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June 5, 2018

Councilmember José Huizar, Chair  
Councilmember Marquis Harris-Dawson, Vice Chair  
Councilmembers Mitchell Englander, Bob Blumenfield, and Curren Price  
Planning and Land Use Management Committee  
c/o City Clerk, Room 395  
City Hall  
200 North Spring Street  
Los Angeles, CA 90012-4801

Date 06/05/2018  
Submitted to PLUM Committee  
Council File No. 17-0872 # 17-0872-S1  
Item No. 8 # 9  
Deputy Comm. from Appellant Crenshaw  
Subway Coalition

BY HAND DELIVERY

Re: June 5, 2018 Agenda Items (8) and (9); CF 17-0872; CF 17-0872-S1

To the Honorable Members of the Planning and Land Use Management Committee:

This firm writes on behalf of Appellants Crenshaw Subway Coalition, Hyde Park Organizational Partnership for Empowerment (HOPE) and Damien Goodmon. This firm also writes on behalf of the Housing is a Human Right Project of the AIDS Healthcare Foundation.

The Planning and Land Use Management Committee (PLUM Committee) has agendized on a bare 72-hours notice the approval of a highly controversial gentrification project with a faulty EIR and flawed Development Agreement. The PLUM Committee should send this project back to the Planning Commission so that a proper environmental review can be completed and a Development Agreement that provides adequate protections for the adjacent community and requires the developer to make a *meaningful* contribution to the social and environmental problems that its project will cause and exacerbate. The housing included in the project should be affordable to *all* nearby residents, at the level of income that exists in the community. As proposed now, the workforce housing would likely be unaffordable to many of the nearby residents.

The EIR for the project is inadequate in several respects. First, it is improper for the City Council to approve either the zone change or the development agreement without independently reviewing and certifying the EIR. The Planning Commission simply concluded that “no subsequent EIR or addendum is required for approval of the project.” By allowing the Zoning Administrator to be the sole decision maker to certify the EIR — even though the project indisputably requires the legislative approval of the City Council for the zone change and for the development agreement — the City Council would flout its duties under CEQA:

“CEQA does not permit the City Council to delegate to the planning commission any aspect of FEIR certification, since the commission is not a decisionmaking body, and ‘environmental review is not supposed to be separated from project approval.’ Consistent with CEQA’s fundamental principle requiring interpretation of its provisions so as to ‘afford the fullest possible protection of the environment within the reasonable scope of the statutory language[,]’ it does not permit a ‘bifurcation [which] would allow for a decisionmaking body to be bound by a finding made by a non-elected non-decisionmaking body that the final EIR is completed in compliance with CEQA, [as that] would skirt the purpose of CEQA by segregating environmental review of the EIR from the project approval....’ Further, ‘[t]his could also produce a situation in which the City Council could be bound by a finding that it finds flawed - that the final EIR is complete and in compliance with CEQA.’” (*Calif. Clean Energy Comm. v. City of San Jose* (2013) 220 Cal.App.4th 1325, 1341.)

Perhaps in recognition of the fact that the City cannot approve the legislative zone changes and the development agreement without review of the EIR and making the requisite Findings and adopting a Statement of Overriding Considerations, the CEQA Findings in the Planning Commission’s Letter of Determination do not resemble the review of a certified EIR to determine whether additional review is necessary. The City Council is reviewing this EIR for the first time and must proceed accordingly.

Aside from this manifest procedural violation, the EIR is significantly flawed.

### **Failure to Analyze Displacement Impacts**

As the project EIR acknowledges, a threshold of significance for impacts to population and housing is whether a proposed project will displace substantial numbers of “people.” This is a separate and distinct question from whether a proposed project will displace “housing.” That means that CEQA recognizes that individuals may be displaced by a proposed project, even if that project does not involve the removal of existing housing. And that is precisely what will happen as a result of the proposed project, although that issue is not analyzed by the project EIR at all.

The EIR analyzes displacement as follows: Because portions of the existing retail mall may be closed as a result of the build out of the project, some retail jobs may be lost. This job loss would be “minor and temporary,” and would “not merit the construction of replacement housing elsewhere, as the number of displaced employees would not be great enough to require new housing in the surroundings areas or citywide.” This analysis falls far from the mark.

The question posted in the CEQA Guidelines is whether the project will displace “people,” not jobs. The EIR replaces an analysis of temporary job loss with displacement, but there is not a logical nexus between the loss of a retail job and the need to construct replacement housing elsewhere. It is not as if retail jobs provide housing for their employees!

What the EIR ignores, and what Appellants provide in their separate submission, is the evidence well-known to the City's planners that gentrification results in the displacement of lower income residents. The concept is so accepted that even dictionary definitions of the term "gentrification" encompass displacement. Merriam-Webster states that gentrification is "the process of renewal and rebuilding accompanying the influx of middle-class or affluent people into deteriorating areas that often displaces poorer residents." (<https://www.merriam-webster.com/dictionary/gentrification>.) Dictionary.com states that gentrification is "the buying and renovation of houses and stores in deteriorated urban neighborhoods by upper- or middle-income families or individuals, raising property values but often displacing low-income families and small businesses." (<http://www.dictionary.com/browse/gentrification>.)

As Appellants' separate submissions reveal, the project will foreseeably displace many thousands of neighborhood residents. The estimates are as high as 69,000 residents that will be displaced by the gentrification process initiated by this development. The Development Agreement provides one example of why this displacement will occur. The neighborhoods around the project site have an average income significantly below the County median average income (\$39,230 average income for Crenshaw Corridor vs. \$57,952 for Los Angeles County). Yet the Development Agreement provides for only 55 of the for sale units to be available to "workforce housing," which is defined as a household earning 150% of the area median income. That means that the low cost housing at the project site will serve households earning as much as \$86,000! That is far above the average income for the area around the project site.

This community supported the location of the rail line through the neighborhood, only to face displacement as a result of this "transit oriented development." Indeed, as a result of the 900-plus new units for sale and rent that will be constructed, and the new amenities at the retail mall, along with the convenient transit, the neighborhood will be viewed as a more desirable place to live by middle class and more affluent individuals and families. This desirability translates into higher rent and sale prices. As the studies submitted by Appellants demonstrate, in countless neighborhoods in Los Angeles and elsewhere, such desirability creates pressure on housing. Renters face increased rents, and homeowners realize that they can sell their homes for higher prices and move elsewhere.

As the CEQA Guidelines suggest, the displacement of people has an environmental impact. Individuals forced to leave a community where they live near jobs will have to drive longer distances to those jobs, increasing their vehicular emissions and congestion on the roadways. Given the low (6% or less) vacancy rates in Los Angeles, it is not unlikely that lower income individuals will be forced to move long distances from their current homes. The tens of thousands looking for lower cost homes will likely not find homes on convenient transit lines, and replacement housing may be required.

Not one aspect of this is disclosed in the EIR. The decision makers are not informed that a readily foreseeable consequence of the project's construction is the gentrification of the area. This does not take a crystal ball to predict. The EIR should be revised to include a good faith analysis of the potential environmental impacts from the gentrification associated with the proposed project.

## **Transportation and Circulation**

Attached as Exhibit 1 is the analysis of Robert Kahn, P.E., of the EIR's Transportation and Circulation analysis. A clear defect in that analysis is the failure to impose specific mitigation measures to address the identified transportation impacts of the project. For example, the neighborhood traffic management plan is a perfect example of improperly deferred mitigation. The only thing that is certain about the mitigation measure is the amount of money that will be contributed for it — \$300,000. There are no performance standards specified, no objectives identified, and no possible mitigation measures listed. It is simply a commitment to take traffic counts to assess project impacts *in the future*. The EIR acknowledges that neighborhood intrusion impacts are a probable result of the project — no surprise, given the highly congested existing traffic and the fact that no mitigation is possible for the project's impacts at a large number of nearby intersections. Yet rather than make a good faith effort to determine which neighborhood streets are at most risk of neighborhood intrusion, the EIR defers this assessment to later. The EIR's analysis on this point is entirely inadequate, and thus the proposed mitigation is likewise insufficient. There is no guidance as to how and when significant impacts might be identified, which is particularly troubling because the project is to be constructed in phases. When will traffic counts be taken? Will they wait until all phases are complete? Or will they be taken on multiple occasions? Nearby residents and decision makers should know all of this, and more — but they do not, because the decisional document is deficient. This is the epitome of inadequate analysis and deferred mitigation and simply cannot support the approval of the project.

## **Greenhouse Gas Emissions**

The EIR does not adequately analyze the greenhouse emissions of the proposed project. As the Supreme Court recognized in the *Center for Biological Diversity v. California Department of Fish and Wildlife*, new development projects may need to significantly exceed the "business as usual" (BAU) reductions called for in statewide plans for the state to actually achieve the greenhouse gas reductions necessary under state law.

The BAU analysis in the EIR is a farce. The EIR acknowledges that the BAU does not account for such site features as proximity to transit. This project will generate 40,000 daily trips with a net NEW 13,000 trips per day. So while the future project gets to account for the fact that some residents and patrons will arrive on transit, for the BAU scenario, it is assumed that there is no transit use. That means that the reduction in emissions is illusory. The transit is coming to the site regardless of the project, and thus even if nothing was added to the site, a certain percentage of patrons would arrive on transit in the future. The only other "reductions" in emissions from the BAU scenario are derived from already required compliance with laws. There is nothing that the developer is doing at this site that is actually reducing greenhouse gas emissions beyond what would be achieved due to legal obligations and pre-existing transit development plans.

Moreover, the EIR does not provide support for its conclusion that the project will not have a significant impact on greenhouse gas emissions. The EIR concludes that because the

project will achieve a (fake) 19 percent reduction from BAU, it will not have a significant impact on greenhouse gas emissions because only a 16 percent BAU reduction is required to achieve 1990 levels of greenhouse gases by 2020. Given the proximity of the 2020 date, the paucity of analysis on this point is unacceptable. There is no analysis for this major project whether additional steps need to be taken, when new development is proposed, to ensure adequate reductions for the state to meet its climate change objectives. This proposal is essentially “business as usual,” and there is no analysis in the EIR whether simply adhering to the City’s building code and locating near transit is enough.

### **Vague Project Description and Segmented Process**

The EIR refers to the project’s plans as “conceptual,” and the conditions of approval require the applicant to separately submit for the required Site Plan Review the designs for each phase of the project as it is proposed for construction. The implication of these “conceptual” plans and the absence of concurrent Site Plan Review is that everything about the project is up for change. This puts the community into a position of being forced to continually monitor development plans for this site. The municipal code generally requires all entitlements to be heard simultaneously. Moreover, the Statement of Overriding Considerations is based upon the construction of the proposed project. What is to stop the developer from making significant changes in the balance of the approved project’s uses at later phases? While there would be future environmental review at a later time, whatever has already been built in reliance upon *this EIR* would be a *fait accompli*. The developer naturally wants the flexibility to respond to changes in the market, but where the project’s approval rests upon the balance of uses there needs to be a commitment to maintain the balance that the approval is predicated upon.

Additional errors and deferred analysis in the EIR is identified in the Appellant’s appeal submission. As of the close of business on June 4, 2018, no response to this appeal (submitted in August 2017, nearly 10 months ago) was publically available in the Council File. After 9 AM on June 5, an eight-page staff response dated June 1, 2018, appeared that was not previously included. It is far too late for responses now. The matter should be remanded for a proper environmental review.

Respectfully,



Beverly Grossman Palmer

# Exhibit 1



Ms. Beverly Grossman Palmer  
STRUMWASSER & WOOCHEER LLP  
10940 Wilshire Blvd., Suite 2000  
Los Angeles, CA 90024

**Subject: Baldwin Hills Crenshaw Plaza EIR and Traffic Review, City of Los Angeles**

Dear Ms. Palmer:

**Introduction**

RK ENGINEERING GROUP, INC. (RK) is pleased to submit this review of the Baldwin Hills Crenshaw Plaza EIR and Traffic Study, City of Los Angeles Mixed Use Project from a traffic circulation/parking standpoint. It is my understanding that your clients are concerned with the substantial redevelopment of the Baldwin Hills Crenshaw Plaza Project and the impact to the surrounding neighborhood streets and intersections. According to our discussion, the tract map for the project has already been approved by the Zoning Administrator along with certifying the EIR. The zone change and general plan amendment for the project will be going to the City Counsel in the future.

Currently the Project contains approximately 1.02 million square feet of commercial development and the proposed project would add approximately 820,000 square feet of commercial development and 961 residential dwelling units for a total 1.235 million square feet. The proposed uses to be added to the site include 331,838 square feet of retail and related commercial uses, 346,500 square feet of 400 room hotel, 143,377 square feet of office uses and a total of 961 residential dwelling units, including 551 condominium units and 410 apartment units. The project is located on approximately 43 acres. The proposed Project will include parking for approximately 6,550 vehicles.

RK has reviewed several documents with respect to the Baldwin Hills Crenshaw Plaza Project. These included:

1. The draft EIR Transportation Section dated December 2014.
2. The LADOT (Los Angeles Department of Transportation) Traffic Study Review Report dated November 26, 2014.
3. The Traffic Study Scoping Agreement for the Project approved by LADOT dated May 17, 2012.

4. The Traffic Impact Analysis for the Baldwin Hills Crenshaw Plaza Redevelopment Project dated November 2014.

Based upon our review there are a number of concerns with the Project to be resolved prior to considering it complete and having less than a significant impact to the surrounding communities. These items include the following:

1. Older traffic counts from the Years 2008 and 2009 were used in the Traffic Impact Analysis. The Scoping Agreement (MOU) was dated May 17, 2012 therefore the counts utilized in the study were over two years old and did not follow City of LADOT guidelines which require them to be within two years.
2. The Traffic Study identified the Project would have significant, unavoidable impacts at 10 of the 55 study area intersections. Several of those intersections are in close proximity to the Project and no mitigation measures are identified to improve conditions at those locations.
3. The Proposed Project does not provide sufficient parking to accommodate peak parking demand or provide for an "overage" factor which is typically utilized for major retail facilities. Usually 5-10% additional parking should be provided above the peak parking demand
4. The Project is proposing two new project access driveways, one on Crenshaw Boulevard and one on Marlton Avenue in close proximity to the existing intersections. These do not appear to be best location from a traffic/circulation standpoint.
5. The Project provides transit mitigation in a north/south direction. However, no provision for additional transit service is provided in an east/west direction, which also represents significant portion of the Project traffic demand.
6. The potential neighborhood intrusion impacts are identified in the Traffic Study and some allocation (approximately \$300,000) is identified in the Traffic Impact Analysis. However, it is unclear what improvements this will provide and whether it will be adequate to eliminate all neighborhood intrusion traffic impacts.
7. The Traffic Study does identify several alternatives to the project which would generate significantly less traffic than the proposed project. The City should consider alternatives to the Project, since the proposed project has several significant unavoidable traffic impacts to the surrounding highways and intersections.



## Comments

Based upon our review there are number of concerns with the Project to be resolved prior to considering a complete and having less than a significant impact to the surrounding communities. The Page Numbers identified below are based upon the Traffic Study for the proposed Project. These items include the following:

1. Comment 1 – Page ES-4 and Page 14 – Old Traffic Counts were used in the Traffic Impact Analysis and were from the years 2008 and 2009. The Scoping Agreement (MOU) was dated May 17, 2012. Therefore, the Traffic Counts utilized in the Study were over two years old. According to the City Traffic Study Guidelines, Traffic Counts should be within two years of the approved MOU.
2. Comment 2 – Page ES-9 and Table 14 - The Traffic Study identified 10 significantly impacted intersections as a result of the Project without any traffic mitigation. Also, several of the adjacent intersections would have poor LOS (Level of Service) and would have a significant direct project impacts. There are also three other intersections with poor LOS that the Project contributes significant traffic. The Developer should do more detailed feasibility studies to identify potential improvements to the significantly impacted Project. This may require some additional right of way and physical.
3. Comment 3 – Page ES-11 and Pagers 178, 185 and 186 - Traffic study projects a shortage of peak parking capacity (insufficient by 1,127) spaces and they make no provision for an “overage” factor of at least 5 – 10%. Proper parking planning should always provide additional spaces throughout the site to reduce patrons hunting for a parking space. Although the applicant does indicate that tandem parking through a valet service would be utilized, the project appears to be under parked and does not provide sufficient additional parking to meet the peak parking demand.
4. Comment 4 – Pages ES-11, Page 187 and Figure 41 – The proposed site plan shows twelve (12) access locations. There are two (2) new driveways, #1 on Crenshaw Boulevard south of 39<sup>th</sup> Street and one #12 on Murlton Avenue south of 39<sup>th</sup> Street. These new driveways are very close to the existing intersections and do not appear to be appropriately located. Additional evaluation of any additional driveways need to be accomplished
5. Comment 5 - Page 43 – As noted in the Traffic Study, 12 of the 55 study area intersections are already operating at a poor level of service for existing conditions. This is only further exasperated by the proposed project.
6. Comment 6 – Page 90 – 14 of the 55 study area intersections are impacted significantly by the Project. The Mitigation measures which are provided only mitigate 4 of 14 of the intersections, therefore the project still has a significant,

unavoidable traffic impacts. Additional evaluation of improvements to the significantly impacted intersections needs to be accomplished.

7. Comment 7 – Page 132 – The Project applicant proposes transit mitigations by purchasing one new bus and paying for operations for 3 years and paying the non substadated for another 7 years. This line would be added to Crenshaw Boulevard in a north/south direction. The Traffic Study identifies that there is significant amount of traffic generated by the project including transit patronage in an east/west direction. The project should also consider providing additional bus transit mitigation in an east/west direction as this will be utilized by many of the projected patrons taking transit to and from the site.
8. Comment 8 - Page 133 – The project will provide a mobility hub, however, the definition of the improvements for the hub are very vague in this mitigation measure. What will specifically the mobility hub provide within the project site?
9. Comment 9 - Page 133 – Mitigation measures for bicycle improvements include \$100,000 for bike improvements. What will these improvements actually provide and where will they be located. How many miles of bike lanes will actually be provided with the \$100,000 and is it adequate given the size of the proposed project.
10. Comment 10 – Pages 134-136 – The List of 2070 traffic controllers, CCTV and System Loops does not include any of the 10 significantly impacted intersections. What about those intersections? Additional traffic operational improvements should be provided at the 10 significantly unavoidable impacted intersections to improve projected traffic conditions.
11. Comment 11 - Page 169 – The proposed project generates 4,056 daily transit trips. The applicant is proposing to provide additional north/south transit capacity with one additional bus on Route 210. However, nothing is provided in terms of transit service in an east/west direction. Per page 76 (Figure 16) the project will contribute significant east/west traffic along major routes such as Martin Luther King Boulevard, Vernon Avenue and other east/west streets. Additional bus capacity should be provided by the project, since it generates a significant amount of daily transit trips in all directions.
12. Comment 12 – Page 196 – The Traffic Study specifies that the applicant or its successor will fund a LADOT neighborhood traffic management plan in a manner to be determined. This is very vague and non-specific and the amount of \$300,000 has been mentioned but it is unclear what this will provide. The areas identified for traffic calming techniques have been identified but no specific costs have been given for specific projects. Given the size of the potential neighborhood intrusion impacts will the \$300,000 be sufficient to reduce neighborhood traffic impacts?

13. Comment 13 – Page 208 – Construction mitigation measures are very general and vague and a more specific plan is needed and should have more details on what will be done to reduce traffic impacts to the surrounding communities.
  
14. Comment 14 – Pages 213-216 – Alternate 2 through 4 would significantly reduce traffic impacts. These alternatives would have fewer residual traffic impacts. The City should consider those lower impact alternatives because of the significant unavoidable impacts of the proposed project.

### Conclusions

RK Engineering Group, Inc. has reviewed the Traffic Impact Analysis for the Baldwin Hills Crenshaw Plaza Redevelopment Project. This has included a review of the Transportation section of the environmental impact report, the LADOT transportation review report, the LADOT Scoping Agreement and Traffic Impact Analysis for the Project. Based upon this review, there are a number of traffic and parking related issues identified that need to be addressed prior to this Project being considered. Those include the older traffic counts utilized in the Traffic Study, the Parking proposed for the project will be insufficient to meet peak parking demand and does not provide an “overage” factor to reduce patrons need to find a parking space, the need for the project to provide additional transit mitigation in an east/west direction. Finally, the City should consider a reduced level of project such as alternatives 2-4 as identified in the Traffic Study, since they will generate significantly fewer project trips and create less traffic impacts.

RK appreciates this opportunity to work with Strumwasser & Woocher, LLP, upon reviewing the proposed redevelopment of the Baldwin Hills Crenshaw Plaza Project. If you have any questions, please give me a call at 949 474-0809.

Sincerely,



Robert Kahn, P.E.  
Founding Principal

Registered Civil Engineer 20285  
Registered Traffic Engineer 0555