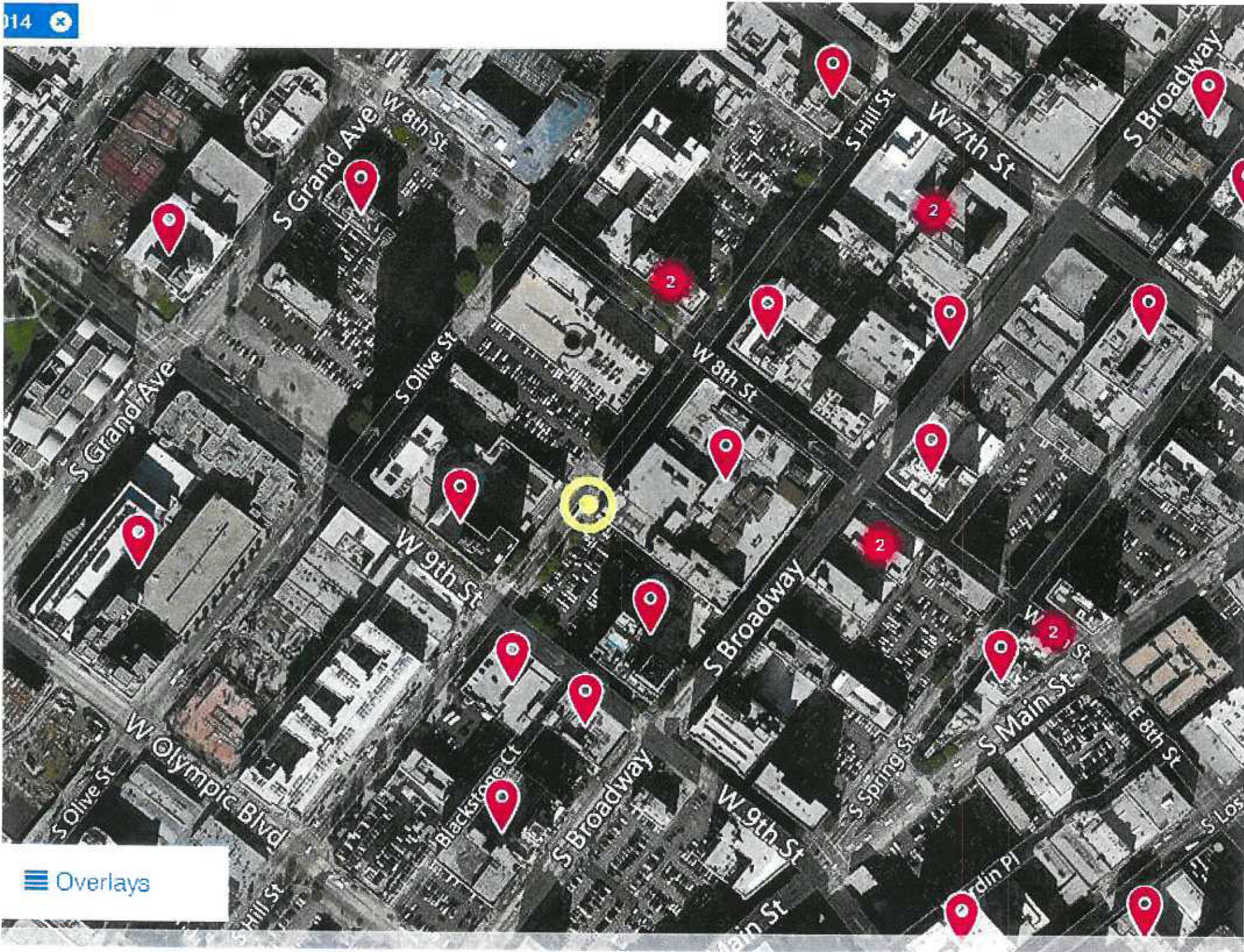


**HISTORIC
CORE**
BUSINESS IMPROVEMENT DISTRICT

DISTRICT BOUNDARIES

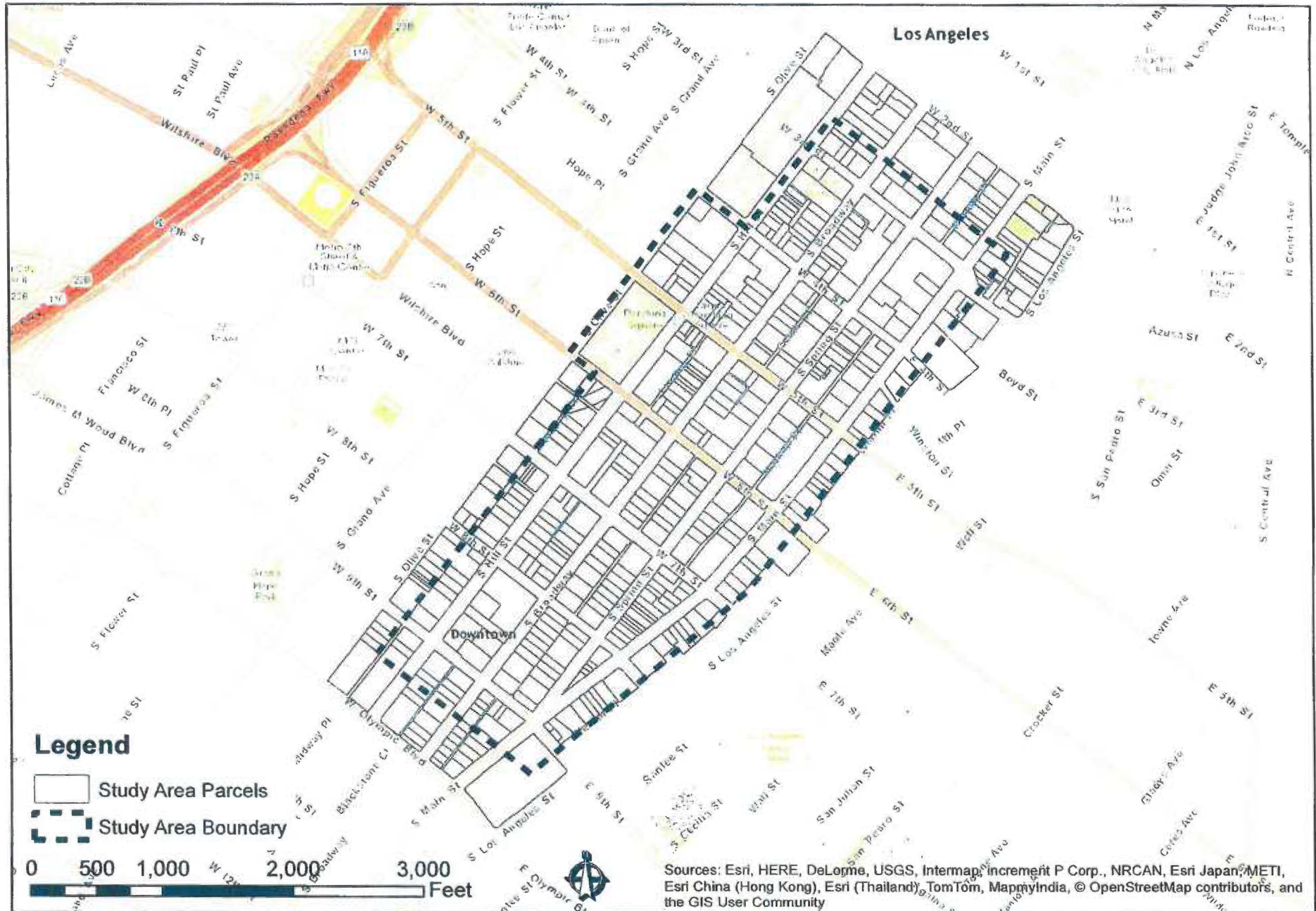


MAP 6



MAP 7

HISTORIC RESOURCE SURVEY BOUNDARY MAP



Charles J. Fisher

Summary of qualifications

A versatile and independent professional with extensive skills in the historic preservation of real estate preservation, including research, documentation, advocacy. Accomplishments include the successful nomination of over 160 Los Angeles Historic Cultural Monuments, and spearheading the establishment of the Highland Park Historic Preservation Overlay Zone, the largest HPOZ in the city of Los Angeles, and the first HPOZ in Los Angeles to include a commercial district. Steps in creating the HPOZ involved initial advocacy, working with city officials to authorize an historic survey, supplemental research on contributing structures. Demonstrated ability in researching and standardizing data for information systems. An enthusiastic and innovative problem solver who produces quality work and gets along well with others. Three-time President of the Highland Park Heritage Trust; Chair of the Highland Park Historic Preservation Overlay Zone Design Review Board; a founding member of the Los Angeles HPOZ Alliance; serving two years as the President of the Heritage Coalition of Southern California (2005-2006); Co-Chair (with The Late David Cameron) of the Cultural Resources Committee of the Los Angeles Conservancy (1991-1996); Commercial Chair for the Los Angeles Conservancy Modern (Modcom) committee (2009-2011); Presently serving as Vice Chairman for the Los Angeles Conservancy Modern (Modcom) Committee. Serve on Land Use Committee, Historic Highland Park Neighborhood Council (2010-Present).

Professional experience

2005 - Present Historian (on call) with ICF International, LA office
2004 – Present Historian 4 Hire Los Angeles, CA

Historical Research, Preservation Advocacy

- Successfully researched, submitted and or advocated over 155 Historic Cultural Monument nominations for the City of Los Angeles, starting in 1987 along with three in Ventura County.
- Extensive advocacy to Neighborhood Councils on historic issues.
- Preparing and filing Mills Act applications for owners of historic properties.
- Successful nominations result in increased property values and change of use in terms of adaptive reuse, resulting in entire districts improved.
- Preparing numerous historic resource reports required by redevelopment agencies under California Environmental Quality Act (CEQA).
- Clients include The Art Deco Society of Los Angeles (Firestone Tire Building, HCM 1020), Murray Burns, president of the Historic Preservation Overlay Zone Alliance (Arthur B. Benton Residence, HCM 827, Marshall Flats, HCM 823, and Mary Stilson Residence, HCM 824); Ambassador-Hill Association (Franklin T. Briles Residence, HCM 809); St. Andrews Square Association (J. A. Howsley House, HCM 805, Ernest Borgmeyer House, HCM 810); Silver Lake Homeowners Association (Modification of Disney Site to Include Site of the Animators School HCM 163). Notable nominations include Santa Fe's Arroyo Seco Bridge, HCM 339 (Adapted

for the MTA Gold Line); the Zeigler Estate, HCM 416 (now on the National Register of Historic Places); Casa de Adobe, HCM 493 (re-nominated after original nomination failed); Hodel Residence and Tea House, HCM 802, designed and built by famed Russian architect Alexander Zelenko; Octagon House, HCM 413 (Heritage Square) and identifying and nominating the Purviance Residence, a previously unknown early work by R M Schindler, HCM 844, The Los Angeles Department of Water and Power General Office Building, HCM 1022, for the Los Angeles Conservancy Modern Committee (See list of nominations, attached)

1976 – 2004 Transamerica Real Estate Tax Service CA

Supervisor of Bonds and Assessments (Coordinator II)

- Responsible for maintenance and utilization of the automated files for improvement bond information for over 100 government agencies. Extensively utilized computer and word processing applications.
- Created, compiled and maintained automated bond plant for Los Angeles division, coordinated all billing for customers on improvement bonds and irrigation districts
- Cut down penalty losses in department by over 95%,
- Processed over 35,000 conversion new orders annually

Real Estate Tax Examiner

- Worked extensively with property tax maps and legal descriptions. Learned in real world how to do property research.
- Processed an average of 250 to 300 orders daily

Publications and Lectures

Highland Park (Images of America), © 2008, Arcadia Publishing, Charleston, SC, ISBN 978-0-7385-5570-6

Garvanza (Images of America), © 2010, Arcadia Publishing, Charleston, SC, ISBN 978-0-7385-8120-0

Currently in draft form, an updated book of Los Angeles Historic Cultural Monuments. Numerous published photographs of landmark buildings in Los Angeles. Extensive use of original language written for monument descriptions included in the book Landmark L.A. published by Cultural Heritage Commission, edited by Jeffrey Herr. Presentations include talks on both preservation issues and historical subjects.

Lectures on various historic subjects, including historic buildings, architects, local history and Charles Fletcher Lummis

Education

1975 – 1976 California State University Los Angeles, CA

Baccalaureate work for Pre-Law, Political Science

1971 - 1974 East Los Angeles College Los Angeles, CA

Associate of Arts, Political Science

Awards received

City of Los Angeles Citation for research and Historic Cultural Monument nomination on The Black Cat, HCM 939 (2009)

California Preservation Foundation Award for research on Palomar Hotel

(2006)

Los Angeles Conservancy Preservation Award for research on Palomar Hotel (2006)

Los Angeles Conservancy Preservation Award for research on St. George Hotel (2005)

Certificate of Appreciation from Highland Park Heritage Trust (2000)

California Preservation Foundation Award for Historic Work on Arroyo Seco Bridge (1997)

Certificate of Appreciation for HPOZ work from Los Angeles Conservancy (1996)

Outstanding Contribution to Preservation from the Los Angeles Cultural Heritage Commission (1996)

USC School of Architecture Spirit of Preservation Award (1995) (second recipient)

Certificate of Merit for renewal work from Los Angeles City Council District One (1992)

Certificate of Appreciation Eagle Rock Valley Historical Society (1992)

Certificate of Appreciation from Los Angeles Conservancy (1990)

**H.C.M.s I have Written and or Researched and Advocated
In the City of Los Angeles**

- #163, Site of Walt Disney Studio (Wrote a nomination in 2005 to annex the site of the animators school.)
- #338, Drake House
- #339, Santa Fe's Arroyo Seco Bridge
- #366, Latter House and Arroyo Stone Wall
- #369, Johnson House and Arroyo Stone Wall
- #370, Herivel House and Arroyo Stone Wall
- #371, Tustin House and Arroyo Stone Wall
- #372, Mary P. Field House and Arroyo Stone Wall
- #373, Arroyo Stone House and Arroyo Stone Wall
- #374, G. W. E. Griffith House
- #375, Putnam House
- #376, William U. Smith House and Arroyo Stone Wall
- #377, Ollie Tract (except Lot 7)
- #378, Wheeler-Smith House
- #379, Morrell House
- #380, Reeves House
- #389, C. M. Church House
- #392, Treehaven, Guest House and Grounds
- #393, Wiles House and Grounds
- #394, Ernest Bent/Florence Bent Halstead and Grounds
- #395, H. Stanley Bent House (Including Carriage House and Front Fountain)
- #400, Sunrise Court
- #402, Frederic M. Ashley House
- #404, Los Angeles Railway Huron Substation
- #411, Robert Edmund Williams House (Hathaway Home for Children)
- #412, Garvanza Pumping Station and Site of Highland Reservoir

#413, Octagon House (Heritage Square)

#416, Ziegler Estate

#418, George W. Wilson Estate (Site of - Destroyed by Fire on December 14, 1989)

#437, A. H. Judson Estate (Site of - Demolished in 1992)

#442, Albion Cottages and Milagro Market

#443, Bowman Residence (Exterior only)

#464, Fargo House

#469, Ivar I. Phillips Dwelling

#470, Ivar I. Phillips Residence

#481, Mauer House

#482, Arthur S. Bent House

#483, J. B. Merrill House

#491, James B. Booth Residence and Carriage House

#492, Arroyo Seco Bank Building

#493, Casa de Adobe

#494, Kelman Residence and Carriage Barn

#503, Wachtel Studio-Home and Eucalyptus Grove

#508, Gilmore Gasoline Service Station

#516, St. Johns Episcopal Church

#528, Dr. Franklin S. Whaley Residence

#529, Montecito View House

#539, J. E. Maxwell Residence

#540, Piper House (Site of - Destroyed by Fire in 1992)

#541, Reverend Williel Thomson Residence

#549, Highland Theatre Building

#550, A. J. Madison House

#556, Charlie and Nettie Williams Home

#558, Department of Water and Power Distributing Station No. 2

#564, E. A. Spencer Estate
#565, Charles H. Greenshaw Residence
#575, Security Trust and Savings Bank (Highland Park Branch)
#581, York Boulevard State Bank - Bank of America and Store Fronts
#582, W. F. Poor Residence
#585, Occidental College Hall of Letters Building (Savoy Apartments)
#611, Minster Residence
#612, Bircher-Share Residence
#613, Scholfield House
#614, Wolford House
#778, Murdock Residence
#781, Mills Cottage
#796, Jacobsen Duplex
#802, Hodel Residence and Tea House
#805, J. A. Howsley House
#809, Franklin T. Briles Residence
#810, Edward J. Borgmeyer House
#823, Marshall Flats
#824, Mary Stilson Residence
#827, Arthur B. Benton Residence
#839, Paul Landacre Cabin
#840, Amsalem A. Ernst House
#844, Purviance Residence
#849, Nickel-Leong Mansion
#854, Cline Residence and Museum
#855, Statton Residence
#858, One Hundred North Sycamore
#859, Orchard Gables Cottage

#861, Monsignor O'Brien House
#868, O'Neil Duplex No. 1
#870, San Marino Villas (Site of - Illegally Demolished in 2014)
#872, Raphael Junction Block Building (New York Suspender Factory-California Ice Company)
#874, Garber House
#877, Wilkins House
#878, Arwin Manor
#889, McNary House
#890, Waite Residence
#893, Castera Residence
#894, Monroe Cottage
#897, Haven of Rest
#899, Charles C. Chapman Building
#913, Blackburn Residence
#915, Victor Rossetti Residence
#916, Petitfils Residence
#922, Edward A. "Tink" Adams House
#923, Kennedy-Solow Residence
#924, Bigford Residence
#929, Oliver Flats
#927, Sturdevant Bungalow
#928, Chateau Alpine
#931, Castle Crag
#932, Clarence G. Badger Residence
#939, The Black Cat
#943, Heerman Estate
#944, Hermon Car Wall
#949, Bank of America – Echo Park Branch

#950, Original Echo Park Clubhouse
#951, James F. Real Studio-Office
#952, Kaye Residence
#971, Villa Palombo-Togneri
#972, Shire Art House
#973, Henry Shire Residence
#979, Venice West Café
#984, Spreckels Building
#975, Sun Realty Building
#986, Lento Brick Court
#992, T. R. Craig Residence "Peppergate Ranch"
#994, Arensberg-Stendahl Home Gallery
#996, Garden of Oz
#997, Clifford Clinton Residence
#998, Boettcher House
#999, Marsh Duplex
#1004, Richard Henry Dana Branch Library
#1009, Heritage Square Museum (Contributed to nomination)
#1010, North Sycamore Chateau
#1015, Stein House
#1017, Young-Gribbling Residence
#1018, Thorsen Residence
#1020, Firestone Tire Building
#1022, Los Angeles Department of Water and Power General Office Building (aka The John Ferraro Building)
#1024, Lechner House
#1025, Durex Model Home
#1026, Sherwood House
#1027, John Ansen Ford Residence

- #1028, Stewart Farmhouse (Nomination written by West Adams Heritage Association, wrote earlier report on the history and significance of the house)
- #1037, Southaven
- #1038, Gibbons-Del Rio Residence
- #1041, Donnelly House
- #1061, Abraham Gore Residence
- #1068, J. W. Blank Residence
- #1069, Hlaffer-Courcier Residence
- #1070, The Polynesian
- #1071, York Boulevard Church of Christ
- #1073, Charles C. Hurd Residence
- #1083 Zeiger House
- #1084 Villa Manola
- #1090 Wilshire Professional Building
- #1094 Gillespie House
- #1097 Fifth Church of Christ Scientist
- #1099 Fernbacher Flats
- #1100 Polito House
- #1103 Sheldon-Graves House
- #1104 Hammers Residence
- #1109 Casa de Mi Sueño
- #1110 Restovich House
- #1114 Redwine Building
- #1116 Albert Van Luit Complex
- #1117 Welfer Residence
- #1130 Hollywood Palladium

Approved by Cultural Heritage Commission

Under consideration by Cultural Heritage Commission

Norton Court

Norton Flats

Submitted to Cultural Heritage Commission

Chateau Emanuel

F and W Grand Silver Store Building

Hollywood Reporter Building

Holt House

Lindsay Olive Orchard

Schaefer House

Spinning Wheel Apartments

**Landmarks I have Written and or Researched and Advocated
in the City of Sierra Madre**

#49 Blumer Farmhouse

#51 Webster House

**Landmarks I have Written and or Researched and Advocated
In the County of Ventura**

#169 William Ford Residence

#170 Acacia Mansion

Under consideration by Ventura County Cultural Heritage Commission

**Landmarks I have Written and or Researched and Advocated
In the City of Ojai**

#20 Arbolada Residence "B"

EXHIBIT 6



Vince Bertoni, Planning Director
Jenna Monterrosa
CITY OF LOS ANGELES
Department of Planning
200 North Spring Street
Room 721
Los Angeles, CA 90012

RE:
ALEXAN DTLA PROJECT
850 SOUTH HILL STREET

Case Number:
DIR 2015-2976-TDR-SPR

Document Number:
OPP-MLUP-2016-0524

OPPOSITION TO APPLICATION

Mr Bertoni, Ms. Monterrosa and the Department of City Planning:

Thank you for taking the time to consider this statement and listening to the concerns voiced by the community, stakeholders, residents, business owners, and interested parties regarding the proposed Alexan DTLA Project, 840-856 S. Hill Street and 217-225 West 9th Street, APN 5144-017-037 (hereinafter "Project", "Modified Project"). While Dallas, Texas based mega-developer Trammel-Crow Residential, under the guise of "Maple Multi-Family Land CA, LLP," (hereinafter "Developers" or "Applicants") made minor modifications as a result of the overwhelming opposition made by the stakeholders during the Neighborhood Council process. The Developers' Application (MASTER LAND USE PERMIT APPLICATION, dated August 12, 2015, Entitlement Request & Project Description, Site Plan Review and TFAR Application including the revised Case Filing, filed January 14, 2016, hereinafter "MLUP Application" or "MLUP") DOES NOT meet the standards set forth in the applicable governing sections of the Los Angeles Municipal Code.

As will be discussed in detail below, we respectfully request that the Director **DENY** the Application for failing to meet the finding requirements set forth in LAMC Sections 14.5.7. and 16.05. Specifically:

Under LAMC § 14.5.7 (A)(3)(a):

- The Project is NOT in proper relation to the adjacent uses or the development of the community
- The project WILL be materially detrimental to the character of development in the immediate neighborhood
- The Project is INCONSISTENT with section 5 of the General Plan's Conservation Element
- The Project is INCONSISTENT with numerous plans recommending historic preservation and adaptive reuse as redevelopment priorities in the Historic Core.

Under LAMC § 14.5.7 (A)(3)(b)(2):

- The proposal does NOT comply with the Downtown Design Guide and other applicable City, State and Federal preservation-related design guidelines.

Under LAMC § 16.05 (F):

- The project is NOT in substantial conformance with preservation provisions of the General Plan, the Central City Community Plan (Chapters 3 and 5), the Downtown Design Guidelines, the Historic Downtown Los Angeles Guidelines, and other City, State and Federal plans and guidelines.
- The Project's height, bulk, and other elements of the design are INCOMPATIBLE with and would overwhelm and degrade the surrounding adjacent and neighboring Historic Core properties.

In addition, and as set forth herein and more fully in the letter from Juliet Arroyo, Arroyo Resources, the proposed project would result in significant, detrimental environmental impact to the adjacent structure(s) and the surrounding historic community, which cannot be mitigated, and thus, at the least, necessitates a full Environmental Impact Report prior to any additional project review.

Introduction.

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, and both the structure and its distinctive Clock Tower (one of the only 4-sided Art Deco clock towers in the United States) are recognized worldwide as a premier example of Art Deco Architecture.

In September 1930, Adolph Sieroty opened the opulent Eastern Columbia retail and office tower. It then was, and still is, hailed as one of the most distinctive examples of Art Deco style -- a style that flourished through the 1920s and '30s. Its facade was trimmed in gleaming gold and dark blue terra cotta and adorned with sunburst patterns, zigzags and chevrons. Even the sidewalks surrounding the building sported red, black and gold terrazzo zigzags and chevrons. *"If you were to name two buildings that are the great Art Deco towers of Los Angeles, it would be the Pellissier Building, which rises above the Wiltern Theatre, and the Eastern Columbia Building,"* said Ken Bernstein.¹

Sieroty, a Polish immigrant, arrived in Los Angeles in the 1890's as a poor teenager. Eventually, he parlayed a \$400 investment in a small store on Spring Street into a retail empire that included 29 stores on the West Coast. Sieroty's Eastern Columbia building at Broadway and 9th Street, which cost a whopping (for the time) \$1.25 million to build, was his flagship. Clad in terra cotta tile, the color was described in a 1930 LA Times article as "melting turquoise". The building was designed by Claude Beelman and included a spattering of gold leaf and an interplay of horizontal and vertical elements common to the Art Deco style.

Although the occupied floors of the building conformed to regulations that required buildings to have fewer stories than City Hall, the distinctive and prominent clock tower pushed its total height to 264 feet, a tad higher than that of City Hall.

¹ Quoted in an LA Times article in 2004. At that time Mr. Bernstein was Director of Preservation Issues for the LA Conservancy. He is now Manager of the LA City Office of Historic Preservation,

During the 1980s, the building housed 28 art organizations, including the Los Angeles Conservancy. But the family sold the Eastern Columbia in 1985 to investors who planned to link it with the May Co. building to form a commercial interior furnishings wholesale market. That plan never materialized. In the early 2000's historic developers acquired the property in what was then a dilapidated state, and situated in a substantially deteriorated downtown Broadway district. Over \$80 million dollars were spent in restoration and renovation of the 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. Those who answered the call became the true Los Angeles "Urban Pioneers." These early adopters, owners of the 147 Eastern Columbia Lofts' condominiums, were willing to take a leap of faith, and have been widely viewed as essential to the revitalized Broadway District and the overall revitalization of Downtown Los Angeles. The loft owners are now stewards of this iconic structure, a legally binding arrangement with the City of Los Angeles through the Mills Act.

Now, however, the trust of these "Pioneers" in the City to preserve its own rich cultural heritage is under attack.

Dallas, Texas based mega-developer Trammel-Crow Residential, under the guise of "Maple Multi-Family Land CA, LLP" has applied to the City for permission to construct a massive, franchise of an ultra-modern, steel and glass apartment building immediately adjacent to the Eastern Columbia Building and surrounded by 4 other Historic-Cultural Monuments (See EXHIBIT "A"). The Applicant is not entitled by right to construct the structure proposed and so is asking to be granted special entitlements pursuant to LAMC sections 14.5.7 and 16.05 ².

Although the Applicant admits that the proposed structure is located in the Historic Core (MLUP p.6) and is completely surrounded on all sides by historic buildings (MLUP p.9), the Applicant makes repeated attempts to mislead and cite half-truths throughout the MLUP Application in an attempt to establish compatibility of this Project and conformance with the applicable guidelines, standards and law. These assertions will be refuted point-by-point.

² The Application has been granted "Expedited" status although it is unclear why a project this massive and this controversial should be allowed to proceed on a fast-track basis.

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. It is out of scale with the rest of the neighborhood: 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 twenty-five percent of the iconic Eastern Columbia Clock Tower from public view.³ In addition to these design flaws, the Applicant ignores and asks that the City ignore, significant environmental issues and concerns, placing reliance instead on an outdated (10 year old) and deficient (Addendum to MND vs. EIR) environmental review prepared for an entirely different proposed structure and asking that the City do the same.

To make matters worse, the Applicant has presented no real evidence that the proposed construction will serve any public benefit or any interest other than it's own private economic goals. It has, in fact, affirmatively refused all requests to reduce its proposal to a more compatible design on the publicly-stated ground that any reduction in height and mass would not produce enough "corporate yield" to justify the Project.

The SP-DTLA is a 501(c)(3) non-profit, all-volunteer California Benefit Corporation representing the interests of its members in preserving the unique, historic nature and character of existing Downtown Los Angeles Communities. SP-DTLA, together with the LA Conservancy, the resounding number of Los Angeles residents who have filed personal letters of opposition to the project, and the over 1,000 people from all over the globe who have petitioned against it's approval all contend that, as a matter of law, the Application must be denied for all of the reasons hereinafter set forth.

³ Applicant has filed a western elevation Concept Drawing that appears to show that the proposed building will not block the clock from view. The drawing is misleading because of the angle used. It is notable that this directional view is the only Concept drawn at an angle instead of depicting a straight-on view of the proposed elevation.

Case Background Information

More than 1,000 people from all over the world have signed a petition opposing the project and approximately 150 have taken the time and effort to send personal letters of opposition to the City. The majority of these letters are cogent, well written, and provide significant, legitimate reasons to deny the Application, and many have also demanded that the City require a full and current Environmental Impact Report (EIR) prior to proceeding any further in this matter.

As said the Developers cannot build the Project as proposed by right, and thus they have applied to the Director for permission, and seek support for the Project from this Department.

In 2007, there was a previously entitled project (Exhibit "B", hereinafter the "Approved Project"). At 21 stories and 246' it proposed 158 residential units, it was generally compatible with the mass and scale of the neighborhood, and provided a viewshed of the Eastern Columbia Building clock-tower, Historic-Cultural Monument Number 294, for the public's benefit as well as for the benefit of the residents therein. It had a FAR of 6.0:1. It was a condominium project, adding to the shortage of available real estate for sale in Downtown Los Angeles.

In 2007 after extensive and costly renovations, the Eastern Columbia Building re-opened its doors, making it one of the first buildings to attract homeowners to the "revitalized" Downtown community that now has approximately 60,000 residents. The homeowners of the Eastern Columbia Building are responsible for an investment of approximately \$150,000,000 in the Historic Core of Downtown Los Angeles, and relied upon the 2007 entitlements granted to the Approved Project when deciding to make that investment. The Eastern building, only one of the affected buildings by the proposed Project, is responsible for millions of dollars in transfer taxes to the City alone as well as millions to the County in Property Taxes.

On November 17, 2015 the Developer presented the MLUP Application and Project to the Planning and Land Use Committee (PLUC) of the Downtown Los Angeles Neighborhood Council (DLANC). It was among the most well attended meetings in the history of PLUC or the DLANC, with the vast

majority of stakeholders in attendance there to voice opposition to the Project. The PLUC did not support the Project as submitted and requested that the Developer make changes to the plans. The matter was reheard by January 19, 2016 at which time the PLUC voted to “approve” the project. At that meeting, opponents learned for the first time that, at some time prior to the January 19 public meeting, several members of the PLUC had attended a private meeting with the Developer Opponents to the project were neither notified or of nor invited to attend this meeting. On February 9, 2016, despite written protest by opponents to the inappropriate actions of the PLUC, overwhelming opposition by the stakeholders in attendance, and the minimal alterations to the Project plans, the DLANC approved the PLUC’s recommendation that the NC file a letter of support for the Project in this case. A formal Grievance has been filed against the actions of the DLANC, and on February 22, 2016 a request was made to the Planning Department to set aside the NC letter pending conclusion of the on-going Grievance process.

Contrast versus Compatible

The law requires that developments be **compatible** with the unique nature and character of the neighborhoods in which they propose to be built.

By their own confession, the Applicants in the development of the Project, have elected to **contrast** with the surrounding buildings and the standards set forth in the Downtown Design Guidelines (i.e. **Historic Downtown Los Angeles Design Guidelines** (July 2002), the “HDTLAG,” / **Downtown Design Guide** (June 15, 2009), the “DDG”).

The Developers elected to render the Project **compatible** with the buildings in South Park, for a simple reason: South Park allows taller buildings of greater massing and scale which means greater profits. The laws, guidelines and standards of Historic Downtown (otherwise known as the Historic Core) do not permit the same massing and proportion. Attempting to put a South Park compatible building in Historic Downtown violates the standards set forth in the Los Angeles Municipal Code (See below). Development in a Historic neighborhood of this nature **is not a matter of replication or approximation of a faux historic façade, this is a matter of massing, scale, height** as well as the many areas set forth in the applicable specific plans governing Downtown Los Angeles.

The Los Angeles Conservancy - author of the HDTLAG as relied upon in the governing sections of the LAMC and hence the premiere authority on its interpretation and applicability - has determined the Project to be **incompatible with the applicable standards, Guidelines and law,** and **out of character with the surrounding neighborhood** and thus has formally **OPPOSED** this project in their letter dated January 19, 2016 which is on file in this case. (See Exhibit "C")

Project Location.

The proposed Project site in question, Site Address: 840-856 S. Hill Street and 217-225 West 9th Street, APN 5144-017-037 (hereinafter "Site") lies within the Historic Core of Downtown Los Angeles. This is established in Exhibit "D" – Map of the Study Area established by the HDTLAG [p.5] and:

"The study area for the *Design Guidelines* is defined as S. Hill Street on the west, S. Main Street to the east, 3rd Street on the north, and 9th Street on the south, and includes both sides of each street at the boundaries. While this is a set study area, these design guidelines could be applied to a broader area of the City's downtown." HDTLAG [p.2]

As well as in Exhibit "E" – Historic Downtown, DDG [p.3 Figure 1-1 The Design Guide Applies to the Highlighted Districts]. As well as in Exhibit "F" – Historic Core, Business Improvement District, District Boundaries Map. The site within 5 Historic-Cultural Landmarks (See EXHIBIT "A").

Applicable Law.

In order to be approved, the MLUP Application needs to satisfy, at the least, the provisions set forth within the following:

(1) **LOS ANGELES MUNICIPAL CODE ("LAMC").**

SECTION 14.5.7.

SECTION 16.05

(2) **DOWNTOWN DESIGN GUIDE** (June 15, 2009) ("DDG")

(3) **HISTORIC DOWNTOWN LOS ANGELES DESIGN GUIDELINES** (July 2002) ("HDTLAG")

SECTION 14.5.7. DIRECTOR'S DETERMINATION.

(A) Director's Authority to Approve Transfers of Less than 50,000 Square Feet of Floor Area.

3. Action by Director. The Director shall approve, conditionally approve, or disapprove the request for Transfer, including the public benefits to be provided, and make the following findings:

(a) Findings.

(1) That the Project is proper in relation to the adjacent uses or the development of the community;

(2) That the Project will not be materially detrimental to the character of development in the immediate neighborhoods;

(3) That the Project will be in harmony with the various elements and objectives of the General Plan;

(4) That the Project is consistent with any applicable adopted Redevelopment Plan;

(5) That the Transfer serves the public interest by providing public benefits in accordance with Subparagraph (b)(1) of this subdivision; and

(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.

(b) Conditions of Approval.

- (1) The Transfer shall provide public benefits equivalent in value to the dollar amount otherwise required for a Public Benefit Payment, in conformance with Section 14.5.9 of this Code;
- (2) The Transfer must **comply with any** urban design standards and guidelines adopted by the City Planning Commission for the area, including **the Downtown Design Guide**, and **other applicable design guidelines**;
- (3) The Director may require additional conditions for the Transfer to ensure consistency with the purposes and objectives of the Community Plan.

SECTION 16.05. SITE PLAN REVIEW.

(A) Purpose. The purposes of site plan review are to promote orderly development, evaluate and mitigate significant environmental impacts, and promote public safety and the general welfare by ensuring that development projects are **properly related to their sites**, surrounding properties, traffic circulation, sewers, other infrastructure and environmental setting; and to control or mitigate the development of projects which are likely to have a significant adverse effect on the environment as identified in the City's environmental review process, or on **surrounding properties by reason of inadequate site planning or improvements**.

(F). In granting an approval, the Director, or the Area Planning Commission on appeal, shall find:

1. 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**;
2. that 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**; and
3. that any residential project provides recreational and service amenities to improve habitability for its residents and **minimize impacts on neighboring properties**.

DOWNTOWN DESIGN GUIDE (June 15, 2009)

AREAS TO WHICH THE DESIGN GUIDE APPLIES/RELATIONSHIP TO OTHER REGULATIONS

Projects in the Historic Downtown must comply with the Historic Downtown Los Angeles Design Guidelines (July 2002) sponsored by the Los Angeles Conservancy as well as with the Design Guide. Where there is a conflict, the Historic Downtown Los Angeles Design Guidelines shall take precedence.

The Design Guide is intended to provide guidance for creating a livable Downtown. It includes both standards (requirements) and guidelines (suggestions). Standards typically use the word "shall", an active verb (such as, "provide" or "install"), a clear directive ("are not permitted" or "are required"). Guidelines typically use the word "should" or "consider." Projects must comply with standards and are strongly encouraged to comply with guidelines.

In the spirit of affording maximum creativity, projects that do not adhere to the letter of every provision in the Design Guide, but none-the-less demonstrate a clear alternative approach which is superior to and achieves all the prominent objectives of the Design Guide, will be recognized as valid alternative. [DDG p.2]

BUILDING DESIGNS

Respect historically significant districts and buildings, including **massing and scale**, and **neighborhood context**, while at the same time, encouraging innovative architectural design that expresses the identity of contemporary urban Los Angeles. [DDG p.7]

HISTORIC DOWNTOWN LOS ANGELES DESIGN GUIDELINES (July 2002)

PURPOSE

The historic character of downtown is one of its greatest assets, and the *Design Guidelines* are intended to highlight and promote these features. They serve as a tool to enhance economic activity and attract investment in the area by encouraging high quality, historically compatible design. HDTLAG [p.1]

PROJECT GOALS

Recommend approaches for in-fill construction that achieve design solutions compatible with the historic and architectural context HDTLAG [p.4]

NEW CONSTRUCTION KEY POINTS

Construct new buildings, of compatible design with the surrounding neighborhood, on existing surface parking lots. HDTLAG [p.11]

NEW CONSTRUCTION OVERVIEW

New additions, exterior alterations, or related new construction should not destroy historic materials, features, and spatial relationships that characterize a building or historic district. The new work should be differentiated from the old, yet be compatible with the historic materials, features, size, scale and proportions, and massing to protect the integrity of the property and the environment. (Secretary's Standard Number 9). HDTLAG [p.129] (also City of Los Angeles General Plan)

In any district, common design characteristics, such as building height and bulk, rhythm of openings, and materials, establish parameters for compatible infill construction. HDTLAG [p.130]

The Historic Downtown today has more than 20 open parking lots of varying sizes on prime building sites . . . Construction of appropriately scaled, compatibly designed infill buildings for these sites would restore the urban streetscape and offer great opportunities for creative new construction. HDTLAG [p.130-1]

Construct new buildings, of compatible design with the surrounding neighborhood, on parking lot sites. HDTLAG [p.131]

Point by Point Response to Application

The following is a point-by-point discussion of the Application. The Applicants' allegations are set forth in red. The discussion below each red section demonstrates why the stated allegations are false, misleading, and/or do not support the relief requested.

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

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 notes that the Historic Core has evolved into three distinct subareas, observing that the southern portion is "emerging as an extension of the Fashion District and the South Park residential community." (Central City Community Plan, page I-9.) As such, 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 that have been developed in the Historic Core and as well as in the adjacent South Park residential community. (MLUP P. 11)

This is an attempt for the Applicant to mislead this Planning Department. Surrounding properties do not include high-rise residential buildings. The Site in question is surrounded by 5 Historic-Cultural Monuments so designated by this Department of City Planning's Office of Historic Resources which are also recognized as such by the National Register of Historic Places as well as the California Register. (See EXHIBIT "A").

Just west of the Coast Federal Savings Building on Hill Street is the recently completed LEVEL project, a 33-story residential tower. (MLUP P. 9)

The part of the LEVEL project that surrounds the Site is a parking podium that is harmoniously situated next to the Historic Coast Federal Savings Building. The 33-story LEVEL residential tower fronts on Olive Street, well within South Park where it is of appropriate design.

The argument in this section is profoundly misleading. The same section of the Central City Community Plan defines the Historic Core as follows:

The Historic Core, extending from First Street to approximately Eleventh Street between Los Angeles and Hill Street grew out of the expansion of the "pueblo" of Los Angeles in the 1800's. (Central City Community Plan I-9)

As per the attached (See EXHIBIT "G") which are the Central City Community Plan maps referenced by the Applicant, the southern portion that is "emerging as an extension of the Fashion District and the South Park residential community." (Central City Community Plan, page I-9.) refers the area between Eleventh Street and 9th Street, which has evolved into South Park. That is not relevant to the site in question which is in the Historic Core "Study Area" set forth in the HDTLAG (see section above), and thus the Project needs to abide by all of the guidelines and regulations set forth therein. Because the Site in question is adjacent to South Park does not exempt it from the standards and guidelines governing massing, scale and height that have been established by HDTLAG. The Central City Community Plan also notes that:

"The Historic Core/Center City contains a concentration of some of the **most architecturally significant buildings** in Southern California." (Central City Community Plan, page I-9, emphasis added)."

The "most architecturally significant buildings" referred to in the above section are significant because of their INTRICATE DESIGN and USE OF DELICATE MATERIALS. The Eastern Columbia Building, which is protected as a Historic-Cultural Monument, but also within the National Register Historic District (Broadway Theater District) is constructed with delicate terra cotta tiles, as well as a multitude of other materials that are approaching 100 years in age. Construction of this mass and scale in this proximity to this as well as the other Historic-Cultural Monuments that the proposed Project abuts, could cause MAJOR DESTRUCTION. Without an Environmental Impact Report that carefully studies the possible effects on these "architecturally significant buildings", this Planning Department may be allowing the Applicant to cause IRREPARABLE HARM.

The project site is also in proximity to several existing and approved high-rise residential buildings in the South Park district and Historic Core, such as the 30-story "Level" building at the northeast corner of Olive and 9th Streets, the soon to be constructed 50-story building on the west side of Hill Street between 8th and 9th Streets, and the 24-story mixed-use project at 8th & Spring Street project. 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 Modified Project would create up to 305 new housing units planned and approved in the Historic Core. (MLUP p.12)

Listing the nearby buildings situated in South Park, nor buildings in other parts of the City does not make the overwhelmingly incompatible massing and scale of this Project compatible with the “established land use patterns in the area”. No building in this portion of the Historic Core pierces the 150’ envelope, with the exception of the Eastern Columbia clock tower at 264’ which was given a special waiver by the City, as it was to provide a public benefit. The proposed Project is 320’ in height.

Similar to the Approved Project, the Modified Project would replace an existing parking lot with a mixed-use building with architectural features and treatments that are compatible with existing historic buildings...Project is consistent with the Historic Downtown Los Angeles Design Guidelines, as it would replace a surface parking lot with a mixed-use building with architectural features and treatments that would be compatible with the existing historic buildings adjacent to the north of the project site. (MLUP p.12)

Because the Project replaces a surface parking lot with a mixed-use building with architectural features that would be compatible does not allow the Project to be incompatible with respect to size, scale, proportion and massing. The following governs NEW CONSTRUCTION OVERVIEW in historic neighborhoods from the Federal standard of the Department of the Interior Secretary’s Standard Number 9, as reflected in the City of Los Angeles General Plan and HDTLAG [p.129].

New additions, exterior alterations, or related new construction should not destroy historic materials, features, and spatial relationships that characterize a building or historic district. The new work should be differentiated from the old, yet be compatible with the historic materials, features, size, scale and proportions, and massing to protect the integrity of the property and the environment.

As the Modified Project is located near the South Park residential community which also supports high-density development, the Modified Project is in proper relation to the adjacent uses and the development of the community. (MLUP p.13)

Because the Project is located **NEAR** the South Park residential community, the Developer and the Project must still **comply with any** urban design standards and guidelines adopted by the City Planning Commission for the area, including the Downtown Design Guide, and other applicable design guidelines (e.g. within the “Study Area” of the Historic Downtown Los Angeles Design Guidelines). [LAMC § 14.5.7 (A)(3)(b)(2)].

And the Project must still be in **substantial conformance** with the purposes, intent and provisions of the General Plan, applicable community plan, and **any applicable specific plan** [LAMC § 16.05 (F)(1)].

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

The Modified Project would not be materially detrimental to the character of development in the immediate neighborhood. To the contrary, the Modified Project would replace the existing commercial surface parking lot with a mixed-use development that would be an asset to the community by providing: an aesthetically pleasing Project; (MLUP p.13).

As established by the above referenced section of the Central City Community Plan and recognized by this Department of City Planning's Office of Historic Resources in designating the 5 Historic-Cultural Monuments surrounding the Site in question as well as the National Register of Historic Places as well as the California Register, the character of development in the immediate neighborhood has one thing in common. All of the buildings are unique structures designed specifically for the parcels in which they sit. The "Alexan DTLA Project" in question is a cookie cutter franchise. Note the images of the "Alexan San Diego Project" (See EXHIBIT "H") also by the same Developer. It looks strikingly similar to the "Alexan DTLA Project". Regurgitating a cookie cutter building, to become the first project in the Historic Core to be part of a franchising effort IS MATERIALLY DETRIMENTAL to the character of development in the immediate neighborhood.

The Modified Project would be complementary to the residential building of the historic Eastern Columbia Building that is immediately adjacent to the east along the north side of 9th Street. (MLUP p.13).

This is a provably false statement. The Applicant and the proposed project has gone to great lengths to **CONTRAST** the project to the Eastern Columbia Building, the surrounding buildings and the Historic Core in which it sits. Throughout the MLUP Application, the Applicant goes to great lengths to demonstrate how the proposed Project is complementary to the buildings in South Park. As an example of a project that is more geometrical and architectural complementary, please see the 2007 Approved Project (EXHIBIT "B"). Note how that project's tower is situated

immediately to the West of where the parking garage exists, complementing the clock tower, and co-existing with the residences. This "chair design" has been pointed out to the Applicant on numerous occasions. The Applicant has dismissed this complementary design measure, citing that the DDG encourages development to be toward the corner (in the case of 9th and Hill). Yet the Applicant ignores the multitude of ways that this Project violates the DDG and HDTLAG. The true reason the Developer has elected to fight for this Project instead of building the Approved project is that the proposed Project has 305 units instead of the Approved 158 units, and 68,503 more square feet of Residential Floor Area. Simply put, it would make the Developer a lot more money, not be more complimentary to the historic Eastern Columbia Building.

The Historic Downtown Los Angeles Design Guidelines seek to promote infill development where open parking lots occupy prime building sites at major intersections. 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."⁷ The Modified Project replaces an existing parking lot with a mixed-use building with architectural features and treatments that are compatible with existing historic buildings. (MLUP p.13).

Again, because the Project replaces a surface parking lot with a mixed-use building with architectural features that would be compatible does not allow the Project to be incompatible with size, scale, proportion and massing. The following governs NEW CONSTRUCTION OVERVIEW in historic neighborhoods from the Federal standard of the Department of the Interior Secretary's Standard Number 9, as reflected in the City of Los Angeles General Plan and HDTLAG [p.129]. (See above).

New additions, exterior alterations, or related new construction should not destroy historic materials, features, and *spatial relationships* that characterize a building or historic district. The new work should be differentiated from the old, yet be compatible with the historic materials, features, size, scale and proportions, and massing to protect the integrity of the property and the environment.

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 3rd Street and 9th 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 Modified 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. (MLUP p.14)

This is false and misleading. As established, the proposed Project site in question APN 5144—017-037 (hereinafter “Site”) lies within the Historic Core of Downtown Los Angeles. This is established in Exhibit “D” – Map of the Study Area established by the HDTLAG [p.5] and:

“The study area for the *Design Guidelines* is defined as **S. Hill Street on the west, S. Main Street to the east, 3rd Street on the north, and 9th Street on the south**, and includes both sides of each street at the boundaries. While this is a set study area, **these design guidelines could be applied to a broader area of the City’s downtown.**” HDTLAG [p.2]

The Study Area established in the HDTLAG includes the Site in question, The Broadway District does not. These are two different things. This is a false and misleading attempt of the Applicant to confuse this Planning Department. Being part of the Study Area means that they need to conform to standards and guidelines set for the in the HDTLAG and the DDG.

Pursue creative and innovative contemporary designs for new buildings in the Historic Downtown. (MLUP p.14)

As established, the “Alexan DTLA Project” in question is a cookie cutter franchise. Note the image of the “Alexan San Diego Project” (See EXHIBIT “H”) also by the same Developer. The aspect of the proposed Project that is most creative or innovative is the Applicant’s attempts to mislead the Planning Department and circumvent the law. The designs, unfortunately, are neither creative nor innovative.

The Modified Project would also maintain a 22 foot sidewalk along 9th Street. The tower spacing distance would provide substantial buffering space between the two buildings on the 9th Street facades, 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. (MLUP p.14-15)

Again, this is an attempt to mislead the Planning Department. The views of the Eastern Columbia Building's iconic massing and highly decorated south-facing façade has nothing to do with this Project whatsoever. The property line of the Site in question is to the West of the Eastern Columbia Building. This project is nowhere near the Southern façade.

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. (MLUP p.15)

Again, this is an attempt to mislead the Planning Department. The tower portion of the new building would not overwhelm the Broadway Trade Center when viewed from Hill Street (from the West), but it would **ENGULF THE ROOFTOP PUBLIC GREEN/SWIMMING AREA IN SHADOW** (to the NORTH...where the Broadway Trade Center sits in relation to the proposed Project). Shade and Shadow analysis and solar access are relevant concerns for the multi-million dollar renovation project within and atop the Broadway Trade Center. This is one of many reasons why an updated Environmental Impact Report is required in this instance. The effects on a Public / green-space of this nature was not considered during the 2007 EIR.

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

The Zoning Administrator found the Approved Project to be consistent with the General Plan under under Case No. ZA-2006-6360-YV-ZAA-SPR (Page 7, Finding 7). As discussed below, the Modified Project is also consistent with various elements of the General Plan, including the Central City Community Plan, the Housing Element and the Mobility Element. (MLUP p.15)

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."(MLUP p.15)

Again, the Developer attempts to mislead the Planning Department because the Project conforms to certain aspects of City of Los Angeles General Plan and Framework Element does not allow the Project to be incompatible with size, scale, proportion and massing. The Approved project was 21 floors and 246'. Still it was smaller in size than the 264' Eastern Columbia clock tower. The section governing NEW CONSTRUCTION OVERVIEW in historic neighborhoods from the Federal standard of the Department of the Interior Secretary's Standard Number 9, as reflected in the City of Los Angeles General Plan and HDTLAG [p.129]. (See above). Showing the ways that this project conforms in bicycle racks and retail, is a misleading way of not addressing the issue of incompatible height, scale and massing.

General Plan Housing Element

The Modified Project is harmonious with the following goals, objectives and policies of the Housing Element of the General Plan:

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.* (MLUP p.17)

The stated Goal 1 within the General Plan Housing Element is the need for balance between the rental and OWNERSHIP housing market. The greatest shortage within the Downtown housing market is the lack of inventory of units for sale on the market. The vast majority of new development Downtown, like this proposed Project, does NOT allow families and individuals to purchase property and set down roots. (Unlike the previously entitled Project, which was approved as condominium units for sale). The ability for individuals to own property is an essential aspect of community building that is lacking in the revitalized Downtown. Property ownership allows individuals and families the ability to make a more permanent investment in their area and build wealth for themselves.

It provides a source of income to the City in the form of transfer taxes and property tax to the County. This Project is yet another rental project, where individuals cannot get ahead and build financial assets and the money that is paid as rent leaves the community and goes out of State. This is in DISHARMONY with the General Plan.

The property is located in the Historic Core area of the Central City Community Plan, which was updated and adopted on January 28, 2003. The Historic Core area 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. (MLUP p.21)

The need for housing throughout the Downtown area has changed considerably since 2003. There is more housing inventory that has been approved, permitted or in some phase of construction than at any point in the modern history of Downtown Los Angeles. Unfortunately, the vast majority of it is rental housing and not inventory for home buyers. What this fails to differentiate is the precise location within Downtown the development takes place. The proposed site for the Project is located within the Historic Core, which is strictly governed by guidelines, standards and laws. South of Olympic Boulevard and West of Olive are a few areas addressed by the Downtown Strategic Plan where this Project would fit seamlessly. What arguments of this nature fail to address is the question of **why this Project deserves to be in the Site in question?**

Additionally, the Modified Project would encourage cluster neighborhood design comprised of housing and services via the incorporation of neighborhood-serving retail space fronting on Hill and 9th 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 Modified Project's proposed neighborhood- serving retail space to occupy the street frontages of Hill and 9th Streets would result in Modified 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. (MLUP p.22)

There could be neighborhood-serving retail space fronting on Hill and 9th Streets that does not overwhelm the neighborhood with size, scale, proportions and massing that is totally incompatible with NEW CONSTRUCTION OVERVIEW in historic neighborhoods from the Federal standard of the Department of the Interior Secretary's Standard Number 9, as reflected in the City of Los Angeles General Plan and HDTLAG [p.129]. (See above).

As noted in the Plan, Downtown Los Angeles offers a variety of attractions for both residents and visitors alike. (MLUP p.22)

The attractions that might attract visitors to the Downtown areas as well as the residents raises a substantial issue of TRAFFIC and PARKING as well as access to the area by emergency and rescue vehicles. The Developer in the MLUP Application has the following provisions for Parking:

The site is currently improved as a commercial surface parking lot with approximately 111 spaces. These 111 parking spaces are currently advertised as general parking for the Jewelry Mart and Fashion District. The project site was previously used as construction staging during the adaptive reuse of the adjacent Eastern Columbia Building during 2006.

The Modified Project would provide parking for its residential uses at the ratios required by the Central City Parking Exception (LAMC Section 12.21-A,4(p)) and the Downtown Design Guide. In sum, the Modified Project would provide approximately 336 parking stalls for the residential components. The total required number of residential parking spaces is 321 spaces. Bicycle parking would be provided in accordance with LAMC Section 12.21-A.16. Pursuant to the Downtown Business District Exception, parking spaces are not required for commercial uses having a gross floor area of less than 7,500 square feet. Retail parking is not provided for the proposed up to 6,171 square feet of commercial space, including 3,500 square feet of restaurant uses and 2,671 square feet of retail uses. (MLUP p.3)

The Project is proposing removing the existing 111 spaces available to the Public, and replace them by 305 residential units as well as 6,171 square feet of commercial space, providing NO PARKING (as it is under the 7,500

sq ft requirement), and only increasing the number of spaces by 225 to a total of 336 spaces plus bicycle parking. So the proposed Project attempts to conform to the Mobility Plan 2035 by increasing the number of people in this parcel by 500 – 1000 and increasing the number of spaces by one quarter to one half. Additionally, despite numerous requests by the community and the PLUC, the Developer has REFUSED TO PUT ANY MORE THAN ONE LEVEL OF UNDERGROUND PARKING. The effects on traffic and how it may affect emergency vehicles is unknowable, based upon the MND to the 2007 Approved Project. There need be a full and current Environmental Impact Report to address this very serious concern of PARKING and TRAFFIC and ACCESS BY EMERGENCY VEHICLES.

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.

This Project is INCONSISTENT with the **adopted Redevelopment Plan**. Section 503.6 is clear that the Community Redevelopment Agency may permit ONLY appropriately designed and properly located residential facilities within commercial areas. The Project does not conform to the NEW CONSTRUCTION OVERVIEW in historic neighborhoods with regard to its incompatible size, scale, proportion and massing according to the Federal standard of the Department of the Interior Secretary's Standard Number 9, as reflected in the City of Los Angeles General Plan and HDTLAG [p.129]. (See below).

New additions, exterior alterations, or related new construction should not destroy historic materials, features, and spatial relationships that characterize a building or historic district. The new work should be differentiated from the old, yet be compatible with the historic materials, features, size, scale and proportions, and massing to protect the integrity of the property and the environment.

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.

The Mitigated Negative Declaration prepared and adopted by the City incorporates feasible mitigation measures which would substantially lessen the significant environmental effects of the Modified Project. Through the required Mitigation Monitoring and Reporting Program, these mitigation measures are required for the Modified Project and would reduce all potentially significant impacts to less than significant. (MLUP p. 26)

This is an assertion without proof of claim. There are widespread environmental impacts that are going unexamined as the Developer has elected against doing a current Environmental Impact Report, even despite this being one of the most controversial development Projects in modern Downtown Los Angeles. The first CEQA report regarding this Site and Project is currently being prepared by Arroyo Resources for consideration in this matter. All rights reserved to further expand the study of this Project's potential CEQA violations.

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

As identified in the previously approved project under Case No. ZA-2006-6360-YV-ZAA-SPR, the Zoning Administrator found that the Approved Project was in substantial conformance with the various elements and objectives of the General Plan. The proposed Modified Project is similar to the previously approved project in its consistency to the General Plan. (MLUP p.27)

The "Modified" Project, although still a mixed use Project, is substantially larger in scale, mass, height, bulk, and orientation. The Approved Project (See Exhibit "B") proposed 158 residential units, the current Project proposes 305 units. The old Project proposed 5,780 square feet of ground floor commercial use, the current Project proposes 6,171, square feet of ground floor commercial uses, and the old Project proposed 21 stories in height (246'), and the current Project proposes 27 stories in height (320'). It is important to note that the envelope throughout the Historic core is (150'), the Project is more than double of what is compatible with the Historic Core.

Since the date of approval of the initial project, the General Plan has changed, so that any previous approval should be considered invalid. In addition, and most importantly, the Developer has cherry-picked from the current Plan only those portions of the Plan that potentially support its arguments and has completely ignored the more specific and thus more relevant sections that do not. For example:

From Chapter 3 of the Framework Element:

HISTORIC DISTRICTS

Overview

It is the intent of the General Plan Framework Element to preserve the historic and architectural heritage of Los Angeles by providing incentives and assistance to protect these resources in areas of the City in which they are concentrated. . .

GOAL 3M

A City where significant historic and architectural districts are valued.

Objective 3.17

Maintain significant historic and architectural districts. . .

Policy:

13.7.2 Develop other historic preservation tools, including transfer of development rights. . .

From Chapter 10 of the Framework Element:

P20 Continue to implement the Transfers of Development Rights Ordinance and use it under appropriate circumstances as an incentive to encourage private property owners to provide land for parks and open space.

P68

Maximize the environmental review process' efficiency through:

- a. The use of master environmental databases, a CEQA Manual and the General Plan Framework Element database, where appropriate;
- b. Reliance on the General Plan Framework Element EIR, and/or Community Plan EIRs, either in total or in part, as the environmental assessment for development projects in targeted growth areas, centers and corridors, whenever possible.

From Framework EIR

2.15.2 Thresholds of Significance

If a project would damage, alter or otherwise impact a cultural resource, the project is considered to have a significant effect on the environment. . . CEQA defines the need for evaluating the impacts a project may have on a community. . .

2.15.4 Project Impacts

The threshold states that if an intensity of development is to occur in any of these areas [including the Historic Core], an impact would result. Thus, these are all areas of potential impact to historical resources as density intensity may occur. Impacts would primarily occur during the excavation and grading process, as well as during the installation of infrastructure. . .

From Chapter II, Section 5 of the Conservation Element:

Conclusion. The city has primary responsibility for identifying and protecting its cultural and historical heritage.

Continuing issues: loss of significant, important or contributory cultural and historical sites and structures to neglect, site redevelopment or damage.

Cultural and historical objective, policy and programs:

Objective: protect important cultural and historical sites and resources for historical, cultural, research, and community educational purposes.

Policy: continue to protect historic and cultural sites and/or resources potentially affected by proposed land development, demolition or property modification activities.

Moreover, as has been repeatedly asserted in this document, the NEW CONSTRUCTION OVERVIEW is clearly established within Federal standard of the Department of the Interior Secretary's Standard Number 9, as reflected in the City of Los Angeles General Plan and HDTLAG [p.129]:

New additions, exterior alterations, or related new construction should not destroy historic materials, features, and spatial relationships that characterize a building or historic district. The new work should be differentiated from the old, yet be compatible with the historic materials, features, size, scale and proportions, and massing to protect the integrity of the property and the environment.

The current Project has nearly double the number of residential units, slightly more ground floor commercial uses, and has six additional stories over the old Project. Using the term "Modified Project" appears to imply that the current project is substantially unchanged from the Approved Project proposed over 10 years ago.

General Plan Housing Element

The Modified 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 incorporated by reference above on pages 16-17:

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. (MLUP p. 27)*

The Approved Project included condominium units while the current Project are rental units, only adding to the imbalance and disharmony between the stated goals and objectives set forth in the General Plan Housing Element.

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. (MLUP p.28)

As established by the above referenced section of the Central City Community Plan and recognized by this Department of City Planning's Office of Historic Resources in designating the 5 Historic-Cultural Monuments surrounding the Site in question as well as the National Register of Historic Places as well as the California Register, the character of development in the immediate neighborhood has one thing in common. All of the buildings are unique structures designed specifically for the parcels in which they sit. The "Alexan DTLA Project" in question is a cookie cutter franchise. Note the image of the "Alexan San Diego Project" (See EXHIBIT "H") also by the same Developer. It looks strikingly similar to the "Alexan DTLA Project". Regurgitating a cookie cutter building, to become the first project in the Historic Core to be part of a franchising effort DOES NOT RESPECT the unique neighborhood that is the Historic Core.

Oxford English Dictionary defines "**Respect**" as to "(1) *Admire* something deeply (1.1) Have *due regard* for the rights or traditions of (1.2) Avoid *harming* or *interfering* with (1.3) Agree to recognize and *abide* by (a legal requirement). At double the height of any of the surrounding Historic landmarks or anywhere along the Historic Core, the Project DOES NOT RESPECT the uniqueness of the Historic Core buildings and neighborhood context from the perspective of massing and scale. Nor does it conform to the standards of "Compatibility" set forth in the HDTLG sections listed above.

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 is emerging as an extension of the Fashion District and the South Park residential neighborhood."¹³ Additionally, the Community Plan observes that "expanding the downtown residential community is viewed as a major component of efforts to revitalize Downtown."¹⁴

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

reference above on pages 20-22 (MLUP p.28)

This a misleading attempt to suggest that because the Central City Community Plan recognizes three distinct subareas, this Project is somehow not required to follow the guidelines and regulations set for the in the DDG and the HDTLAG sections set forth above.

In the dozen years 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 Modified Project would provide neighborhood-serving retail uses that would create an active downtown environment for current and future residents. The Modified 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. (MLUP p.28)

The Modified Project could provide neighborhood-serving retail uses that would create an active downtown environment for current and future residents that does not overwhelm the neighborhood with size, scale, proportions and massing that is totally incompatible with NEW CONSTRUCTION OVERVIEW in historic neighborhoods from the Federal standard of the Department of the Interior Secretary's Standard Number 9, as reflected in the City of Los Angeles General Plan and HDTLAG [p.129]. (See above).

2. That the Project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, load areas, lighting, landscaping, trash collections, and other such pertinent improvements, which is or will be compatible with existing and future developments on the neighboring properties.

The Applicant proposes to modify the Approved Project by redeveloping the existing commercial surface parking lot with a high-density mixed-use Project consistent with other similar developments occurring in Downtown Los Angeles. (MLUP p.29)

The project site is located within the highly urbanized Historic Core of Downtown Los Angeles, at the southern end of this Central City district, in close proximity to the South

Park district. 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 notes that the Historic Core has evolved into three distinct subareas, observing that the southern portion is "emerging as an extension of the Fashion District and the South Park residential community." As such, the Modified Project consists of an arrangement of buildings and structures, off-street parking facilities and pertinent improvements which would be compatible with existing and future developments on neighboring properties within the Historic Core and as well as in the adjacent South Park residential community.

The Modified Project would be constructed within a 27-story high-rise residential tower with up to 305 residential units and ground floor retail space, and would be consistent and compatible with existing and future development on neighboring and other properties in close proximity. 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. (MLUP p.29-30)

This is an attempt to mislead the Planning Department. The site in question IS NOT AT THE SOUTHERN END OF THIS CENTRAL CITY DISTRICT (See EXHIBIT "G"). The Site is in close proximity to South Park, but it is in the Historic Core Study Area set forth in the HDTLAG (see section above), and thus in needs to abide by all of the guidelines and regulations set forth therein. Because the Site in question is adjacent to South Park does not exempt it from the standards and guidelines governing massing, scale and height that have been established by HDTLAG. According to the map so referenced, the southern portion extends from Venice Boulevard to Olympic Boulevard. three distinct subareas noted does not in any way suggest that South Park

The neighboring properties of the Site in question are recognized by this Department of City Planning's Office of Historic Resources as 5 Historic-Cultural Monuments which are also recognized as such by the National Register of Historic Places as well as the California Register. (See EXHIBIT "A"). With the special dispensation granted to the Eastern Columbia clock tower, none of the neighboring properties are more than 150' in height. This project at 320' is by no means compatible or in keeping with any

standards regarding massing, size, proportion and scale to any of these Historic buildings.

Height, Bulk and Setbacks

The Modified Project is proposed to reach a maximum height of 320 feet. This high-rise, 27- story building would front on Hill Street and 9th Street, establishing a massing and bulk that takes up a majority of the lot area. The Modified Project would also feature one level of subterranean parking and four levels, of podium parking. Levels 5 and 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, ground floor commercial space would 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 reaches a height of 75 feet. The Modified Project would comply with all applicable requirements set forth in the LAMC and Downtown Street Standards. (MLUP p.30)

This is an attempt to mislead the Planning Department. Under this section marked Height, Bulk and Setbacks, the Developer states that the proposed Project seeks to build to 320', nearly double almost any building in the Historic Core Study Area (Set forth in HDTLAG). The Developer then draws a parallel with the neighboring buildings on the nature of ground floor commercial space, and the direct interface that would be provided with the street frontages, creating pedestrian activity. No mention is made that unlike the neighboring buildings within Historic Core Study Area (Set forth in HDTLAG), it is wildly out of scale, size, massing, bulk and especially height.

Off-street Parking Facilities

Based on the Central City Parking Exception, the Modified 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 Applicant is proposing to provide 336 residential parking spaces.

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. (MLUP p.31)

As mentioned above, the Project is proposing removing the existing 111 spaces available to the Public, and replace them by 305 residential units as well as 6,171 square feet of commercial space, providing NO PARKING (as it is under the 7,500 sq. ft. requirement), and only increasing the number of spaces by 225 to a total of 336 spaces plus bicycle parking. So the proposed Project attempts to conform to the Mobility Plan 2035 by increasing the number of people in this parcel by 500 – 1000 and increasing the number of spaces by one quarter to one half. Additionally, despite numerous requests by the community and the PLUC, the Developer has REFUSED TO PUT ANY MORE THAN ONE LEVEL OF UNDERGROUND PARKING. The effects on traffic and how it may affect emergency vehicles is unknowable, based upon the MND to the 2007 Approved Project. There need be a full and current Environmental Impact Report to address this very serious concern of PARKING and TRAFFIC and ACCESS BY EMERGENCY VEHICLES.

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. One key point for new construction that applies to the Modified Project includes the following statement: "Construct new buildings, of compatible design with the surrounding neighborhood, on existing surface parking lots. Corner sites, because of their importance in establishing the urban grid, should be a priority." The Modified Project would convert an underutilized surface parking lot at a major intersection into a mixed-use building with compatible architectural design, fulfills major objectives of the Historic Downtown Design Guidelines, resulting in a project that would be an enhancement to the character of development in the immediate neighborhoods.

The Historic Downtown Design Guidelines include the following infill construction

guidelines that are applicable to the proposed project and which result in Modified Project 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. (MLUP p.32)

All points refuted above. Because the Project replaces a surface parking lot with a mixed-use building it still need be compatible with the size, scale, proportion and massing set forth by the NEW CONSTRUCTION OVERVIEW in historic neighborhoods from the Federal standard of the Department of the Interior Secretary's Standard Number 9, as reflected in the City of Los Angeles General Plan and HDTLAG [p.129]. (See above).

The surrounding neighborhood to the Site in question is recognized by this Department of City Planning's Office of Historic Resources as 5 Historic-Cultural Monuments which are also recognized as such by the National Register of Historic Places as well as the California Register. (See EXHIBIT "A"). As established, the "Alexan DTLA Project" in question is a cookie cutter franchise. Note the image of the "Alexan San Diego Project" (EXHIBIT "B") also by the same Developer. This is neither creative nor innovative.

The new building would directly abut 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 25'-6" 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 Modified 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. (MLUP p.33)

Again, this is an attempt to mislead the Planning Department. The tower portion of the new building would not overwhelm the Broadway Trade Center when viewed from Hill Street (from the West), but it would **ENGULF THE ROOFTOP PUBLIC GREEN/SWIMMING AREA IN SHADOW** (to the NORTH...where the Broadway Trade Center sits in relation to the proposed Project). Shade and Shadow analysis and solar access are relevant concerns for the multi-million dollar renovation project within and atop the Broadway Trade Center. This is one of many reasons why an updated Environmental Impact Report is required in this instance. The effects on a Public / green-space of this nature was not considered during the 2007 EIR.

The Modified Project is well designed and sensitive to adjacent historic and historically contributing structures. Complimentary uses and good design ensure that the Modified Project would integrate in a positive manner with the existing character of development in the immediate neighborhood. (MLUP p.33)

This is an assertion without proof of claim. The Developer has gone to great lengths to mislead this Planning Department. The "Alexan DTLA Project" in question is a cookie cutter franchise. Note the image of the "Alexan San Diego Project" (EXHIBIT "H") also by the same Developer. This is neither well designed nor is it sensitive to the adjacent historic and historically contributing structures. This Project attempts to OVERWHELM the only example of a 4-sided Art Deco clock tower, engulf the Broadway Trade Center's outdoor roof space in shade and shadow, and tower over the other surrounding Historic-Cultural Monuments by over double their height. (EXHIBIT "A") How is this integration with the immediate neighborhood in a positive manner?

Conclusion.

Supporters of the Project have on several occasions resorted to personal attacks and other inappropriate behavior bordering on libel and slander in an apparent attempt to intimidate opponents and discredit their legitimate arguments against the proposed project. While we are certain that the Department will not allow this to occur at the upcoming hearing, we would like to point out the following regarding the underlying issues raised by such behavior.

Supporters have repeatedly accused opponents of being "NIMBY" – a generally understood acronym for "Not In My Back Yard." This supposedly pejorative term was initially used to ridicule landowners perceived to be inappropriately opposed to low income, public benefit/welfare projects. At this point, however, the term has lost its original meaning and negative connotation due to inappropriate overuse.

In this case, as noted above, the only interest served by the proposed project is the private financial gain of the Applicant. Accordingly, at the lowest level, any use of the term NIMBY is misplaced. More importantly, when faced with illegal or inappropriate development, there is absolutely nothing wrong with property owners and other stakeholders taking an active interest in the civic process to preserve their neighborhood. Laws exist to protect the rights of the people. These rights include (in our society) property rights. As stated by Ken Bernstein, Manager of the Los Angeles Office of Historic Resources, in an article for the LA Conservancy "Top Ten Myths About Historic Preservation":

Historic preservation laws no more infringe on property rights than do many other laws and private rules that Americans have long accepted. . . . We should all be happy that such laws prevent our neighbor from putting a landfill or a skyscraper behind our back fence. (Myth #9, Emphasis added).

Supporters also have contended that those opposed to the development are "anti-density." This too is an over-used catch phrase and red herring in this

matter.⁴

Opponents to this project are in no way opposed to increasing “density” in the Downtown area (or anywhere else in the City) *per se*. But any and all new development should proceed according to law and according to an overall, intelligent, coordinated, appropriate and well-conceived plan.

Finally, as set forth above in quoted sections from the Framework and Conservation Elements of the Citywide General Plan, **the purpose for granting transfers of development rights is to foster and encourage preservation in order to protect the City’s significant historic and/or iconic structures.** Secondary public policies are to promote affordable housing and create public open space. The Developer has admitted that the only reason for the requested TDR is to further its own economic interests. Accordingly, allowing the proposed project - which would demean and overwhelm all of the surrounding historic buildings while returning no public benefits - would have precisely the opposite effect of that intended by allowing transfers of development rights in the first place and should not be permitted.

Historic preservationists do care deeply about the past – generally not just to wallow sentimentally in a bygone era, but as a way of anchoring ourselves as we move forward confidently into the future. Historic preservation is not about stopping change and is certainly not about squeezing out creative and exciting new architecture and development. Preservation allows us to retain the best of shared heritage to preserve sites of unique quality and beauty, revitalize neighborhoods, spur economic revitalization, and, quite simply, create better communities. (Bernstein, Ten Myths About Historic Preservation, Myth #10).

We support and encourage development that is appropriate to Historic Downtown and the Historic Core. The proposed Project itself has merit, but as proposed, it is not appropriate to the proposed site for all of the reasons cited and we therefore respectfully that the Application be denied.

Sincerely,


Alex Hertzberg, Executive Director
Patricia Serenbetz, Deputy Director

⁴ The referenced comments occurred mainly at hearings before the Downtown Los Angeles Neighborhood Council. While the Council has filed a generic letter of support for the Project, the matter currently is under review for potential procedural violations.

Geralynn Krajeck, Secretary-Treasurer
Bill Cooper, Member-at-Large

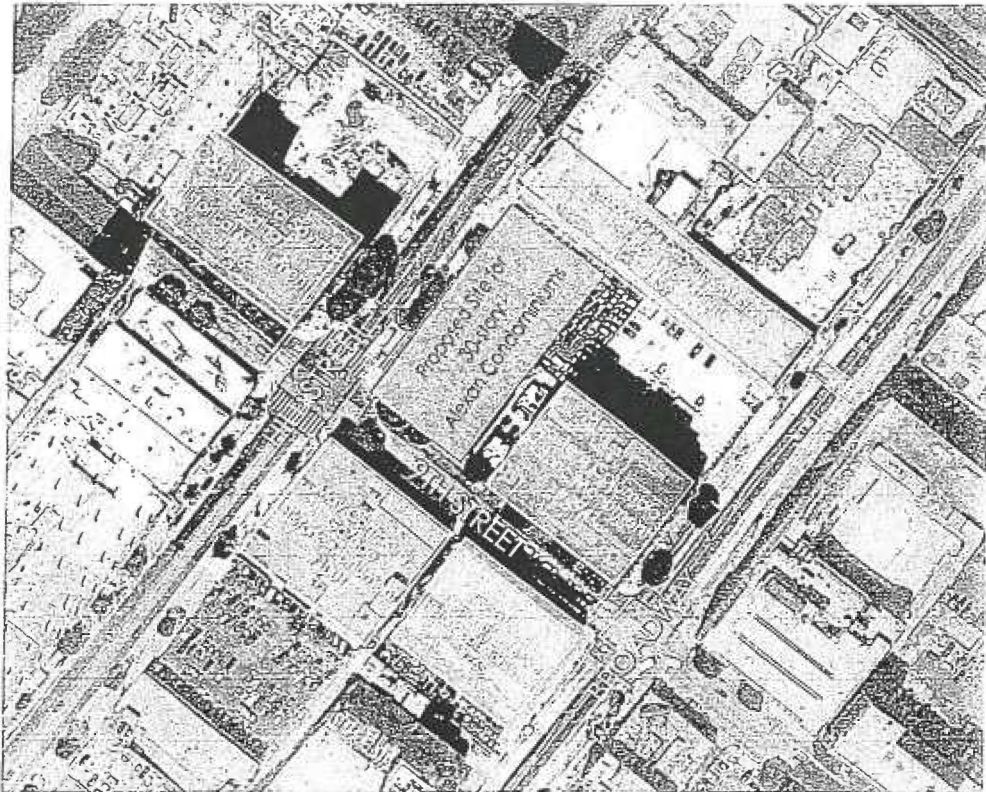
BOARD OF DIRECTORS

Society for the Preservation of Downtown Los Angeles

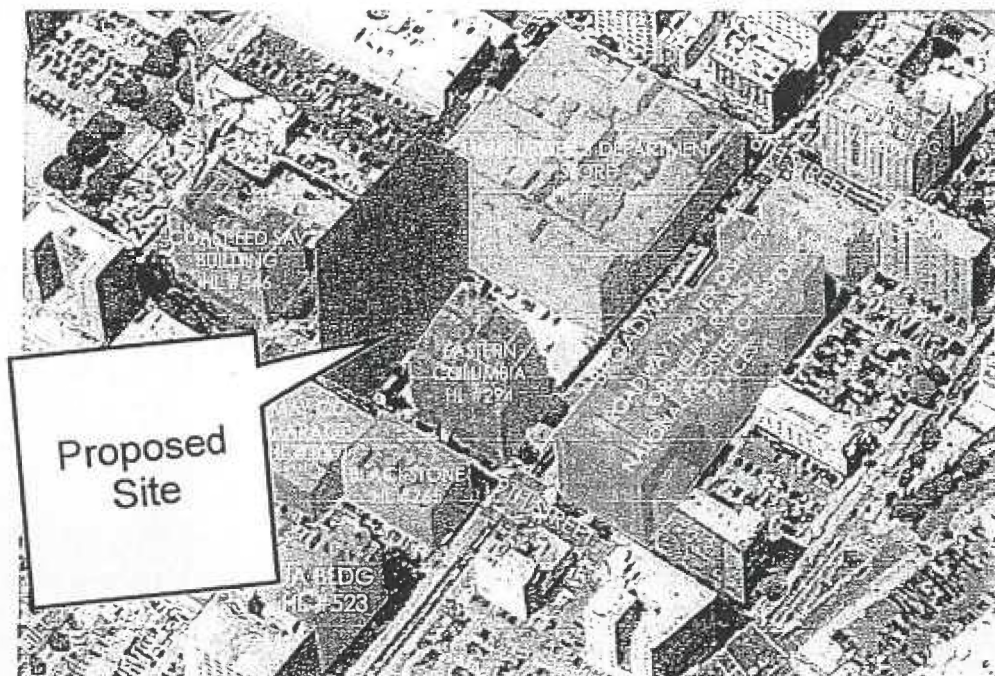
In conformance with California Commercial Code §3401(b) 

cc: Jose Huizar, Councilman District 14 (with enclosures)
Paul Habib, Office of Jose Huizar (with enclosures)
Sara Hernandez, Office of Jose Huizar (with enclosures)
Shawn Kuk, Office of Jose Huizar (with enclosures)
Clare Eberle, Office of Jose Huizar (with enclosures)
Mike Feurer, Los Angeles City Attorney (with enclosures)
Ken Bernstein, Office of Historic Resources (with enclosures)
Eric Garcetti, Mayor of Los Angeles (with enclosures)

Exhibit "A"
PROPOSED PROJECT SITE
SURROUNDED BY
5 HISTORIC CULTURAL MONUMENTS



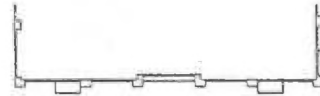
The neighboring properties of the Site in question are recognized by this Department of City Planning's Office of Historic Resources as 5 Historic-Cultural Monuments (HCMs) which are also recognized as such by the National Register of Historic Places as well as the California Register.



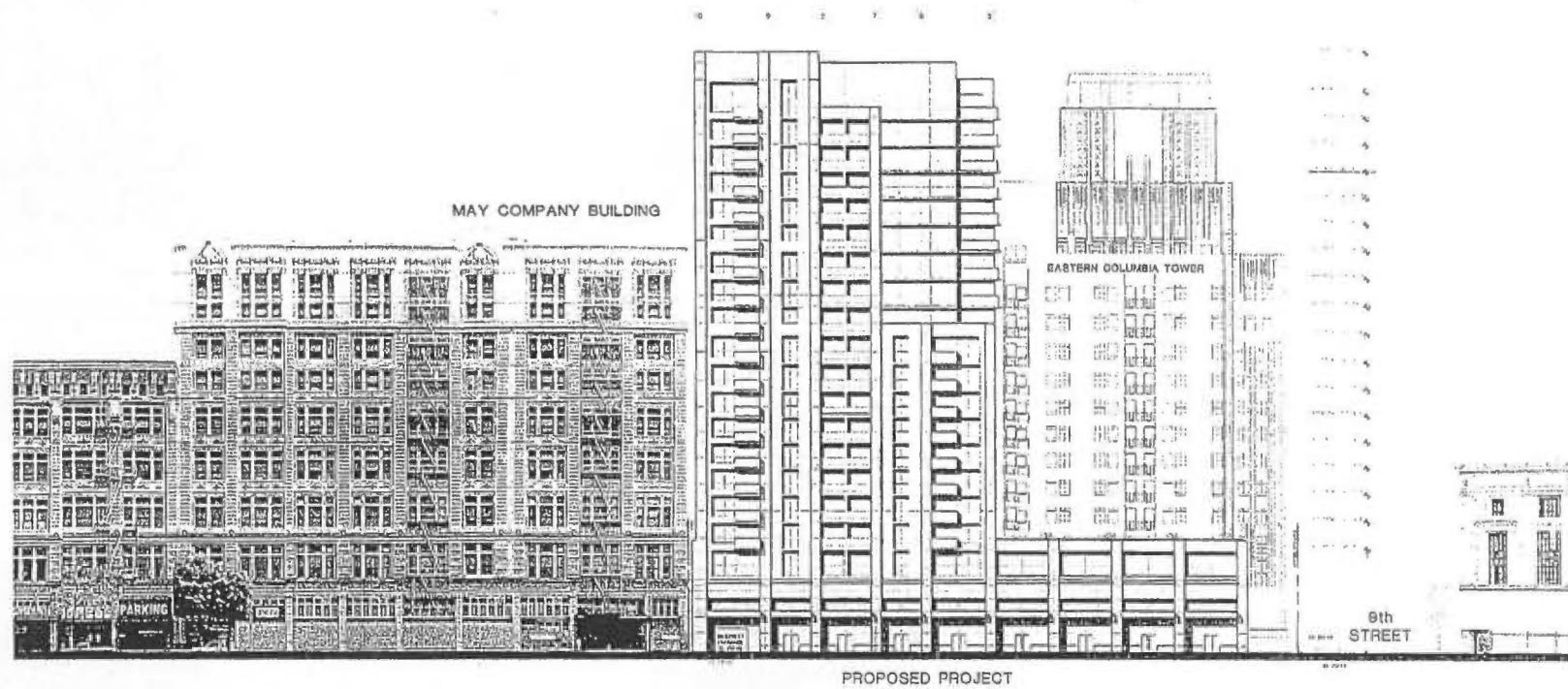
The Eastern Columbia (HCM #294), Coast Federal Savings (HCM#346), Hamburger's Department Store (HCM#459), Blackstone's Department Store (HCM#765), May Company Garage (HCM#1001)

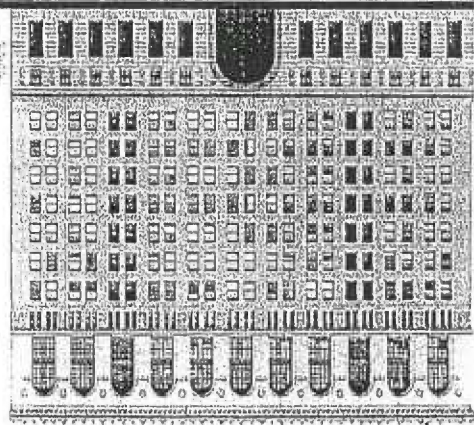
Exhibit “B”
PREVIOUSLY APPROVED PROJECT
(2007)

TOWER PLAN OUTLINE R-10 THROUGH R-17



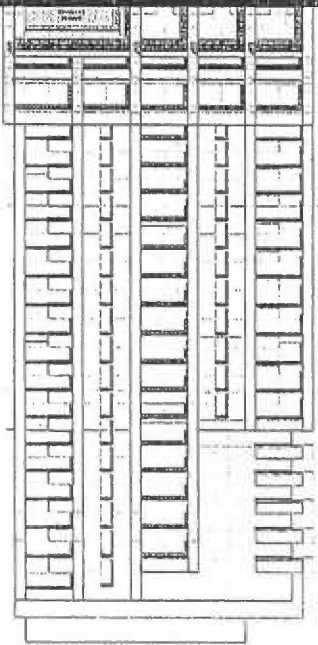
TOWER PLAN OUTLINE R-1 THROUGH R-9





HILL
STREET

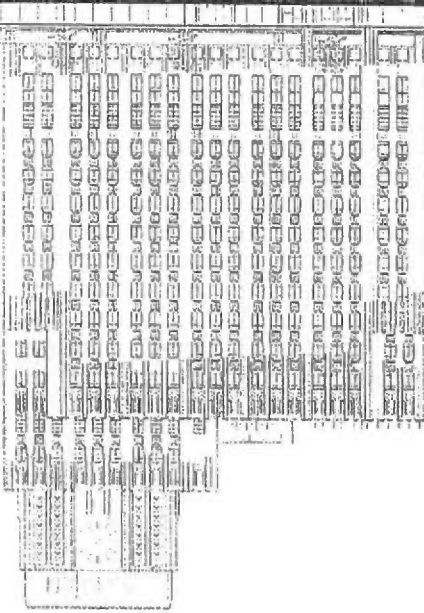
10' 0" 0"



TOWER PLAN OUTLINE R-1 THROUGH R-9



TOWER PLAN OUTLINE R-10 THROUGH R-17



EASTERN COLUMBIA TOWER

PROPOSED PROJECT

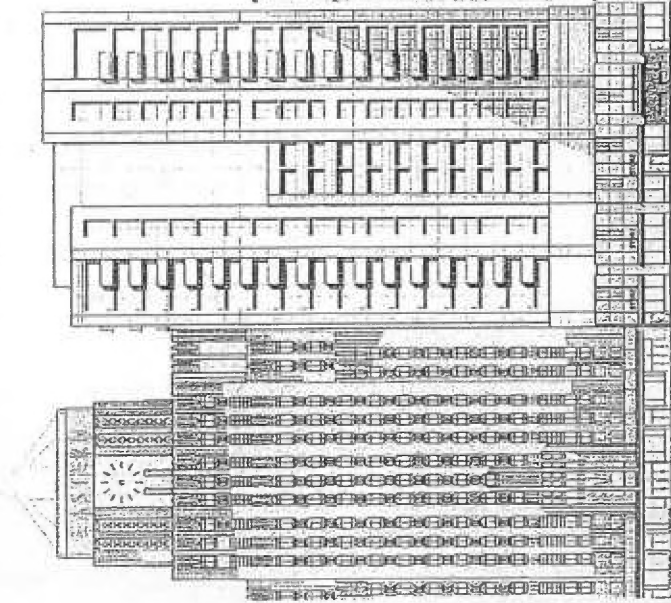
LOWER PLAN OUTLINE R-11 THROUGH R-11



TOWER PLAN OUTLINE R-1 THROUGH R-9

PROPOSED PROJECT

1 2 3 4 5 6 7 8 9 10

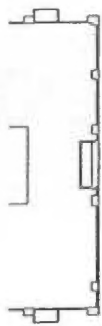


MAY COMPANY BUILDING

EASTERN COLUMBIA GARAGE

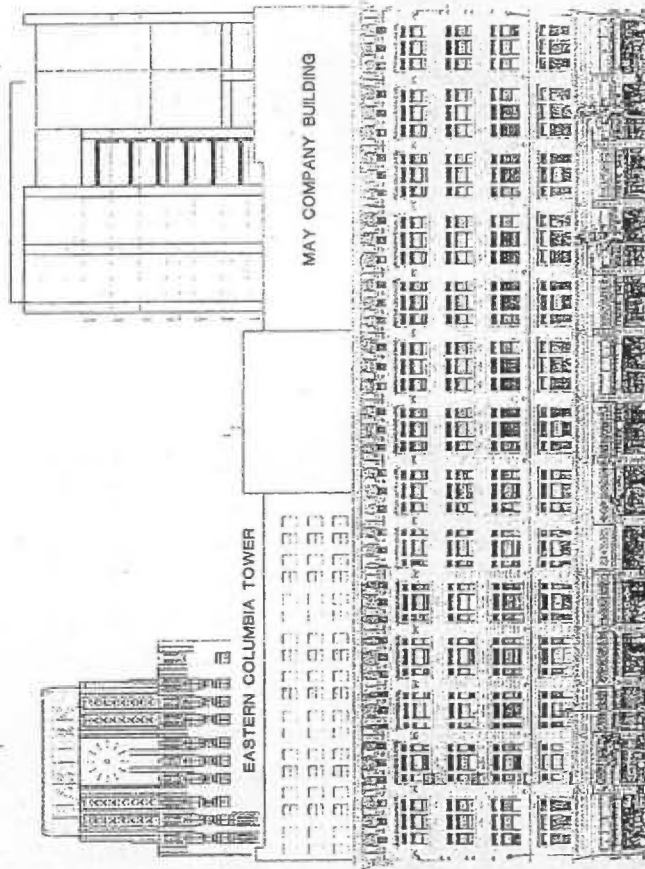
EASTERN COLUMBIA TOWER

S



TYPICAL TOWER PLAN OUTLINE

PROPOSED PROJECT



10

HILL STREET

Exhibit "C"

LA CONSERVANCY LETTER OF OPPOSITION



LOS ANGELES
CONSERVANCY

January 19, 2016

Submitted electronically

Simon Ha, Chairman, Patti Berman, President
Planning and Land Use Committee, DLANC
Email: simonha.dlanc@gmail.com, patti.berman@dlanc.com

523 West Sixth Street, Suite 928
Los Angeles, CA 90014

213 623 2488 office

213 623 3809 fax

<http://www.laconservancy.org>

Re: The Alexan Project, 9th and Hill Streets, Downtown Los Angeles

Dear Mr. Ha and Ms. Berman,

On behalf of the Los Angeles Conservancy, thank you for the opportunity to comment and provide input to DLANC's Planning and Land Use Committee. Given the visibility in particular of the proposed project and the culmination of other large hi-rise towers that are either proposed, in-progress, or recently completed, we think it is an important moment in time for Downtown Los Angeles.

We are now experiencing a boom in construction that brings greater vitality and much-needed reinvestment, an objective the Conservancy and many others have worked toward for years. It is something we strongly support and believe there is an important role for new construction in helping to revitalize and reinforce the distinctive and unique historic character of Downtown. It is a core component of the original *Historic Downtown Los Angeles Design Guidelines*, produced for the Conservancy in 2002. As many of you know, this document became the basis for the City's *Broadway Design Guide* and shares many similar concepts with the *Downtown Design Guide*, both adopted in 2009. Further, these goals are also emphasized in DLANC's recent *Vision Downtown* plan that identifies the need to maximize infill opportunities.

The Conservancy often does not comment or weigh in on new construction projects unless there is a clear and direct impact on a particular historic building or area. In the last year we have provided comments on two projects in Downtown, at the corner of 4th and Broadway and, more recently, the proposed Spring Street Hotel at 631-635 S. Spring Street. Each of these projects involves new construction within the Spring Street Financial District and the Broadway Theatre and Commercial District, both listed in the National Register of Historic Places. Similar to The Alexan project, both also propose hi-rise towers.



I. Proposed new construction within and immediately adjacent to Downtown's Historic Core should be compatible.

Compatibility within an historic context is a somewhat subjective concept as it should allow for dynamic new ideas and modern design concepts without being overly constricting or mimicking earlier architectural styles. The *Downtown Design Guide* states new construction should "respect historically significant districts and buildings, including massing and scale, and neighborhood context." DLANC's Principles and Guidelines state "new designs should take cues from the existing neighborhood character as well as address existing building typologies, densities, and intensities of use." The National Park Service also offers some guidance in context with the use and application of the *Secretary of the Interior's Standards* in a district or neighborhood setting. It states "introducing a new building or landscape feature that is out of scale or otherwise inappropriate to the setting's historic character" is not recommended.

The Alexan project is unique and challenging, in terms of its location and site at 9th and Hill Streets. It is not within but 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. It is challenging when attempting to design new construction to address the context of two very different parts and aesthetics of Downtown. Our concern is that the current proposal relates primarily to a South Park context and is not fully compatible with the Historic Core. Some have suggested the creation of a "zone of respect" or buffer area as there is not an easily discernible or clear fine line separating these two parts of Downtown (other than on a map).

The Conservancy believes there have been sincere efforts to ensure that The Alexan project is sensitive in design. We have met several times with the Trammell Crow Residential team and thank them for their willingness to listen to our concerns and attempts to address them through a series of revisions. The design has continually improved which we greatly appreciate. In particular, changes to the base and podium create a much more pleasing pedestrian scale and experience that relates to the nearby historic context.

The tower and overall massing is much more problematic, as it introduces a much different feel and scale than currently exists in the Historic Core. The Conservancy is not opposed in general to increased height, if sensitively designed to step back and ensure there are no impacts through shade/shadow and the blocking of important viewsheds. It appears that Trammell Crow Residential has attempted to set back its building slightly to maintain partial visual access to the historic Eastern Columbia building, though given the overall height of the proposed hi-rise, it is inevitable that major portions of this building's elevation will be blocked.

An area that we have raised where we do think the proposed project falls short on compatibility, along with others Downtown, is the introduction of projecting balconies on primary facades. The Conservancy



has previously raised this issue with the project at 4th and Broadway as well as the proposed tower at 631-635 S. Spring Street. We believe this design element greatly deviates from the character and overall compatibility of the Historic Core. While you can find balconies on secondary and rear facades throughout Downtown, including recent adaptive reuse projects, they are usually not prominently featured or located on primary facades. Projecting balconies introduce an entirely new rhythm and feel and are a primary design element of The Alexan and other hi-rise towers currently being proposed. While the *Downtown Design Guide* does not currently provide enough guidance in this area, it does state "heavy, solid balconies" should be avoided. Overall we think this design element is more in keeping with the South Park area or a Miami setting rather than the Historic Core area of Los Angeles.

II. Cumulative impacts of proposed new hi-rise construction in Downtown should be analyzed.

Overall we have a number of outstanding concerns and, from a larger perspective, question the cumulative impacts of these types of hi-rise projects on the historic parts of Downtown. In addition to the potential visual and shade/shadow impacts, hi-rise towers of this scale greatly exceed the height of surrounding properties and introduce a new set of proportions to the neighborhood. In general the Conservancy is a strong supporter of increased density and believes there is a clear role for this in Downtown. While new high-rise construction suits the context of other parts of Downtown, we however do not believe that projects of this scale are ultimately compatible with the existing character of the Historic Core environment.

In our previous comments on these types of projects, we have strongly urged the City to conduct a full analysis of cumulative impacts as part of any environmental analysis, examining the potential long-term effects of new construction at this scale on the integrity of the Spring Street Financial District and the Broadway Theatre and Commercial District. We believe the overall impacts should be understood before it is too late. The number of these types of projects that are now either already approved or proposed, and the increasing concerns about them, only underscore the need for greater clarity and guidance. Given the increasing development pressure, the Conservancy believes there is an immediate need to revisit the City's *Downtown Design Guide*.

III. Conclusion

Thank you again for the opportunity to provide comments on this project and others in Downtown. As we all experience the welcome transformation and revitalization of Downtown, we are increasingly faced with new challenges that we may not have originally anticipated. It's important to address these before it is too late so that we can find the appropriate balance and ensure cultural and historic resources are preserved while still allowing for new development. The Conservancy looks forward to working with DLANC toward this goal.

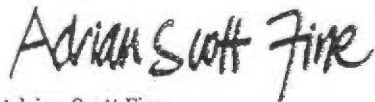


About the Los Angeles Conservancy:

The Los Angeles Conservancy is the largest local historic preservation organization in the United States, with nearly 6,500 members throughout the Los Angeles area. Established in 1978, the Conservancy works to preserve and revitalize the significant architectural and cultural heritage of Los Angeles County through advocacy and education.

Please do not hesitate to contact me at (213) 430-4203 or afine@laconservancy.org should you have any questions and if we can be of assistance.

Sincerely,



Adrian Scott Fine
Director of Advocacy

cc: Councilmember Jose Huizar
Central City Association of Los Angeles
City of Los Angeles, Department of City Planning, Office of Historic Resources
Society for the Preservation of Downtown Los Angeles
Trammel Crow Residential



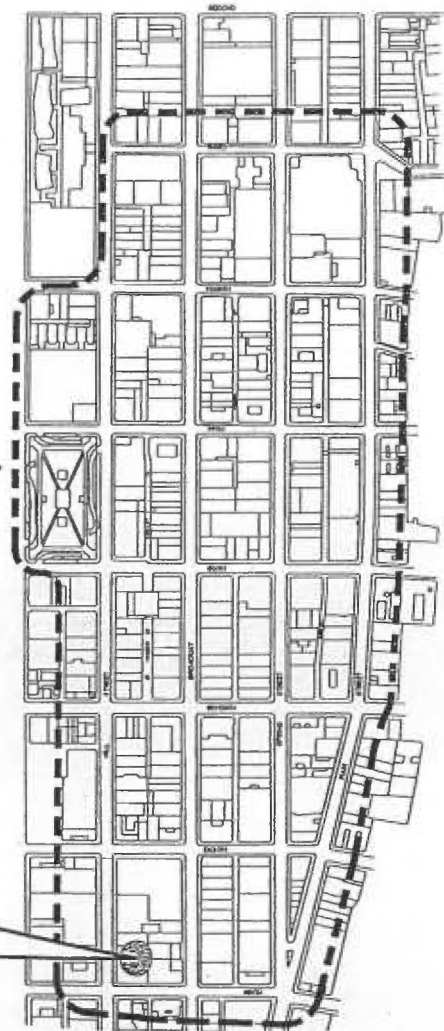
Exhibit “D”
MAP OF THE “STUDY AREA”
HISTORIC DOWNTOWN LOS ANGELES
GUIDELINES (2002)



MAP OF
STUDY
AREA

STUDY
AREA
BOUNDARY

Proposed
Site



ARCHITECTURAL RESOURCES GROUP
Architects, Planners & Conservators, Inc.

Exhibit “E”

**Historic Downtown,
DOWNTOWN DESIGN GUIDE (2009)**

**[p.3 Figure 1-1, The Design Guide Applies to
the Highlighted Districts].**

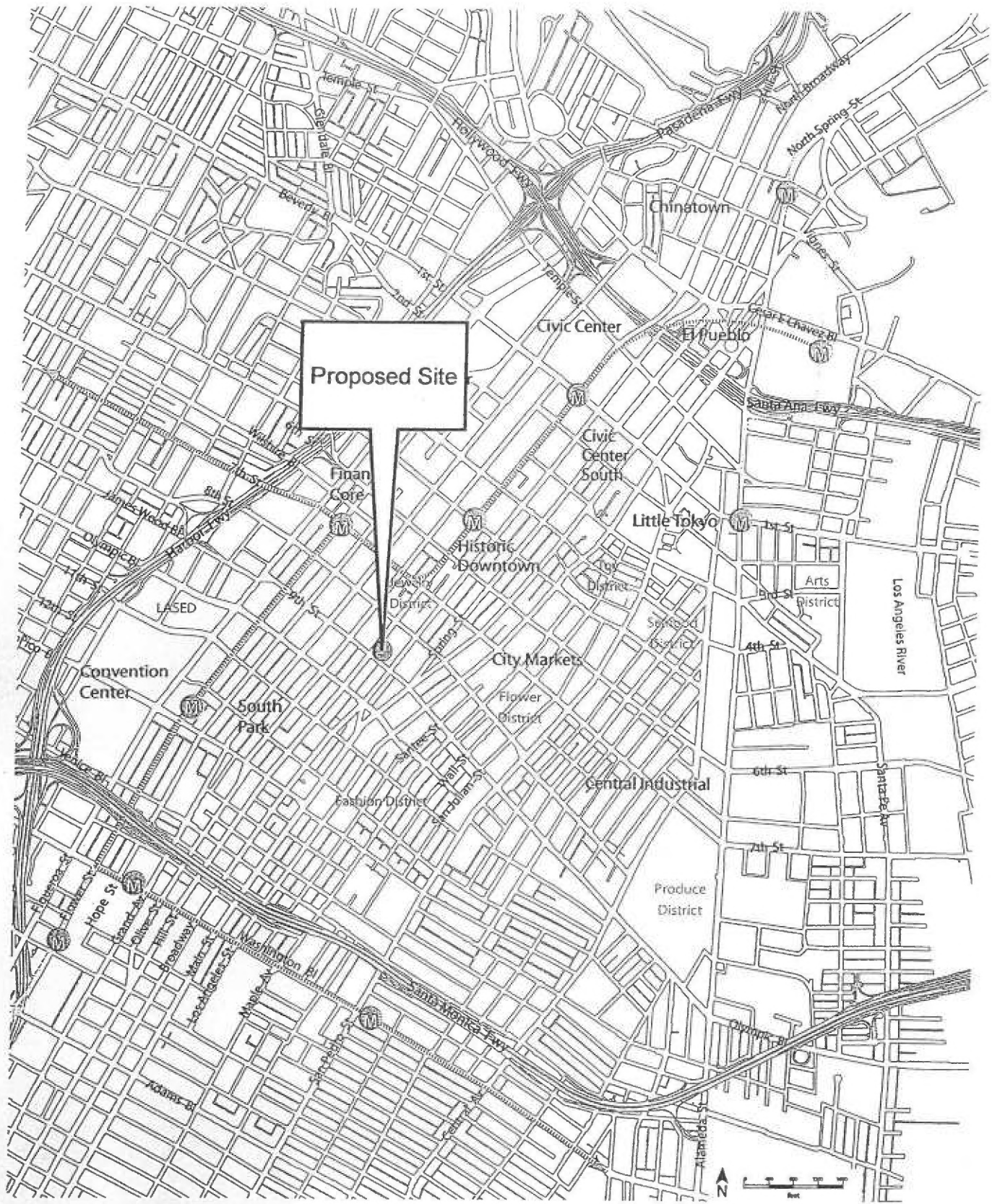


Figure 1-1 The Design Guide Applies to the Highlighted Districts

Exhibit “F”
Historic Core,
BUSINESS IMPROVEMENT DISTRICT
Boundaries Map



DISTRICT BOUNDARIES



Exhibit “G”

CENTRAL CITY COMMUNITY PLAN

**-Figure 1. Downtown Neighborhoods
Districts (Located between I-4 – I-5)**

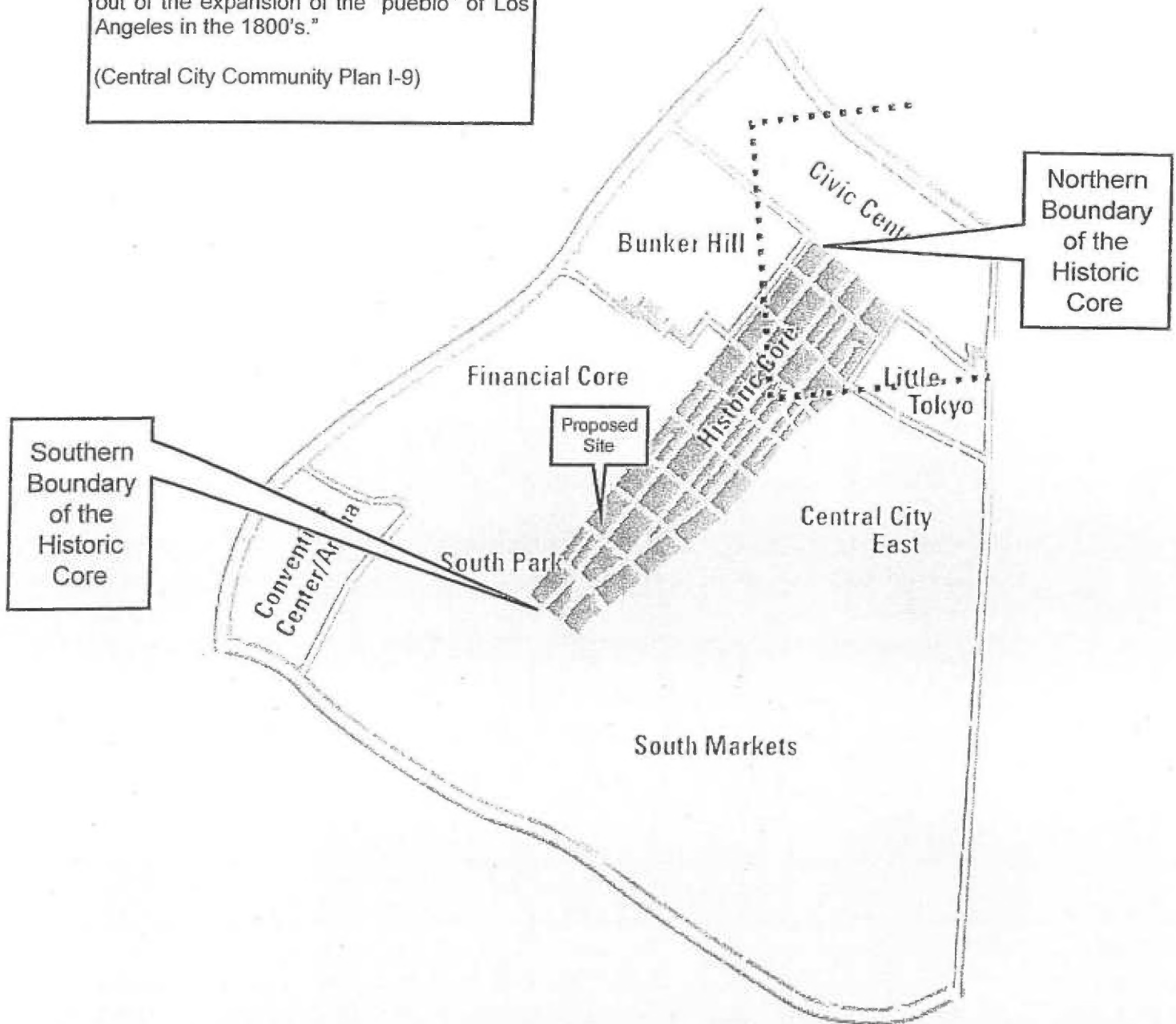
-GENERAL PLAN LAND USE MAP

(as of July 07, 2009)

Central City Community

"The Historic Core, extending from First Street to approximately Eleventh Street between Los Angeles and Hill Street grew out of the expansion of the "pueblo" of Los Angeles in the 1800's."

(Central City Community Plan I-9)

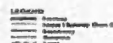


10 Minute Diamond as shown in the Los Angeles Shared Facilities and Enhancement Plan

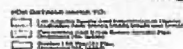
Figure 1
Downtown Neighborhoods & Districts



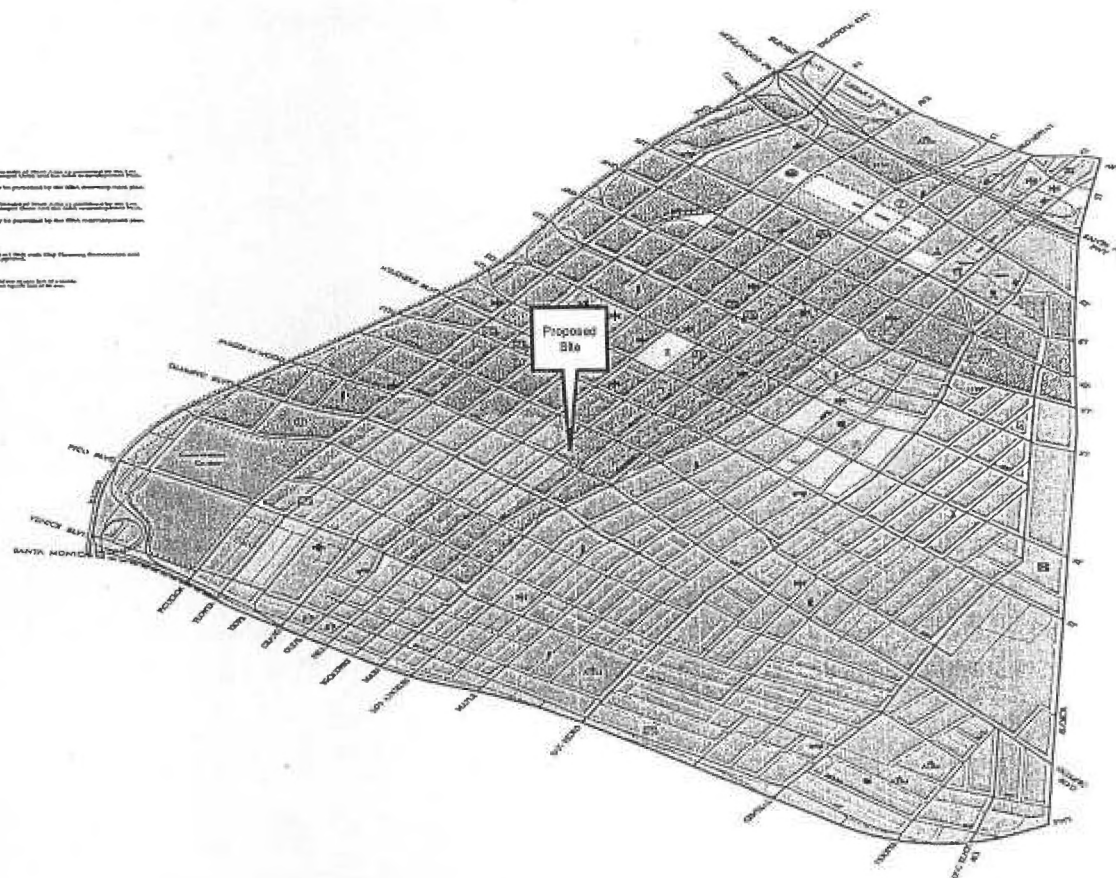
FLOOR AREA RATIO
Maximum allowed 0.44; maximum lot coverage 50%



GENERALIZED CIRCULATION
(See Note 2)



SPECIFIC PLAN AREA



Proposed
Bite

LAND USE			
RESIDENTIAL *	COMMERCIAL/INDUST *	CONSERVATION *	
MULTIPLE FAMILY	SEMI	COMMERCIAL	SOILS
<input type="checkbox"/> SINGLE-FAMILY	AN	<input type="checkbox"/> COMMUNITY	<input type="checkbox"/> FLOOD
<input type="checkbox"/> OTHER	SO	<input type="checkbox"/> BUSINESS	<input type="checkbox"/> FLOODPLAIN
INDUSTRIAL			
<input type="checkbox"/> LIGHT	MILLIN	<input type="checkbox"/> OPEN SPACE/PUBLIC	
<input type="checkbox"/> HEAVY	IND	<input type="checkbox"/> OPEN SPACE	PLANT
		<input type="checkbox"/> PARKLAND/RECREATION *	
		<input type="checkbox"/> RECREATION	

* Designated designation as
 (1) = 100% developable
 (2) = 75% developable
 (3) = 50% developable
 (4) = 25% developable
 (5) = 10% developable
 (6) = 5% developable
 (7) = 2% developable
 (8) = 1% developable
 (9) = 0% developable

CIRCULATION		SERVICES SYSTEMS	
	Reading Room		CD-ROMS, XITS
	Reference		Public Information Division
	Reference & Reading Rm.		Public Information Office
	Reference & Reading Rm.		Public Information Office
	Reference & Reading Rm.		Public Information Office
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	Reference & Reading Rm.		Public Information Office

[illegible][illegible]

GENERAL PLAN LAND USE MAP (as of July 07 2009)
CENTRAL CITY COMMUNITY PLAN
 A PART OF THE GENERAL PLAN OF THE CITY OF LOS ANGELES

City Of Los Angeles - City Planning Department - Systems And GIS Division Michael LoGrande - Director



Exhibit “H”
“ALEXAN SAN DIEGO” PROJECT



"Alexan San Diego Project"
Trammel Crow Residential 19 story / 313 Unit Apartment Building

The character of development in the Historic Core has one thing in common: All of the buildings are unique structures designed specifically for the parcels in which they sit. The "Alexan DTLA Project" in question is a cookie cutter franchise. Note the image of the "Alexan San Diego Project" also by the same Developer. It looks strikingly similar to the "Alexan DTLA Project". Regurgitating a cookie cutter building, to become the first project in the Historic Core to be part of a franchising effort IS MATERIALLY DETRIMENTAL to the character of development in the immediate neighborhood.