

# MASTER APPEAL FORM

**ORIGINAL**

City of Los Angeles – Department of City Planning

**APPEAL TO THE:** City Council  
(DIRECTOR, AREA PLANNING COMMISSION, CITY PLANNING COMMISSION, CITY COUNCIL)

**REGARDING CASE #:** APCS-2013-4102-SPE-DRB-SPP-SPR and CEQA:ENV-2013-4103-MND

**PROJECT ADDRESS:** 378<sup>2</sup> W. Martin Luther King Jr. Boulevard, 4055-4081 S. Marlon Avenue

**FINAL DATE TO APPEAL:** September 17, 2014

- TYPE OF APPEAL:**
- Appeal by Applicant
  - Appeal by a person, other than the applicant, claiming to be aggrieved
  - Appeal by applicant or aggrieved person from a determination made by the Department of Building and Safety

**APPELLANT INFORMATION** – Please print clearly

Name: MLK Marlon, LLC Frederick H. Leeds

- Are you filing for yourself or on behalf of another party, organization or company?
- Self       Other: \_\_\_\_\_

Address: 1640 S. Sepulveda Blvd., Suite 320  
Los Angeles, CA      Zip: 90025

Telephone: (310) 405-7600      E-mail: fredleeds@fredleedsproperties.com

- Are you filing to support the original applicant's position?
- Yes       No

**REPRESENTATIVE INFORMATION**

Name: John A. Henning, Jr., Attorney at Law

Address: 125 N. Sweetzer Ave.  
Los Angeles, CA      Zip: 90048

Telephone: (323) 655-6171      E-mail: jhenning@planninglawgroup.com

This application is to be used for any appeals authorized by the Los Angeles Municipal Code for discretionary actions administered by the Department of City Planning.

*FHV*

**JUSTIFICATION/REASON FOR APPEALING** – Please provide on separate sheet.

Are you appealing the entire decision or parts of it?

Entire

Part

Your justification/reason must state:

- The reasons for the appeal
- How you are aggrieved by the decision
- Specifically the points at issue
- Why you believe the decision-maker erred or abused their discretion

**ADDITIONAL INFORMATION/REQUIREMENTS**

- Eight (8) copies of the following documents are required (1 original and 7 duplicates):
  - Master Appeal Form
  - Justification/Reason for Appealing document
  - Original Determination Letter
- Original applicants must provide the original receipt required to calculate 85% filing fee.
- Original applicants must pay mailing fees to BTC and submit copy of receipt.
- Applicants filing per 12.26 K "Appeals from Building Department Determinations" are considered original applicants and must provide notice per 12.26 K 7.
- Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the City (Area) Planning Commission must be filed within 10 days of the written determination of the Commission.
- A CEQA document can only be appealed if a non-elected decision-making body (i.e. ZA, APC, CPC, etc...) makes a determination for a project that is not further appealable.

*"If a nonelected decision-making body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decision-making body, if any."*

--CA Public Resources Code § 21151 (c)

attorney for appellant  
John Henning, Jr. Attorney at Law

I certify that the statements contained in this application are complete and true:

MLK Marlton, LLC

Appellant Signature: \_\_\_\_\_

By: Frederick H. Leeds  
Its: Managing Member

Date: \_\_\_\_\_

9-11-14

*Planning Staff Use Only*

Amount \$106.80	Reviewed and Accepted by MNGUYEN	Date 09/12/14
Receipt No. 19308	Deemed Complete by	Date



Determination Authority Notified



Original Receipt and BTC Receipt (if original applicant)

**Justification/Reason for Appealing**  
**Appeal to City Council**  
**Case No. APCS-2013-4102-SPE-DRB-SPP-SPR / ENV-2013-4103-MND**

The within appeal is filed on the ground that the South Los Angeles Area Planning Commission (“SLAAPC”) erred and abused its discretion by approving the project and accepting the mitigated negative declaration (“MND”) as the environmental review for the project.

Appellant MLK Marlton LLC is aggrieved by the decision because it is the owner of two parcels that are less than 200 feet from the Project site and is directly affected by the proposed development, and because it is a property owner and taxpayer and in the City of Los Angeles and as such is entitled to the full enforcement by the City of both local zoning laws and the California Environmental Quality Act.

The points at issue are fully described in the attached letters to the SLAAPC dated August 12, 2014, and August 15, 2014, respectively. The SLAAPC ignored these points in its deliberations, with the exception of the objections made to the requested Specific Plan Exception for fence height, which were sustained. Moreover, subsequent to these two letters no additional evidence was submitted by the applicant or anyone else sufficient to support the various approvals and findings made by the SLAAPC. Thus, it is unnecessary to prepare additional correspondence to the City Council in the context of this appeal.

The decision maker erred and/or abused its discretion because (1) the project violates the City’s zoning code; (2) an Environmental Impact Report should have been prepared instead of an MND; (3) the various approvals are not supported by adequate findings; and (4) the findings are not supported by substantial evidence in the record.

Office: Downtown  
**Applicant Copy**  
 Application Invoice No: 19308

City of Los Angeles  
 Department of City Planning



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### City Planning Request

NOTICE: The staff of the Planning Department will analyze your request and accord the same full and impartial consideration to your application, regardless of whether or not you obtain the services of anyone to represent you.

This filing fee is required by Chapter 1, Article 9, L.A.M.C.

Applicant: MLK MARLTON, LLC - LEEDS, FEDERICK H. ( B:310-4057600 )
Representative: HENNING JR., JOHN A. ( B:323-6556171 )
Project Address: 4055 S MARLTON AVE, 90008

**NOTES: APPEAL OF ENTIRE DETERMINATION BY AN AGGRIEVED PARTY**

APCS-2013-4102-SPE-DRB-SPP-SPR-1A			
Item	Fee	%	Charged Fee
Appeal by Aggrieved Parties Other than the Original Applicant *	\$89.00	100%	\$89.00
<b>Case Total</b>			<b>\$89.00</b>

Item	Charged Fee
*Fees Subject to Surcharges	\$89.00
Fees Not Subject to Surcharges	\$0.00
<b>Plan &amp; Land Use Fees Total</b>	<b>\$89.00</b>
<b>Expediting Fee</b>	<b>\$0.00</b>
<b>OSS Surcharge (2%)</b>	<b>\$1.78</b>
<b>Development Surcharge (6%)</b>	<b>\$5.34</b>
<b>Operating Surcharge (7%)</b>	<b>\$6.23</b>
<b>General Plan Maintenance Surcharge (5%)</b>	<b>\$4.45</b>
<b>Grand Total</b>	<b>\$106.80</b>
<b>Total Invoice</b>	<b>\$106.80</b>
<b>Total Overpayment Amount</b>	<b>\$0.00</b>
<b>Total Paid</b> (this amount must equal the sum of all checks)	<b>\$106.80</b>

LA Department of Building and Safety  
 LA 0006 102044307 9/12/2014 2:09:18 PM

PLAN & LAND USE \$106.80  
 Sub Total: \$106.80

Receipt #: 0102345463

Council District: 8  
 Plan Area: West Adams - Baldwin Hills - Leimert  
 Processed by RODRIGUEZ, ANDRES on 09/12/2014  
 Signature:



LA Department of Building and Safety  
 LA 0006 102044307 9/12/2014 2:09:18 PM  
 PLAN & LAND USE \$106.80  
 Sub Total: \$106.80

Receipt #: 0102345463

**JOHN A. HENNING, JR.**  
ATTORNEY AT LAW  
125 N. SWEETZER AVENUE  
LOS ANGELES, CALIFORNIA 90048

TELEPHONE: (323) 655-6171  
E-MAIL: jhenning@planninglawgroup.com

August 12, 2014

**VIA HAND DELIVERY**

South Los Angeles Area Planning Commission  
c/o James Williams, Commission Secretary  
City of Los Angeles  
200 N. Spring St., Room 272  
Los Angeles, CA 90012

Re: Case No. APCS-2013-4102-SPE-DRB-SPP-SPR / ENV-2013-4103-MND  
(3780 W. Martin Luther King Jr. Boulevard and 4055-4081 S. Marlton Avenue)  
(South Los Angeles Area Planning Commission Meeting Date: August 19, 2014)

Honorable Commissioners:

I represent MLK Marlton LLC ("MLK Marlton"), which owns the parcels at 3710 and 3718 Martin Luther King Jr. Boulevard and which opposes the above-referenced project (the "Project") proposed by Kaiser Foundation Health Plan, Inc. ("Kaiser"). The Project is scheduled for a hearing before your commission on August 19, 2014.

My client opposes this project on the ground that it violates the City's zoning ordinance and the Crenshaw Corridor Specific plan, and because it would inject a soulless, inward-facing and completely gated institutional use into the middle of a densely populated residential area. In addition, my client strenuously objects to the use of a Mitigated Negative Declaration as the environmental review for the Project. Instead, because there is a fair argument of numerous significant impacts in a host of impact categories, the City should prepare an Environmental Impact Report ("EIR") pursuant to the California Environmental Quality Act (CEQA).

Honorable Commissioners  
August 12, 2014  
Page 2

My client initially wrote to the Commission's hearing officer, Michelle Singh, on July 17, 2014, explaining why the Project should be denied and why an EIR should be prepared. In our July 17 letter, we focused especially on uncontroverted evidence that the Project site is subject to a Declaration of Restrictions ("Declaration") requiring that a substantial part of the site be used only for parking and vehicular access to benefit MLK Marlton and others.

On July 18, 2014, Ms. Singh conducted a public hearing regarding the Project. At the hearing, Kaiser's counsel, Paul Rohrer of Loeb & Loeb LLP, appeared on behalf of Kaiser, and asserted various grounds for the City to ignore the Declaration. Subsequently, Mr. Rohrer wrote a letter to Ms. Singh dated July 25, 2014, in which he elaborated on these and other arguments. Also on July 25, Kaiser's environmental consultant, Shane Parker of Parker Environmental Consultants, wrote a 61-page letter to Ms. Singh responding to the various points made in our July 17 letter.

Neither of Kaiser's letters adequately rebuts my client's arguments for denial of the Project, or its contention that there is substantial evidence supporting a fair argument that a significant environmental impact exists, requiring preparation of an EIR. To the contrary, by tying themselves into knots with convoluted rationales, the letter writers each illustrate that there is a spirited dispute on virtually every count, and especially with regard to parking and access. These disputes must be resolved by an EIR, not by an exchange of letters that is invisible to the public.

Mr. Rohrer, the lawyer, uses what is essentially magical thinking to explain away the existence of a restrictive covenant that is recorded against the title of a substantial portion of the subject property, and which specifies that the property must be used only for parking and access, not for buildings and a private "park". Leaving aside the merits of Mr. Rohrer's arguments, at the outset the Department of City Planning must understand its limits here. The Department is simply in no position to accept the unproven and self-serving legal opinions of an applicant's lawyer, in the face of a recorded document to the contrary. The fact is that the covenant exists, Kaiser does not dispute its existence, and neither Mr. Rohrer nor the applicant has ever gone to court to obtain a declaration that the covenant is extinguished. Thus, for purposes of both the "fair argument" standard and the underlying permits, the City must assume that the covenant is not extinguished.

Mr. Parker, the environmental consultant, also does not explain in his letter why a "fair argument" of a significant environmental impact cannot be made here. The letter reads like an advocacy piece from Kaiser's public relations machine. In a desperate attempt to "plug every hole" in the MND and thereby avoid any further environmental review of this project, Mr. Parker repeatedly resorts to circular reasoning and injects new "factual" allegations that were never considered in the MND. He also misinterprets the law. He parrots Mr. Rohrer's convoluted

legal opinion about the restrictive covenant as though it were gospel, rather than being one lawyer's opinion of a disputed matter.

My client's real estate counsel, Geoff Gold of Ervin Cohen & Jessup, has responded to Mr. Rohrer's arguments in more detail in his letter dated August 12, 2014, which is submitted concurrently with the within letter. In sum, Mr. Gold establishes that the Declaration is on its face fully in effect and fully enforceable by MLK Marlton, and that even if it weren't fully enforceable MLK Marlton has acquired an easement by implication, an easement by prescription, or both across the parking and access. As a result, the Project either (a) utterly lacks the minimum on-site parking required by the zoning code; or (b) will effectively deprive the other property owners in the Plaza, and their employees and customers, of the parking and access to which they are legally entitled and that they presently enjoy and have come to rely upon. In either event, the Project requires the preparation of an EIR, because there is at least a fair argument that the parking effects of the Project will constitute significant impacts on the environment.

I will address the points made by Mr. Parker below, in the context of a complete description of the project and our various arguments. In addition, we have attached as Exhibits 2 and 3 the affidavits of Johnny Edwards and Fred Leeds, respectively. These affidavits reflect the essence of their testimony at the July 18 public hearing as well as additional evidence sufficient to support a fair argument that the Project would have a significant impact on the environment.<sup>1</sup>

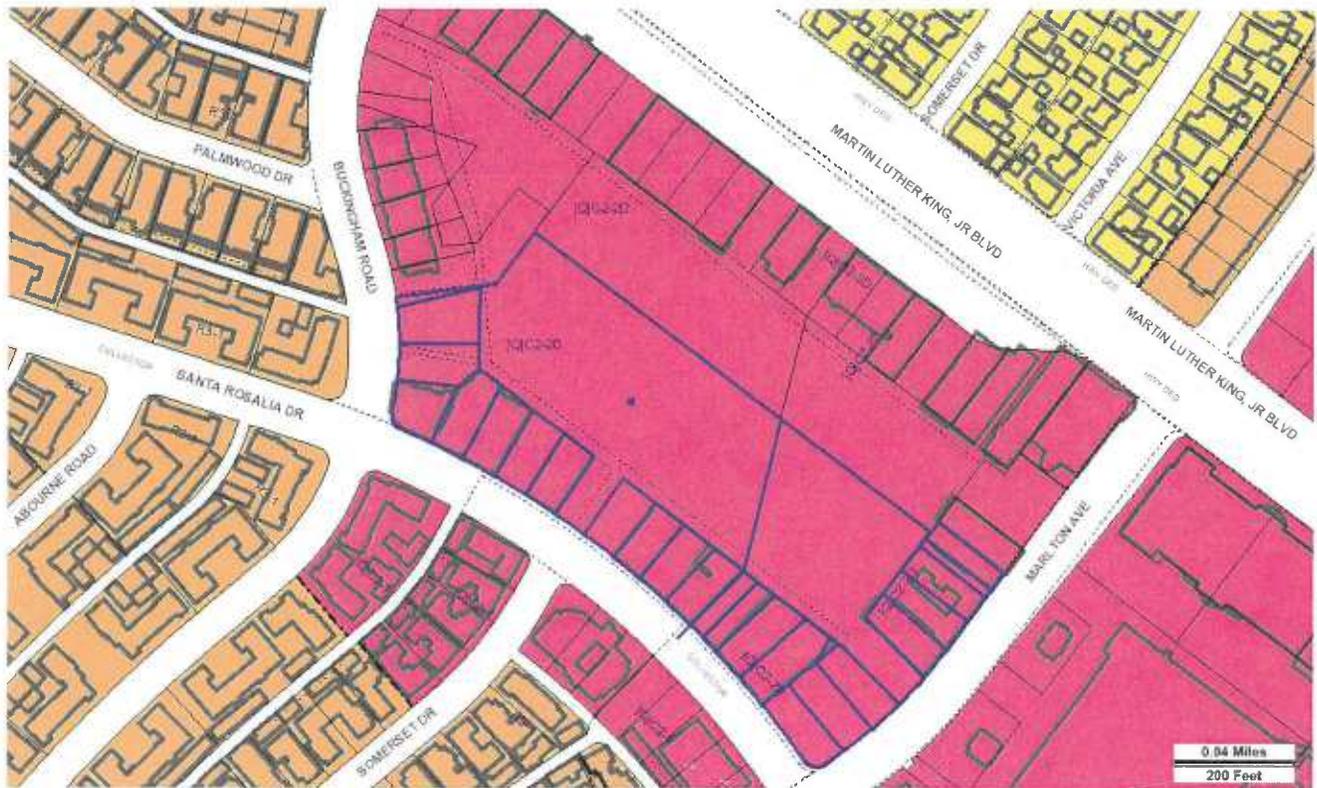
For the Commission's convenience, the new material responsive to Mr. Parker's letter will be highlighted in yellow.

**A. Project Area.**

The Project is an enormous 105,000 square foot outpatient medical facility on a larger commercially-zoned "superblock" bounded by Martin Luther King Jr. Boulevard to the north, Marlton Avenue to the east, Santa Rosalia Drive to the south and Buckingham Road to the west. This block was once known as Santa Barbara Plaza, and from the early 1950s until the commencement of redevelopment in the late 1990s, it housed more than 250 individual local-serving businesses located on approximately 50 separate parcels. In more recent years, the entire block has been referred to as Marlton Square.

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<sup>1</sup> The attached affidavits are unsigned; original signed affidavits will be presented to the Commission on or before the Commission's meeting on August 19, 2014.



### **Neighborhood Context (From ZIMAS)**

The site is surrounded on all sides by stable, historically African-American residential neighborhoods, churches and other small-scale commercial uses. The nearby residential uses include (1) a large senior housing facility on Buckingham Road, immediately adjacent to the site; (2) several hundred multi-family residences (zoned R-3) across Buckingham Road and Santa Rosalia Drive to the west and southwest (zoned R-3); and (3) a single family neighborhood across Martin Luther King, Jr. Blvd. to the northeast. As evidenced by the mailing labels supplied by the applicant, more than 1000 individual residences are within a 500 foot radius from the Project. Many of these residential neighbors are less than 100 feet away from the Project boundary. My client's principals and their related entities own more than 30 buildings with over 500 residential apartments in close proximity to the site.



LEGEND		Project Site	Access Easement	Commercial Property/Zone	Residential Property/Zone
① Multi-family Housing 4108 Buckingham Rd. 3920 Santa Rosalia Dr.	⑤ Multi-Family Housing 3790 Santa Rosalia Dr 4106-4112 Marlton Ave..	⑩ The Oran Z Pan African Black Facts and Wax Museum 3738 MLK Jr. Blvd.	⑮ Valero Gas Station 3930-3950 MLK Jr. Blvd.	⑲ Multi-Family Housing 4043 Buckingham Rd.	
② Multi-family Housing 3904-3908 Santa Rosalia Dr. 4101-4104 Somerset Dr.	⑥ Baldwin Hills Crenshaw Plaza 3650 MLK Jr. Blvd.	⑪ Baldwin Plaza Villas Senior Housing 3939 Marlton Ave.	⑯ Multi-Family Housing 4001 Palmyra Rd.	⑳ Multi-Family Housing 4053 Buckingham Rd.	
③ Bethlehem Church of God Holiness 3850 Santa Rosalia Dr.	⑦ Vacant Building 3710 MLK Jr. Blvd.	⑫ Single-Family Residential	⑰ Multi-Family Housing 4000 Palmyra Rd.	㉑ Multi-Family Housing 4069 Buckingham Rd. 4007-4011 Santa Rosalia Dr.	
④ YMCA 3820 Santa Rosalia Dr.	⑧ African Book Club & Tame Salon 3718 MLK Jr. Blvd.	⑬ Demolished/Vacant 3850-3900 MLK Jr. Blvd.	⑱ Buckingham Place Senior Housing 4042 Buckingham Rd.	㉒ Multi-Family Housing 4107 Buckingham Rd.	
	⑨ The Flying Fox Restaurant 3726 MLK Jr. Blvd.	⑭ Vacant Office Building 391.6 MLK Jr. Blvd.			



Figure II-7  
 Surrounding Land Use Map

**Surrounding Land Use Map (MND, Figure II-7)**



28. View of adjacent senior housing development, easterly facing from Buckingham Road.



25. View of neighboring properties across Santa Rosalia Drive and Buckingham Road, southwesterly facing.

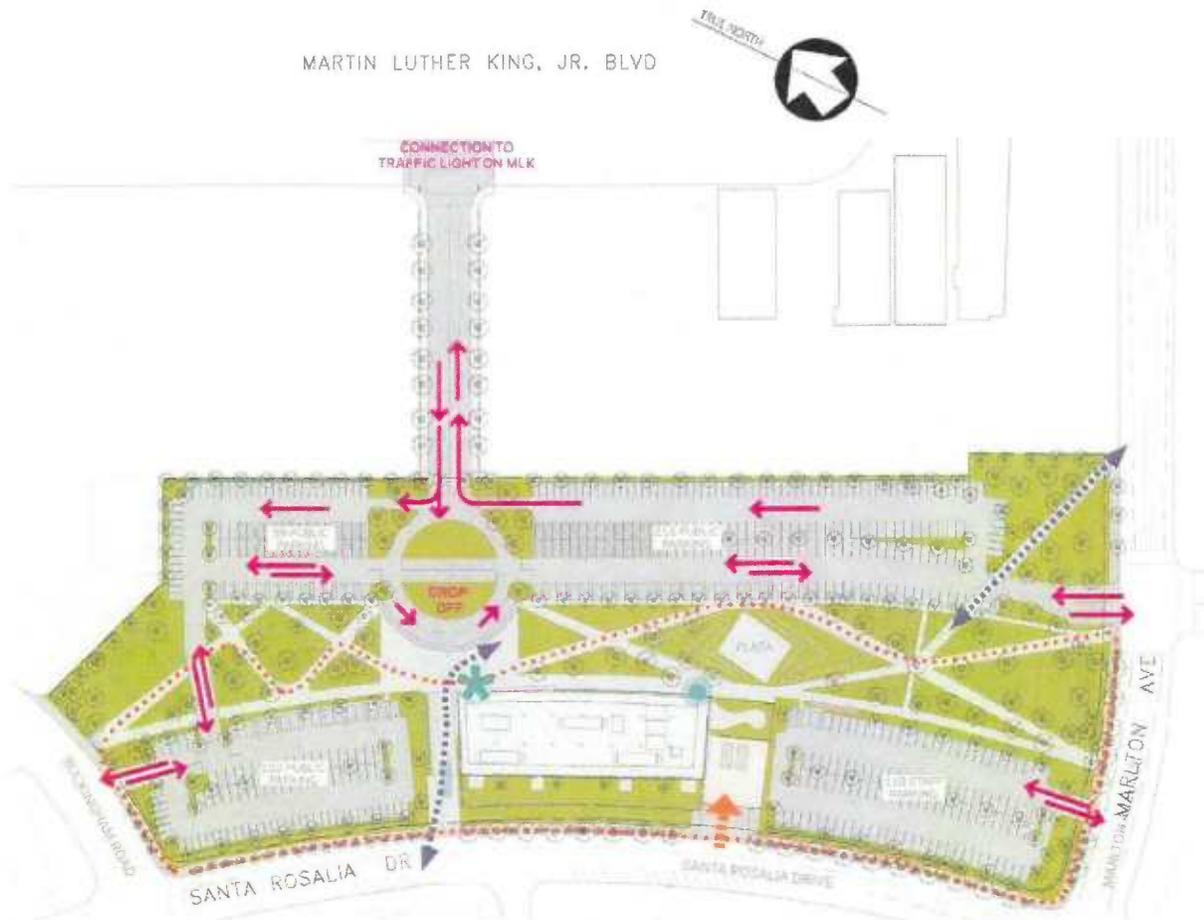


26. View of neighboring property across Buckingham Road from the subject site, southwesterly facing.

**Residential Properties Less than 100 Feet From Project  
(from Applicant's Site Photo Exhibit)**

**B. Project Description.**

The applicant proposes to construct a four-story, approximately 60 feet in height, 105,000 square foot outpatient medical facility on a parcel 8.65 acres in size. Solar panels on the roof would raise the height by an additional 11 feet, to 71 feet. There would be 525 surface parking spaces in four separate parking lots. Two of these would be behind the medical building, and two of which would be alongside the building and directly adjacent to Santa Rosalia Drive. Project vehicles would take their access from five separate driveways. The primary access would be to Martin Luther King, Jr., Boulevard, via an existing access easement located on adjacent property. Secondary access would be taken through three on-site driveways, one on Buckingham Road and two on Marlton Avenue. A fifth driveway to Santa Rosalia Drive would provide access only to service vehicles. The Project would alter, enclose and make private three existing access points to the parking area reserved for property owners on Marlton Square.



**Site Access points (from Site Plan)**

**C. Project Approvals Requested.**

The applicant seeks the following project approvals:

1. Adoption of the Mitigated Negative Declaration (Case No. ENV-2013-4103-MND).
2. Pursuant to Section 16.05 of the LAMC, Site Plan Review for a development which creates more than 50,000 gross square feet of floor area;
3. Pursuant to Section 11.5.7.F.1 (f) of the Municipal Code, a Specific Plan Exception from Design Standards of the Crenshaw Corridor Specific Plan, as follows:
  - a. An exception from section 14c and Design Standard 11i of the Crenshaw Corridor Specific Plan Design Guidelines and Standards Manual to allow two surface parking lots to be located on the sides of the structure, fronting along Santa Rosalia Drive and portions of Marlton Avenue and Buckingham Road; and
  - b. An exception from section 14c and Design Standard 8a of the Crenshaw Corridor Specific Plan Design Guidelines and Standards Manual to allow a 2'-6" high fence on top of the required 3' – 6" high wall (total 6'-0" high) adjacent to surface parking lots fronting along adjacent streets and a 6'-0" high fence fronting along adjacent streets;
4. Pursuant to Section 11.5.7.C of the Municipal Code, a Project Permit Compliance determining compliance with the applicable regulations of the Crenshaw Corridor Specific Plan.
5. Pursuant to Section 16.50 of the Municipal Code, and Section 14 of the Crenshaw Corridor Specific Plan, a Design Review of the Project with the applicable Crenshaw Corridor Specific Plan Design Guidelines and Standards Manual.

**D. The Project is Built on a Shared Parking and Access Area That the Applicant Does Not Control.**

The entire Project is built on a fallacy, namely, that the applicant has exclusive control over its 8.65 acre site. In fact, more than half of the Project site lies within an area that is shared with numerous other private property owners, including my client, MLK Marlton, pursuant to a longstanding recorded Declaration of Restrictions that is the equivalent of a mutual parking and access easement.

Given the uncontested legal rights of my client and other property owners in the former Plaza property, the applicant here is attempting to do something that it cannot do under the City's zoning code: To build structures and parking lots on areas which are, in fact, designated by the Declaration for use by third parties, and solely for parking and access/egress to the respective parcels owned by those third parties. For this reason alone, the City cannot approve this Project.

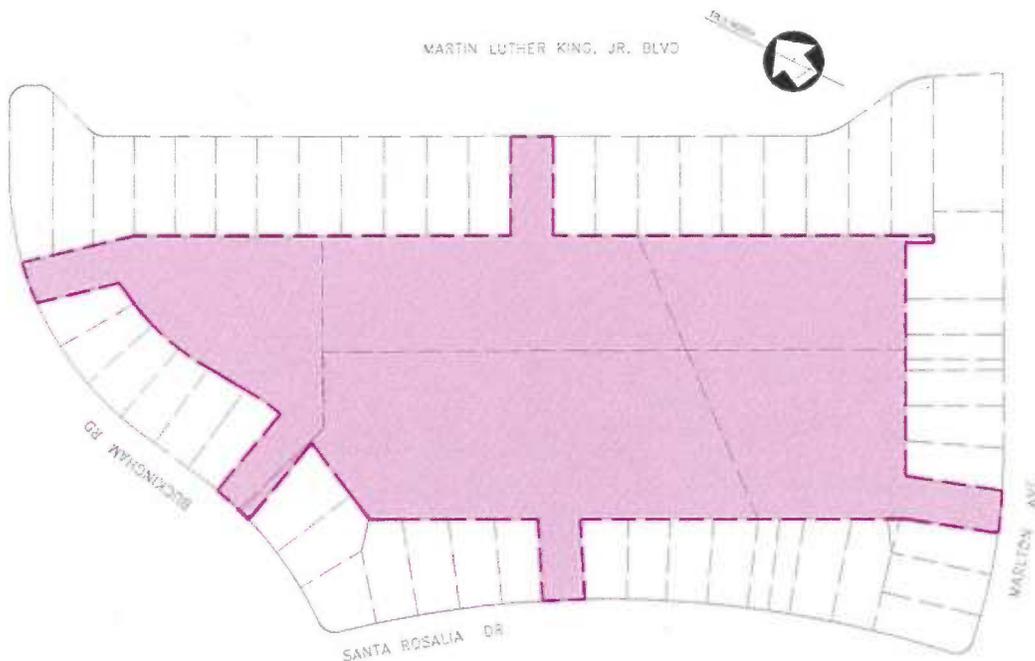
A large percentage of the Project site quite obviously overlaps with a longstanding parking area that has been shared by all of the properties on the perimeter of the superblock on which the site is located. Although subsequent demolition and construction have obscured this fact, a 2001 aerial photo from ZIMAS clearly shows the shared parking area in use as one continuous reservoir containing more than 700 spaces and having several access points, including two driveways that the applicant now wants to have closed as part of the Project.



**Shared Parking Area Overlapping Project Site (2001 photo from ZIMAS)**

This parking area and five of the driveway accesses to it (including the Project’s primary access to Martin Luther King Jr. Blvd.) are all subject to a recorded Declaration of Restrictions dated July 18, 1950, which is attached as Exhibit “1” to this letter. The Declaration was recorded at a time when the superblock on which the Project is proposed to be located was a single, unsubdivided parcel. The main purpose of the Declaration was to enable the owner of that parcel to subject all of the land to specific conditions, restrictions, terms, and covenants prior to subdividing it and selling the individual parcels to various commercial owners. This land later became Santa Barbara Plaza (the “Plaza”), and finally, during redevelopment, was renamed Marlton Square.

The stated purpose of the Declaration is to benefit the respective owners of the Plaza property, and it accordingly contains numerous provisions concerning the development and maintenance of the various properties in a consistent and reasonable manner. However, its primary operative term – Article I of ten distinct articles – is that that the two largest lots in the Plaza (Lots 51 and 52), consisting together of approximately 8 acres in the approximate center of the Plaza and including the five present access driveways to surrounding streets (the “Parking/Access Area”) “shall not be used for any purpose other than the parking of automobile and other vehicles and for the purpose of ingress and egress to other lots in Tract 16050.” For all intents and purposes, this provision established a parking and access easement across the entire Parking/Access Area for the benefit of all of the property owners, which is depicted below.



**Parking/Access Area (Lots 51 and 52) Subject to Recorded Declaration**

In addition to Article I, which restricts the Parking/Access Area solely to use for parking and access, Article VIII of the Declaration refers to the creation and incorporation of an entity called "Santa Barbara-Crenshaw Parking Company" (the "Parking Corporation"). This entity was formed July 19, 1950, the day after the Declaration was recorded. The Declaration clearly contemplated that the parking in the Parking/Access Area would be shared by all properties in the Plaza through the operation of the Parking Corporation, using the following means:

- a. The Parking Corporation would run the Parking/Access Area;
- b. Each property owner at the Plaza would, upon taking title to the property, be deemed to agree automatically to accept shares of stock in the Parking Corporation;
- c. Each property owner would, upon becoming a property owner, be obligated to pay its portion of the cost of operation and maintenance of the Parking/Access Area.

The Parking Corporation did, in fact, operate for many years performing precisely this function. As evidence of this, a subsequent agreement recorded October 17, 1963, by and between the Parking Corporation and one of the property owners at the Plaza, acknowledged that the Parking Corporation was organized for the purpose of acquiring, owning and operating the Parking/Access Area and the entire Parking/Access Area was actually deeded to the Parking Corporation "for the purpose of furnishing parking to certain commercial lots".

As late as 1968, more than 18 years after its creation, the Parking Corporation was still issuing formal stock certificates to property owners in the Plaza property, and as late as 1983, these certificates were still being formally transferred from property owner to property owner using a written instrument. One example of such a certificate and the subsequent transfer to Johnny Edwards, the present owner of the property at 3724 Martin Luther King Jr. Boulevard, are attached to Mr. Edwards' affidavit, which is attached as Exhibit "2" to this letter.

From their subdivision in 1950 until the late 1990s, the approximately 50 separate parcels around the perimeter of the former Santa Barbara Plaza were held in separate ownerships. However, the Plaza fell on hard times during the 1980s, and was targeted for redevelopment. In the late 1990s, the Community Redevelopment Agency of Los Angeles (CRA/LA) began acquiring the various properties using eminent domain, and it ultimately completed this process and demolished most of the structures in the former Plaza. CRA/LA then reassembled some of the properties into a smaller number of parcels, and began selling them off to private owners.

With many of the commercial properties vacant or underutilized in recent years, the Parking Corporation, which was formed to oversee the sharing of parking within the Plaza

property, eventually ceased operating. According to corporate filings obtained from the California Secretary of State, the Parking Corporation was suspended by the California Franchise Tax Board on or about September 4, 2007, presumably for failure to pay taxes. Nonetheless, the legal rights and obligations of the various property owners to use the Parking/Access Area for parking and access survive any suspension of the technical corporate status of the Parking Corporation. Indeed, while not used to its full capacity, the Parking/Access Area has been continuously in use for parking and access, both by my client and by other property owners in the former Plaza, through to the present. My client's representative, Fred Leeds, will testify to this fact at the hearing.

Meanwhile, although 64 years have passed since it was recorded, the Declaration, which restricts the use of the Parking/Access Area only to parking and access for the benefit of the various properties in the former Plaza property, remains fully in effect. The Declaration expressly provides that all of the restrictions contained therein run with the land, do not expire, and bind all present and future owners and their respective successors-in-interest. Further, because the Declaration was recorded, all of the various entities currently holding title to property at the Plaza, including the applicant here, purchased such property subject to the Declaration and are accordingly subject to all of these restrictions and conditions.

Thus, unless and until there is a court ruling to the contrary, for purposes of this Project the City must assume that the Declaration remains effect, and binds the applicant for this Project.

Although all of the owners of parcels located on the former Plaza property have rights to use the Parking/Access Area pursuant to the Declaration, as a result of the acquisition and reassembly of property by CRA/LA the actual ownership of the property underlying that area is presently divided among three separate entities: Kaiser Foundation Health Plan, Inc. (the applicant for this Project); Marlton Recovery Partners LLC, and the City of Los Angeles.

The parcels owned by these entities, and the present ownerships of the remainder of the properties in the former Santa Barbara Plaza, are depicted in the drawing below. Kaiser Foundation Health Plan, Inc., the applicant here, owns the largest of the CRA-assembled parcels, which includes more than half of the Parking/Access Area. That parcel is depicted in shaded blue. Marlton Recovery Partners, LLC, owns most of the remaining Parking/Access Area, including the shared driveway access to Martin Luther King Jr. Boulevard. Its property is depicted in shaded red. The other ownerships include my client, MLK Marlton, LLC, depicted in solid yellow; its immediate neighbor, Johnny B. and Romaine Edwards, depicted in solid red; the City of Los Angeles, which owns the Buckingham Place Senior Apartments property and another portion of the Parking/Access Area, depicted in shaded black; and the Community Redevelopment Agency of Los Angeles (CRA/LA), depicted in shaded green.



My client has formally objected to Kaiser about this violation of its rights under the Declaration and both my client and its neighbor, the Edwards, have recorded the requisite statutory notice of intent to preserve their respective interests in the Parking/Access Area. However, Kaiser has refused to restore access to either my client or the Edwards.

There has already been litigation over the illegal blockage of other portions of the Parking/Access Area by another property owner in the former Plaza property. On November 13, 2013, Marlton Recovery Partners LLC filed a complaint against the CRA/LA and the City (Los Angeles Superior Court Case No. BC527351), claiming that the defendants illegally blocked a portion of the Parking/Access Area with a masonry wall and fence in violation of the Declaration, and seeking a determination that this area must be made available for parking and ingress/egress. This action is now pending and a trial is set for March 9, 2015.

**E. The Project Does Not Have Enough Parking to Satisfy the Zoning Code.**

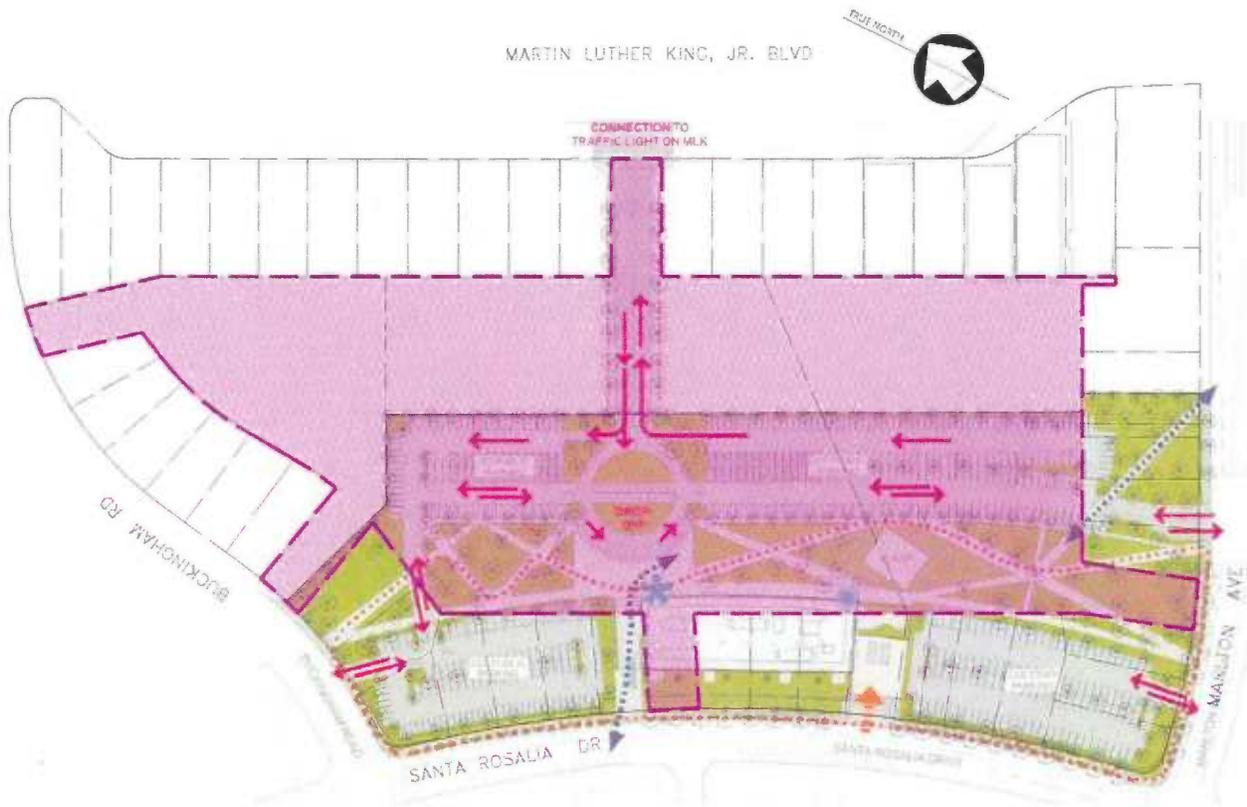
As the MND confirms, the Project has only the precise minimum number of parking spaces required by the zoning code. LAMC section 12.21.A.4 requires 5 parking spaces per 1,000 square feet, and that for 105,000 square feet of development the Project requires a minimum of 525 parking spaces. As reflected by the table below in the MND, the Project provides exactly that number of spaces.

**Table II-2  
 Summary of Required and Proposed Parking Spaces**

Description	Quantity	Parking Required by Code <sup>[a]</sup>		Parking Provided
		Rate	Spaces	
<b>Outpatient Medical Facility</b>				
	105,000 sf	5 spaces per 1,000 sf	525	525
		<b>TOTAL</b>	<b>525</b>	<b>525</b>
<b>Bicycle Parking</b>				
Short-Term Parking	--	1 per 10,000 sf of floor area	10.5	11
Long-Term Parking	--	1 per 5,000 sf of floor area	21	21
		<b>TOTAL</b>	<b>21.5</b>	<b>22</b>
<i>Notes:</i> sf = square feet [a] Parking requirements pursuant to LAMC Section 12.21 A.4. Source: HOK, November 14, 2013.				

**Parking Table from MND (Table II-2)**

Yet as illustrated by the drawing below, which overlays the Parking/Access Area over the Project's site plan, the Project's northern parking area, which consists of 305 (i.e., about 60%) of the total 525 parking spaces provided, lies directly over the Parking/Access Area shared by MLK Marlton and other neighbors. Moreover, a portion of the facility itself is constructed above this shared area, and the structures, parking and landscaping included in the Project completely block two of the driveway accesses presently shared by the other property owners (one to Marlton Ave. and the other to Santa Rosalia Drive), and partially block a third access to Buckingham Road.



### **Parking/Access Area overlaying Site Plan**

Since the two northern parking areas depicted for the Project are in fact subject to an easement pursuant to which other the owners of other properties have the right to park in the same location, the applicant cannot satisfy its minimum code parking requirements by way of parking located in this area. Therefore, the Project violates the zoning ordinance and does not qualify for a Site Plan Review determination. In addition, the lack of minimum code parking also means that the Project's impact on parking has not been mitigated to a level of insignificance, and that there is a fair argument that there will be a significant impact on parking in the neighborhood. Therefore, an EIR should have been prepared.

Kaiser's environmental consultant, Shane Parker, contends that pursuant to a recent amendment to CEQA, parking impacts and aesthetic impacts need not be considered by the City. (See July 18, 2014 letter from Shane Parker to Michelle Singh ("Parker Letter") response to Comment 6.1, at pg. 16.) Specifically, Mr. Parker states that SB 743 (codified as Public Resources Code section 21155.4) statutorily exempts this project from any review of aesthetic or parking impacts. In fact, SB 743 does not apply to this project at all, since the project is neither a "residential, mixed-use residential, or [an] employment center project". Manifestly, this project has no residential component, so it does not qualify as "residential" or "mixed-use residential." In order to qualify as an "employment center" project, a project must meet the definition set forth in Public Resources Code section 21099, including the requirement that it have "a floor area ratio of no less than 0.75." Here, the project's FAR is only .28 to 1, which is far less than 0.75. Therefore, the project does not qualify as an "employment center" project and is not subject to the statutory exemption set forth in section 21155.4.

**F. The Project Deprives Existing Commercial Businesses of the Parking That They Require.**

The applicant proposes to feed its own development aspirations at the expense of every other property owner in the former Plaza, and at the expense of residential and commercial neighbors who experience and relate to the Plaza property on a daily basis.

The more than 700 parking spaces in the shared Parking/Access Area is a resource that was intended to be, and which has historically always been, shared among all of the approximately 50 separate commercial properties surrounding the former Plaza. By privatizing more than half of this parking for a single development, and by eliminating two of the access driveways leading to this parking, the applicant will starve all of the other property owners of their rightful parking and access, thereby impinging not only on their legal rights, but also on the use and future development of their respective properties.

The representative of my client, Fred Leeds, spoke to this issue at the public hearing, and his affidavit to the same effect is attached hereto as Exhibit "3" to this letter. Mr. Leeds testifies that he owns two parcels at the northeastern portion of the former Plaza, both of which are presently used for commercial stores; that these enterprises rely on the parking within the Parking/Access Area; that his immediate neighbor, Johnny B. and Romaine Edwards owns a restaurant that has also long relied on this parking; that he is presently in escrow to buy the Edwards property; that he has a preliminary plan for a new commercial development consisting of between 40,000 and 80,000 square feet to include a sporting goods store and a fitness center on these combined properties, and is awaiting letters of intent from two publicly traded companies to complete this transaction; that the project could require as many as 320 parking spaces under the City of Los Angeles zoning code; and that if he is deprived of full use of the

Parking/Access Area these developments could be jeopardized.

In addition, because the Project deprives all of the other existing businesses and commercial properties located around the perimeter of the Plaza of the parking that is the lifeblood of any commercial enterprise, the Project has the potential to exacerbate the blight and decay already apparent in the Plaza and surrounding commercial areas.

Finally, the injection of a new parking-intensive use into an area with a historic lack of parking would also harm the adjoining residential neighborhoods. In these areas, most of the multi-family buildings date from the 1930s and 1940s, and accordingly they already have far less parking than would normally be required under modern codes. Thus, the residential streets are already clogged with cars, and parking is difficult to find. Any additional parking load imposed by a large new medical facility with inadequate parking, or by other commercial properties on the former Plaza whose parking has been displaced by such a facility, would merely subject these residential neighbors to even more parking strain.

Kaiser's environmental consultant, Mr. Parker, contends that my client "has failed to provide any factual evidence that a lack of parking exists in the Project Area." (See Parker Letter, response to Comment 7.1, at pg. 18.) However, Fred Leeds, the representative of MLK Marlton, has presented evidence of a lack of parking in the residential neighborhood, and his affidavit to the same effect is attached hereto as Exhibit "3" to this letter. Such layperson evidence is sufficient to make a fair argument that there may be a significant impact on the environment under CEQA, and that accordingly an EIR must be prepared. (See *Pocket Protectors, v. City of Sacramento* (2004) 124 Cal. App. 4th 903 ("relevant personal observations by area residents" may be properly considered substantial evidence.) In particular, Mr. Leeds testifies as follows:

- He is familiar with the residential neighborhoods to the south and west of the project, as he owns numerous multi-family residential apartment buildings in this area.
- In his experience the buildings there do not have sufficient off-street parking to meet the needs of the residents and their visitors, and as a result street parking is constantly occupied and difficult to find.
- Any unsatisfied parking demand from the Kaiser project would seriously impact these residential neighborhoods by either depriving residents of a place to park entirely, or at least forcing them to park far from their residents and walk home, including late at night.

- o Many of his tenants are women and elderly people who are subject to be the targets of opportunistic crimes such as robbery or assault if they are forced to park far from their homes, especially at night.

**G. An Exception Should Not be Granted From the Specific Plan Design Standard Requiring Parking Lots to Be at the Rear of Buildings.**

The Project seeks two Specific Plan Exceptions from section 14c of the Crenshaw Corridor Specific Plan, which provides for compliance with the Crenshaw Corridor Specific Plan Design Guidelines and Standards Manual. Neither of these exceptions should be granted.

The first requested exception is from Design Standard 11i, which provides:

**Design Standard 11i.** Surface parking lots, parking structures, garages and carports shall always be to the rear of the buildings.

Under the requested exception, two large parking lots on the south side of the property would be placed directly adjoining public streets, adjoining the medical facility and in the front yard of the property. This would create two classic “dead zones,” each more than 500 feet in length, of the type that is universally frowned upon by the city planning profession. It would also permanently deprive the densely populated residential neighborhoods to the south and west of the Project of any meaningful relationship with the commercial property in the former Plaza akin to the relationship that it historically enjoyed for almost 50 years until the CRA took over the property and began demolishing structures in the 1990s.

The application presents a series of rationales purportedly supporting the grant of the requested exception. None of these rationales support the mandatory findings for a specific plan exception as set forth in L.A.M.C. section 11.5.7.F. These mandatory findings include:

- (a) That the strict application of the regulations of the specific plan to the subject property would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the specific plan;
- (b) That there are exceptional circumstances or conditions applicable to the subject property involved or to the intended use of development of the subject property that do not apply generally to other property in the specific plan area.
- (c) That an exception from the specific plan is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other

- property within the specific plan area in the same zone and vicinity but which, because of special circumstances and practical difficulties or unnecessary hardships is denied to the property in question.
- (d) That the granting of an exception will not be detrimental to the public welfare or injurious to the property or improvements adjacent to or in the vicinity of the subject property.
  - (e) That the granting of the exception will be consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan.

The applicant does not present even a single “practical difficulty,” “unnecessary hardship,” “exceptional circumstance,” or “special circumstance” warranting an exception to Design Standard 11i. Instead, the applicant recites a series of vague policy reasons to grant the exception. The MND itself states the rationale this way:

“Due to the unique size and shape of the Project Site, the utilization of only 18 percent of the allowable FAR for development, and the proposed configuration of a central open space plaza providing public access through the Project Site, the proposed Specific Plan Exception is a necessary and reasonable request. The placement of the surface parking lots along the sides of the structure will allow parking stalls to be located at a shorter distance to the buildings entrances, which is necessary for visitors and patients accessing the outpatient medical facility. The Plan layout will also allow for a central open space plaza, which will provide a unique community benefit by facilitating pedestrian traffic through the site and providing a large centralized open space area to be utilized for passive social and community events. The configuration of the open space Plaza will also provide walking and jogging areas, areas of respite with seating, and a pedestrian oriented garden that is expected to serve the needs of medical office staff, patients and visitors at the site. Therefore, with approval of the Exception from the Specific Plan Design Guidelines the Proposed Project would have a less than significant impact upon a City-designated scenic highway.”

Elsewhere the application (Attachment B to Master Land Use Application) states the rationale for an exception to Design Standard 11i as follows:

The practical difficulties and hardships in locating all of the parking to the rear are related to the large size of the site, its three street frontages to the front and sides of the building, and no street or alley to the rear of the building. Another practical difficulty is that medical clinics and offices require significantly more parking than other commercial uses.

These rationales are not sufficient to justify an exception from the specific plan. First, it is not a “practical difficulty” or “hardship” that a medical clinic/office structure requires more parking than other uses. It is the applicant’s decision, voluntarily made, to use the site for this purpose, and to build a structure of this size. The property could as easily be developed with a use and/or structure size that would require less parking and allow all of the parking to be provided behind the building.

Second, the existence of three street frontages and the fact that the Project site is of a “unique size and shape” does not preclude placing parking to the rear of the structure. To the contrary, as the applicant repeatedly emphasizes throughout the application, this is an 8.65 acre site with ample room to buffer parking from adjacent residential areas. It is the applicant that has chosen, for its own reasons, to push the parking lots directly up against the street.

Third, the fact that there is no street or alley to the rear of the building has no bearing on the need to place parking lots adjacent to the street frontages. As the applicant has pointed out, there are five separate access points for this project, leading from all directions, and the primary access point at Martin Luther King Jr. Boulevard leads through an access easement directly to the rear of the property. It is difficult to conceive of a situation with better access to parking at the rear of the property.

Fourth, the provision of a purported offsetting “community benefit” of “a large centralized open space area to be utilized for passive and social and community events” does not warrant a deviation from the requirement. The large centralized open space area touted by the applicant is, in fact, completely fenced off and privatized for use solely by the staff, patients and visitors to the Kaiser development. Design Standard 11i, in contrast, is designed to ensure that the Project relates properly and directly to the street and nearby land uses, and that it retains a human scale, rather than being separated by a soulless parking lot.

Mr. Parker’s letter attempts to buttress Kaiser’s request for an exception from the Specific Plan requirement to place parking lots at the rear of buildings, by making a series of specious arguments about the purported community benefits from the open space to be provided, the “abundant landscaping and design elements” and the “thoughtfully designed building.” (Parker Letter, response to comment 8.1, at pg. 21-23.) These contentions, taken collectively, do not

even come close to meeting the stringent findings necessary to grant such an exception, which have little to do with the purported benefits of a project. Moreover, they are not even good reasons for the City to exercise its discretionary authority in this case.

Mr. Parker begins by implying that this private, gated “open space” is the equivalent of a public park, because Kaiser intends to offer health classes to the community and “host local artists and musicians.” However, this is anything but a public park: When Kaiser’s “park” is closed, which is to say after 7 p.m. weekdays and all day on Sundays, there is no access whatsoever. When the park is open, Kaiser completely controls access, even if such access is not literally gated – just as the Grove or Century City shopping centers are controlled by their respective owners. On this unequivocally private property, Kaiser has the right to eject any person at any time, and for any reason.

Next, in an apparent attempt to establish that there is a “special circumstance” and/or an “exceptional circumstance” unique to this property that would justify an exception from the Specific Plan, Mr. Parker ironically declares that since the site is unusually large – encompassing many formerly individual commercial lots – it is thus “special” or “exceptional”. This contention turns the entire purpose of an exception on its head. Exceptions are generally granted to parcels that are unusually small, which make them harder to develop without such relief. Obviously, the larger a parcel is, the less difficult it is to accommodate a design that strictly meets the relevant planning documents. Clearly here, with 8.65 flat acres to maneuver in, Kaiser could easily have proposed a project that would require no exceptions whatsoever. Since they could easily have done so, they must do so.

Mr. Parker also appears to argue that complying with the Specific Plan would present some sort of “hardship” sufficient to meet one of the necessary findings for an exception. First, he says that Kaiser would have to sacrifice its private open space in order to place parking lots behind the building. He does not explain why such open space cannot be placed exactly where the parking lots are now planned, and to better effect for purposes of relating to the street. Second, he says that Kaiser would not be able to “provid[e] the proposed large circular pick-up and drop-off area for members who are too ill or physically unable to drive themselves” and that “the linear stacking of parking” behind the building would make it impossible to “provide abundant ease of access handicap stalls proximate to building entrances.” However, Mr. Parker is no architect, and Kaiser’s architect is utterly silent on both of these points. The fact is, with 8.65 acres to work with Kaiser could easily have built a more linear building (or multiple buildings) facing Santa Rosalia, with plenty of parking behind it, and plenty of room for handicap stalls immediately adjoining the building, and a circular drop-off. The failure to design the Project in this way is a self-imposed “hardship” that is simply not recognized by law.

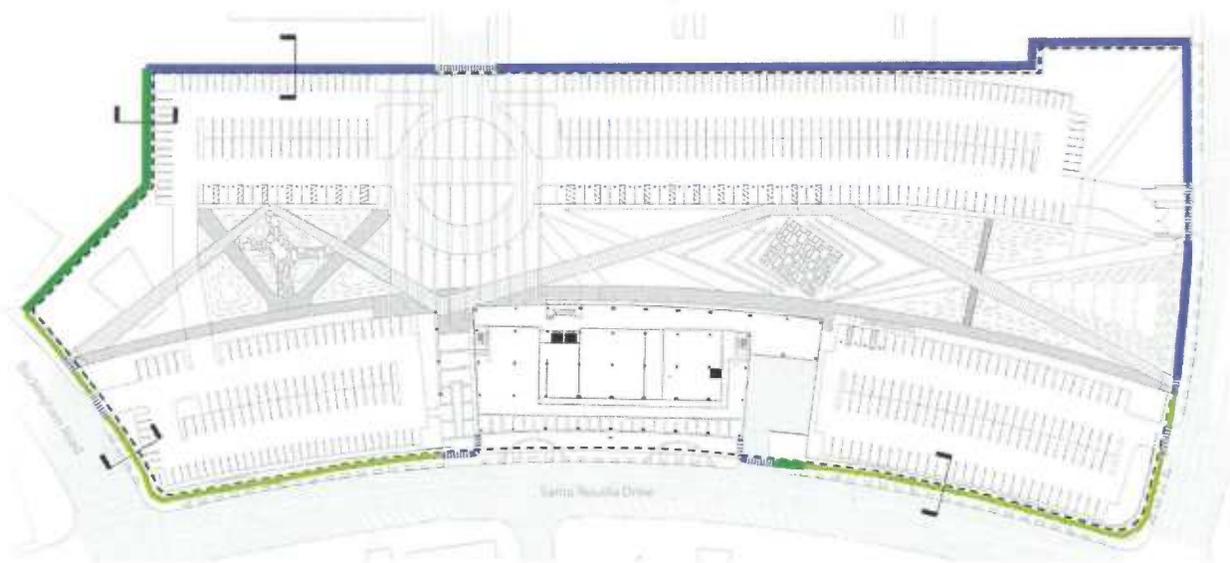
Therefore, no exception to Design Standard 11i should be granted.

H. **An Exception Should Not be Granted From the Specific Plan Design Standard Requiring Walls Visible From a Public Street to Be a Maximum of 4 Feet in Height.**

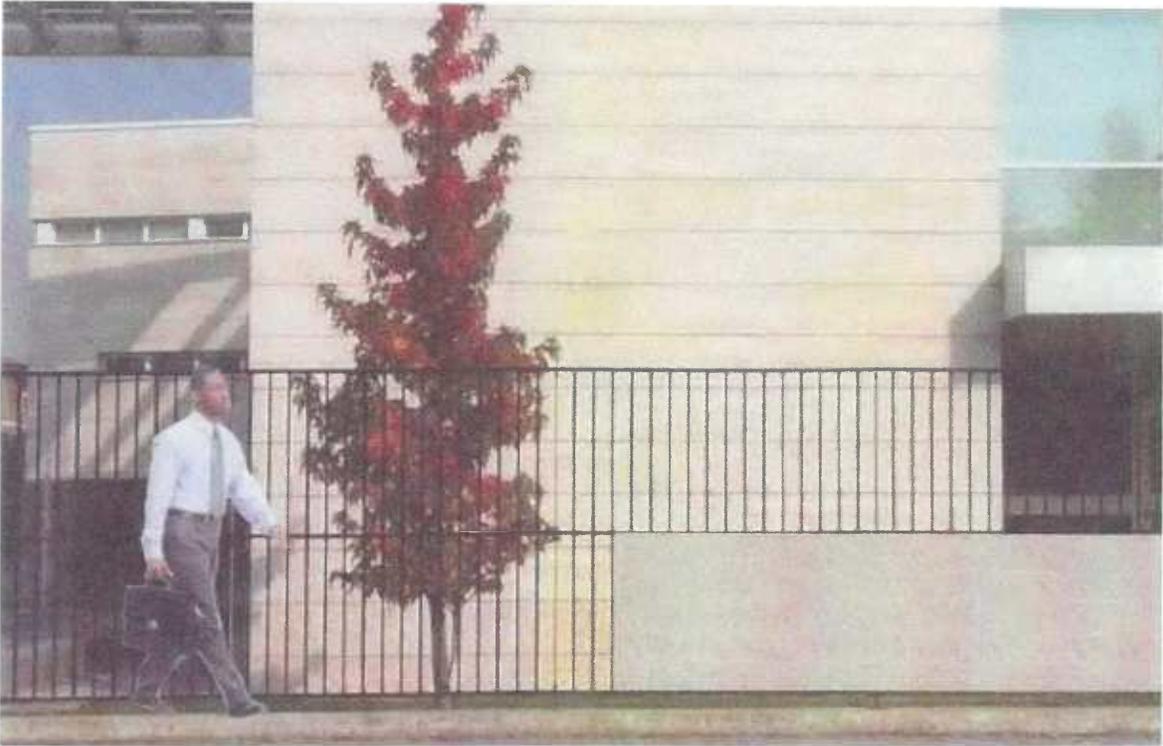
The second requested exception is from Design Standard 8a, which provides:

**Design Standard 8a.** Freestanding walls located parallel to and visible from a public street should provide a minimum three-foot wide landscaped buffer for the length of the wall adjacent to that public street, with a maximum height of four feet. The landscaped buffer should contain clinging vines, oleander trees or similar vegetation capable of covering or screening the length of such wall, and should include the installation of an automatic irrigation system. Chain-link, barbed-wire and wrought iron are not permitted. (Figure F.1)

Under the exception, the Project would essentially eviscerate Design Standard 8a. Instead of a modest, attractive wall up to 4 feet in height, the entire property would be encircled almost at the property line with either 6 foot high fences or, in areas where parking lots are located, by 6-foot fence/wall combinations. In total, there would be more than 2500 feet – almost ½ mile – of linear fencing or wall-fencing, completely sealing off the vast majority of the property from the adjoining public street and creating a “caged-in” appearance for the entire project.



**Perimeter Wall Plan (MND, Figure II-20)**



**Typical perimeter fences and fences/walls (from application)**



**Typical perimeter fence and entry gate (from application)**

The application attempts to justify this perimeter fencing, using benign descriptions about its “visual lightness” and “architectural interest” and characterizing it as consisting of “rectangular aluminum slats” with “no horizontal bar elements.” (See memorandum in file from Donna Tripp to Michelle Singh dated June 11, 2014.) In fact, the proposed fence is in most respects indistinguishable in appearance from a wrought iron fence, is to a large degree less transparent than a wrought iron fence, and thus directly contravenes both the letter and the intent of Design Standard 8a.

As with the other requested exception from the Specific Plan, the applicant does not present even a single “practical difficulty,” “unnecessary hardship,” “exceptional circumstance,” or “special circumstance” warranting an exception to Design Standard 8a. Instead, the applicant recites a series of justifications that could be used to justify installing an over-height security fence around virtually any property in the area. (Tripp Memo dated 6/11/14.)

For example, the application cynically attempts to justify the exception on the ground that the Project site “presently is enclosed by an over 6 ft. in height chain link fence.” The applicant erroneously believes that since the property owner has encircled the property temporarily in an ugly fence – something that is forbidden by the Crenshaw Specific Plan and is thus illegal – that justifies allowing an ugly fence to be remain on the site forever.

The application also states that “properly securing the large site is a high priority for the applicant,” and predicts that “If left unsecured at night, the large surface parking lots and contiguous swaths of central open space can be anticipated to attract youth using the large parking areas for skateboarding or social gatherings, transients using the open park/garden areas for overnight sleeping/camping, vandals and other criminal activity.” However, the Crenshaw Specific Plan was drafted with a clear recognition of the need for security, and yet it does not permit – indeed, it actively discourages – the cordoning off of private property from the adjacent commercial and residential neighborhoods. The applicant’s security goals must be achieved through some method other than caging in the property.

In this vein, the application goes on to state that “Security cameras or personnel both visible enough to deter unpermitted usage and sufficient in number to cover this 8.6 acre Project Site throughout the night would be infeasible for the Applicant.” No facts are provided to support this statement, and it is, on its face, preposterous. Kaiser Foundation Hospitals, Kaiser Foundation Health Plan, Inc., and their respective subsidiaries reported operating revenue of \$13.2 billion for the quarter ending September 30, 2013. (See press release at <http://share.kaiserpermanente.org/article/kaiser-foundation-hospitals-and-health-plan-report-third-quarter-2013-financial-results/>)

The application also notes that security lighting in particular “would be negatively impactful to adjacent residential uses.” This is ironic, given that the primary reason for any night time lighting impact on adjacent residential uses is that the Project intentionally violates (and therefore seeks an exception from) another Design Standard requiring that parking lots be located behind buildings, and therefore out of the view of adjoining residential property.

The application makes a play for sympathy to the patients of the facility, noting that patients have “disabilities and sensitive health conditions which need additional protection.” Yet elsewhere the application contradicts itself, stating that the need for the security fence mainly arises after 7 p.m., when the facility is closed.

The application also boasts of the “2.5 acres of central recreation space,” noting the “passive recreational activities” that it will offer and describing it as a “community amenity.” However, the applicant downplays the fact that this area is to be entirely behind locked gates, and thus enjoyed only by the applicant’s invited guests, staff and patients, to the exclusion of all others in the surrounding neighborhood. In fact, this private “recreation space” will be of no benefit to the community or neighbors, unless they happen to be guests, staff or patients of the applicant. Moreover, the applicant is not content merely to “secure” the property so as to exclude the neighborhood; it goes further and insists that the security fencing be located almost at the property line, therefore depriving hundreds of residential neighbors and thousands of daily passersby of even a proper visual buffer from the street.

In an attempt to show that other nearby properties are enjoying a substantial property right that is denied to the property in question, the application provides photos of a handful of other properties in the area which feature fences of 6 feet or taller, some of them just a few feet long. However, the applicant does not contend that any of these fences is permitted or otherwise legal, much less does it provide evidence of this fact. Nor does the applicant show how small these fences are compared to the large swath of fencing proposed by the applicant here. Rather, the argument appears to be that since other nearby properties have illegal and/or unpermitted fences, this property should be given the legal right to have such a fence, and along a street frontage that is almost ½ mile long.

Finally, the applicant makes another cynical argument in an attempt to support the mandatory finding that the exception would not be detrimental to the public welfare or injurious to nearby property. It contends that because the Project represents a “major private investment” that will “remove an unsightly, blighted property and bring economic vitality to the area,” it should be forgiven from this required finding. The contention appears to be that the negative impacts of the exception should be ignored if they are outweighed by the other net benefits of the Project. However, regardless of any net benefit the Project may generate for the area generally, the property closest to the site would be harmed by the continuous cage-like fence that the applicant proposes, as it would cordon off the site from the adjacent residential neighborhoods, thereby depriving them of any connection to the Project and destroying the aesthetic and visual buffer that the Design Standard is intended to preserve.

For the above reasons, the mandatory findings for an exception to Design Standard 8a cannot be made, and the exception should not be granted.

**I. The Site Plan Review Findings Cannot Be Made.**

Among the entitlements sought by the applicant is a Site Plan Review. (See LAMC section 16.05.) A Site Plan Review determination requires the decision-maker to make certain findings. (See LAMC section 16.05.F.) The mandatory findings include:

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.
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.

Here, these two mandatory findings cannot be made. Finding 1 cannot be made because, as discussed above, the Project would be improperly caged behind almost ½ mile of 6-foot high security fencing, and because it would place parking lots alongside and in front of, rather than to the rear of, the subject medical facility. These design characteristics violate section 14c of the Crenshaw Corridor Specific Plan (which requires compliance with the Design Guidelines and Standards Manual).

Finding 2 cannot be made because, the Project is not compatible with existing and future development on adjacent properties and neighboring properties, in numerous respects. These include: (a) the inclusion of over-in-height fencing; (b) the improper location of parking lots adjoining the street frontage; and (c) the absence of adequate off-street parking facilities sufficient to meet the minimum code-required parking for the Project.

Therefore, a Site Plan Review determination cannot be made.

**J. A Project Permit Compliance Determination Cannot Be Made.**

The applicant seeks a Project Permit Compliance determination concerning compliance with the applicable regulations of the Crenshaw Corridor Specific Plan, pursuant to LAMC section 11.5.7.C. However, since, as discussed above, both the perimeter fence and the placement of parking lots along the street frontages directly violate section 14c of the specific plan, a Project Permit Compliance determination cannot be made.

**K. An Environmental Impact Report Should Be Prepared for the Project.**

The Mitigated Negative Declaration prepared for this project was not the proper form of environmental review under the California Environmental Quality Act (CEQA). CEQA provides that “If there is substantial evidence, in light of the whole record before the lead agency, that the Project may have a significant effect on the environment, an environmental impact report shall be prepared.” (Public Resources Code, section 21080(d).) The courts emphasize that the threshold for preparing an EIR is a low one: Whenever there is “substantial evidence supporting a fair argument that a proposed project may have a significant effect on the environment,” a mitigated negative declaration will not suffice and an EIR must be prepared. (*Citizens for Responsible & Open Government v. City of Grand Terrace*, (2008) 160 Cal. App. 4th 1323.) A mitigated negative declaration, on the other hand, is appropriate only when “(1) the proposed conditions avoid the effects or mitigate the effects to a point where clearly no

significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the Project, as revised, may have a significant effect on the environment.” (*Architectural Heritage Assn. v. County of Monterey* (2004) 122 Cal. App. 4th 1095, 1119.) Thus, “It is the function of an EIR, not a negative declaration, to resolve conflicting claims, based on substantial evidence, as to the environmental effects of a project. (See *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 85.)

We address below the numerous impact categories in which a fair argument can be made that there will be a significant impact on the environment. An EIR should be prepared on each one of these subjects.

### 1. Aesthetics

The Project would result in aesthetic impacts due to its failure to meet the requirements of the Crenshaw Corridor Specific Plan and other City policies. The height of the proposed medical building would be approximately sixty feet above grade, with a photovoltaic canopy approximately 71 feet above grade. This is considerably taller than any other structure in the immediate area except the senior housing fronting on Buckingham. The Project is located further from the commercial corridor and will be approximately double the height of the residential structures immediately across Santa Rosalia Ave. from the Project site. Placement of the structure on the southerly portion of the site exacerbates the sense of an abrupt change in scale.

The Project is located in Subarea C of the Crenshaw Corridor Specific Plan, where building height is limited to a maximum of sixty feet under Specific Plan Section 10. The proposed solar panel canopy exceeds the height limit by eleven feet, raising the total height to 71 feet and further contributing to the sense of mass and abrupt change in scale from the surrounding area. Since the specific plan, unlike the City’s zoning code, does not contain an exception from height limits for solar panels, the Project may actually violate the specific plan, but regardless it will create a sense of overwhelming mass and will mark an abrupt change in scale from the surrounding area, resulting in an arguably significant impact on aesthetics.

The applicant also proposes to erect fences along all street frontages. As discussed in greater detail above, the Crenshaw Corridor Specific Plan design guidelines provide that walls may not exceed 4 feet along street frontages. These fences will further contribute to a potentially significant aesthetic impact. Moreover, while the MND acknowledges that the fence was part of the project, and that the applicant would seek an exception from the provision of the specific plan design guidelines that forbid such a fence – the aesthetic impact of this fence was not even mentioned, much less analyzed, in the MND. Finally, because it deprives existing commercial businesses and commercial properties located around the perimeter of the Plaza of the parking

that is the lifeblood of any commercial business, the Project has the potential to exacerbate the blight and decay already apparent in the Plaza and surrounding commercial areas. (See *Citizens for Quality Growth v. City of Mt. Shasta* (1988) 198 Cal.App.3d 433, 446 (Court required City to perform further CEQA analysis on rezoning of suburban parcel to commercial use because “The potential economic problems caused by the proposed project could conceivably result in business closures and physical deterioration of the downtown area.”) This is a potentially significant impact on aesthetics which should have been analyzed in an EIR.

Mr. Parker’s letter reiterates the argument, made in connection with parking impacts, that aesthetic impacts need not be evaluated under SB 743, the recent statutory amendment to CEQA. (See Parker Letter, response to comment 13.1, at pg. 34.) As discussed above, SB 743 does not apply to this project since the project is neither a “residential, mixed-use residential, or [an] employment center project”. (In order to qualify as an “employment center” project, a project must meet the definition set forth in Public Resources Code section 21099, including the requirement that it have “a floor area ratio of no less than 0.75”; here, the project’s FAR is only .28 to 1.)

Mr. Parker also argues that aesthetic impacts of a ½-mile long fence should be ignored for purposes of CEQA simply because an exception is being requested under the Specific Plan. (See Parker Letter, response to comment 13.2, at pg. 35.) However, the grounds upon which Kaiser requests that an exception be granted are not primarily aesthetic in nature; rather, they have to do with hardship and special circumstances. If an exception is granted on these grounds, the potential aesthetic impact remains. This potential impact must be analyzed under CEQA.

## 2. Air Quality

Page 3 of Appendix A of the MND (Air Quality) shows import and export of 37,073 cubic yards of material, reflecting only contaminated soils that are to be removed. This does not include removal of peat materials around future building foundations or removal of undocumented fill materials. Based on the recommended removal depth of 20 feet and building footprint of approximately 25,000 square feet, up to 18,000 additional cubic yards of peat materials may need to be moved from the site. (See Gobies, pp. 15-17.)

Moreover, the bulk of the contaminated soil is located at the easterly portion of the site where future parking is planned, whereas the medical building would be centrally located on the site. Thus, there would not be a great deal of overlap in soils removed for different purposes, and the work areas would be separated enough that heavy equipment could easily operate in both locations at the same time. This has negative consequences for air quality, as multiple work areas means multiple sources of emissions.

In the MND, based upon the assumption that 37,073 cubic yards would be imported and exported from the site, peak daily emissions of nitrous oxides during the construction were calculated to be 92.5 percent of the South Coast Air Quality Management District's adopted threshold of significance. If the removal of peat materials contributed just 9,300 more cubic yards of grading, this would cause the NOx threshold to be exceeded, causing a significant impact on air quality.

### 3. Biological Resources

Unfortunately, the only survey of the site in the MND was performed by an arborist, not a biologist. Further, the survey was conducted toward the end of the dry season. Biological resources, and especially migratory birds, could potentially exist on the site or use the site.

In fact, while the Project site is largely disturbed, seasonal ponding has been reported on the site, and this ponding is consistently used by migratory birds during the winter months. Johnny Edwards, who has owned the property adjacent to MLK Marlton's for more than 30 years, spoke to this effect at the public hearing, as did the representative of MLK Marlton, Fred Leeds. Mr. Edwards' affidavit to this effect is attached as Exhibit "2," while Mr. Leeds' affidavit is attached as Exhibit "3". Such layperson evidence is sufficient to make a fair argument that there may be a significant impact on the environment under CEQA, and that accordingly an EIR must be prepared. (See *Pocket Protectors, v. City of Sacramento* (2004) 124 Cal. App. 4th 903 ("relevant personal observations by area residents" may be properly considered substantial evidence.)

Specifically, Mr. Edwards has attested that he has owned the property since 1983 and Mr. Leeds attest that he has been a real estate broker working in this area for more than 30 years. They have both observed the following:

- In the last several years because of numerous vacancies at the commercial properties in the former Plaza the westernmost portion of the Parking/Access Area, approximately 1 acre in size and including a portion of the Project site, has fallen into disuse such that the pavement has disintegrated in this area;
- Because the grade of the site declines toward the west, stormwater from the entire parking lot tends to flow into this 1-acre area during the winter;
- During the winter vegetation between 1 and 2 feet high has consistently grown up during the winter and the spring; and

- Hundreds of migratory birds consistently use this vegetation during recent winters.



**Winter ponding area (from MND Figure III-5)**

Mr. Parker, in his letter, speculates that these ponding conditions are the result of “man-made features,” such as “construction activity and pits excavated in for fill, sand or gravel.” (See Parker Letter, response to comment 15.1, at pg. 39.) On this basis, Mr. Parker contends that the ponds are likely to be subject to an exemption from regulation under the Clean Water Act. However, Mr. Parker points to no evidence that the ponding conditions result from construction activity or excavated pits. To the contrary, the evidence presented by both Mr. Leeds and Mr. Edwards unequivocally indicates that the conditions result purely from the natural slope of the property, and have occurred in the absence of any construction activity or excavation, as existing pavement has simply disintegrated from disuse of the western portion of the site.

#### 4. Geology and Soils

The MND contends that impacts associated with on-site geological conditions will be mitigated by the import and export of soil, but this process in itself triggers impacts on air quality, water quality, and noise. In particular, the removal of additional peat materials in the area around the building footprint would require additional use of heavy equipment which would generate noise and air emissions. The only alternative to removing these materials – i.e., driven piles – would create significant noise and vibration impacts affecting nearby residential and institutional uses, as discussed below.

#### 5. Hazardous Materials

The MND acknowledges that the Project site “is currently undergoing soil remediation efforts conducted by the Applicant under the direction and oversight of the Los Angeles Regional Water Quality Board (LARWQCB).” Specifically, studies conducted by consultants determined that there were four former dry cleaners and a former gas station/auto center, each of which was identified as a “potential contributing source of recognized environmental concerns (RECs).” (MND at pg. III-43.)

Notably, the Phase II environmental site assessment performed by Stantec concluded that “Tetrachloroethene (PCE) concentrations exceeded screening levels at two former dry cleaners.” These former dry cleaners (now both demolished) were located on Santa Rosalia Avenue, directly across the street from dense multi-family residential neighborhoods. PCE is one of the well-recognized cancer-causing solvents that made Erin Brockovich famous.

Other than to acknowledge the existence of these dangerous PCEs, the MND wholly fails to address their extent, much less the remediation of the problem. The depth and breadth of the PCE plume is not analyzed, despite its location immediately adjacent to residential neighborhoods. Nor is the impact on the water table analyzed. Further, the only mitigation measure in the MND concerning remediation is a requirement that the applicant receive a

clearance from the Los Angeles Fire Department. Meanwhile, the MND simply fails to expressly incorporate the detailed recommendations of Geosyntec, the Phase II environmental consultant, which included:

- Installation of groundwater monitoring wells onsite for collecting representative groundwater quality data, and monitoring these wells for four quarters.
- Further delineation of the onsite impacted soil found at the former dry cleaner operations, to characterize the lateral and vertical impacted soil extent.
- Installation of offsite temporary soil vapor probes near residences and monitoring them during and one year after the property entitlement and soil excavation activities are completed, to demonstrate that there is no human health risk associated with the soil vapors and to verify the reducing trend of the soil vapor concentrations over time.

Given the proven existence of PCEs on the site, the MND's failure to discuss the extent of the contamination, or to explain how the contamination will be remediated, is a startling omission, and raises questions of environmental justice in this primarily working class African-American community, which mainly lacks the awareness and/or resources to secure the attention of City officials. Moreover, since the MND does not expressly incorporate as mitigation measures the recommendations of the Phase II environmental consultant, there is unquestionably a fair argument with mitigation the Project would have a significant impact in connection with hazardous materials.

Mr. Parker's letter seeks to avoid this result by referring to the soil remediation efforts presently underway under the direction of the Los Angeles Regional Water Quality Control Board, noting that while a comprehensive discussion of these remediation efforts is wholly excluded from the MND, "all of this information is publicly available." (See Parker Letter, response to comment 17.1, at pg. 42-43.) Mr. Parker then concedes that information about groundwater and soil monitoring that has taken place subsequent to the 2012 Geosyntec report was not incorporated into the MND, and then seeks to supplement the record with this information. The information concerns groundwater monitoring wells, soil borings, vapor probes, and the like.

The existence of this additional information is yet more reason why an EIR should have been prepared. First, the underlying documents that describe these remediation activities and the results of the various tests are simply not in the record in any form. Instead, the City and the public must rely purely on the second-hand assertions of an environmental consultant with no background in the subject matter, much less experience with the site conditions being described. Second, none of this information was presented by the City before a decision was made to

proceed with an MND. Third, by Mr. Parker's own admission, the post-2012 site work, including soil borings and monitoring wells, indicates that there is, in fact, PCE contamination: "The results from the 2013 investigation indicate that PCE-impacted soil is delineated laterally and vertically, with planning currently underway for the removal of impacted soil via excavation." (See Parker Letter, response to comment 17.1, at pg. 43.)

The public deserves more than a single sentence in an obscure letter from a non-expert stating that there is PCE contamination just a few feet from residential properties. An EIR should be prepared to study both the extent of this contamination and how it will be remediated.

## 6. Land Use

A significant impact on land use and planning is considered to occur if a project is inconsistent with applicable general plans and regional plans. As noted above, the Project would violate the Crenshaw Corridor Specific Plan, and the Design Guidelines adopted pursuant to that plan, in at least two respects: (1) by placing parking lots immediately adjacent to the public street rather than behind buildings, in violation of Design Standard 11i; and (2) by encircling the entire property in a cage-like fence almost at the property line, in violation of Design Standard 8a. Moreover, the MND does not even mention, much less analyze, the manifest negative land use impact arising from the Project's violation of Design Standard 8a; the Land Use section of the MND does not even mention this inconsistency.

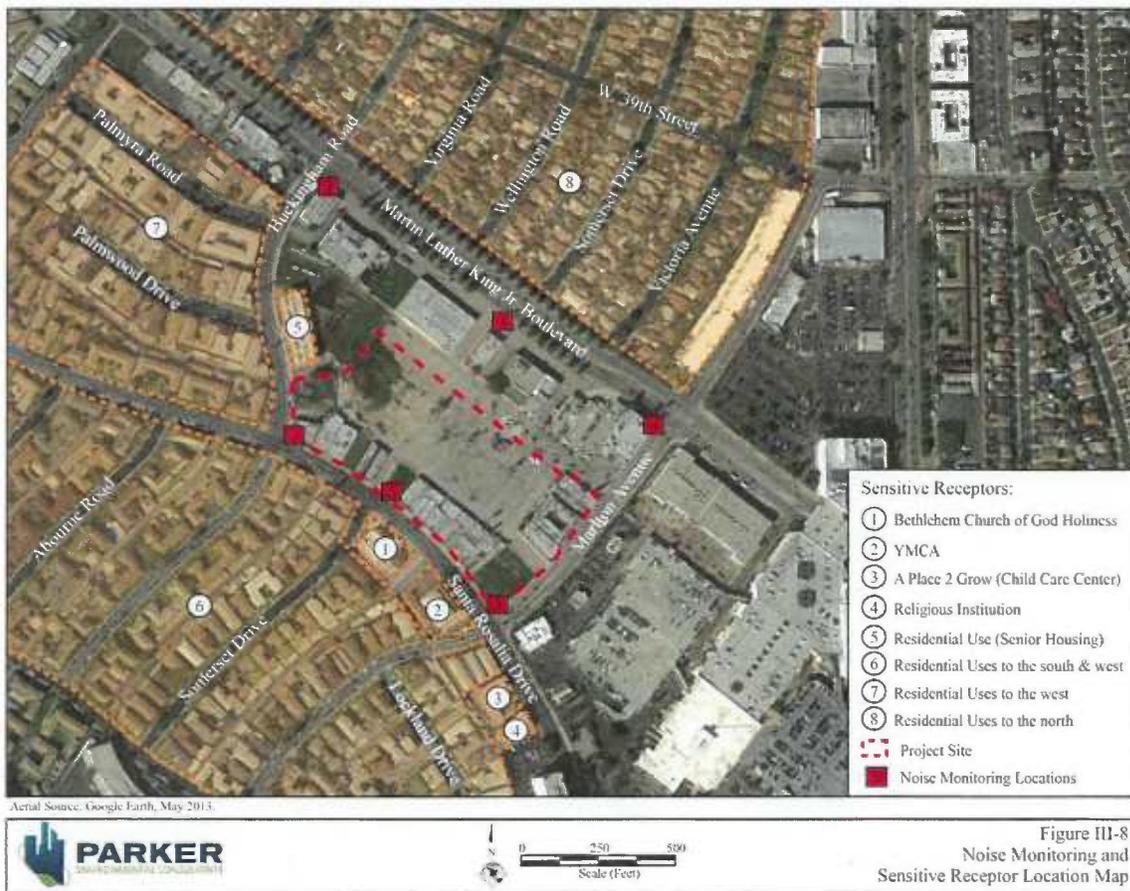
In addition to being subject to the Crenshaw Corridor Specific Plan, the Project is governed by the West Adams-Baldwin Hills-Leimert Community Plan. That plan specifically calls out the Santa Barbara Plaza site, and notes "the need for a master plan on the property to prevent incongruent, incremental development" on the site. (See pg. III-17.) In addition to this, Specific Plan Policy 1-1.5 states: "Require that projects be designed and developed to achieve a high level of quality, distinctive character, and compatibility with existing uses and development." The Project does not meet these standards.

Further, Policy 7-2.2 of the West Adams-Baldwin Hills-Leimert Specific Plan Policy 7-2.2 states that "New development projects should be designed to minimize disturbance to existing traffic flow with proper ingress and egress to parking." When the site functioned as Santa Barbara Plaza/Marlton Square, commercial uses were located at the perimeter of the approximately twenty acre plaza and parking was pooled in the central portion of the site, with access to all of the various commercial uses provided from driveways located at Martin Luther King Boulevard, Santa Rosalia, Marlton, and Buckingham. As currently designed, the Project would create a separate parking area for just the medical building, thereby excluding the other commercial uses from that area. Moreover, the design provides for only the medical building – and not the other commercial uses – to take vehicular access from the three present driveways on

Buckingham and Santa Rosalia, apparently to the exclusion of the other commercial uses. This would create a substantial disturbance to existing traffic flow utilizing the other commercial properties. This is in itself a significant impact on land use.

### 7. Noise

The large 4-story medical building that is the heart of the Project is directly across Santa Rosalia Avenue from a densely populated multi-family residential neighborhood. The project site is also directly to a large senior complex consisting of 70 units. A church and a YMCA are also directly across the street, and another church and a child care center less than 500 feet away. The noise impacts on all of these sensitive receptors would extend over the entire construction phase of the project, which is estimated to be 16 months including grading, foundation and construction. (MND at pg. 66.)



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The MND makes generic assumptions about the construction equipment and methods to be used in the Project. This results in optimistic measurements of noise impacts, rather than worst-case scenarios. Yet elsewhere in the MND there is evidence that noise impacts could be much worse than predicted by the MND. As just one example, the Geology and Soils section states that the project geotechnical consultant, GeoBase, “recommends fill and foundation alternatives that may be suitable for the Proposed Project: removal of the peat soils and silts with peat and organic inclusions and replacement with properly compacted backfill soils or the implementation of deep foundations with no soil removal as an alternative to removal of peat materials.” (MND, pg. III-32.) Deep foundations can only be installed with pile drivers, which can generate noise in excess of 100 dB as well as significant ground vibration. Yet, the Mitigated Negative Declaration does not assume that this equipment might be used. The use of pile drivers in itself would be a significant adverse noise impact, affecting hundreds if not thousands of nearby residents, as well as a host of other sensitive receptors not even considered in the MND.

Moreover, even with generic assumptions about construction equipment and methods, the MND noise analysis concedes outright that without mitigation, there would be a significant construction noise impact on six of the eight off-site sensitive receptors analyzed, including the entire residential neighborhoods to the south and west of the project. Specifically, the analysis concedes:

“[T]he estimated construction-related noise levels associated with the Proposed Project would exceed the numerical noise threshold of 75 dBA at 50 feet from the noise source as outlined in the City Noise Ordinance, and the typical construction noise levels associated with the Proposed Project would exceed the existing ambient noise levels at six of the identified off-site sensitive receptors by more than the 5 dBA threshold established by the L.A. California Environmental Quality Act Thresholds Guide during all construction phases.”

Remarkably, however, the MND claims that this impact has been mitigated to a level of insignificance. The MND initially points out that while construction noise appears on its face to violate both the City Noise Ordinance and the City’s CEQA thresholds, “construction noise levels are exempt from the 75 dBA noise threshold if all technically feasible noise attenuation measures are implemented.” (MND at pg. III-69.) Since it is obviously not “technically feasible” to shield nearby residential and other sensitive uses from the extreme and sustained noise caused by a major construction project, the MND essentially states that because of this qualified language the Project – however disruptive – will not necessarily violate the City’s noise ordinance.

However, not technically violating the noise ordinance does not mean that the Project will not have a significant impact on residential neighbors. The City cannot simply wave away a significant noise impact by declaring it legal under its noise ordinance. In fact, there is a significant noise impact – both because 75 dBA is by any reasonable measure an extremely high level of noise, and because the separate exceedance of the 5 dBA threshold established by the City’s CEQA Thresholds guide is in itself the basis for a finding of significant impact.

The MND avoids the obvious conclusion that this significant impact cannot be mitigated to a level of insignificance by engaging in the same sleight of hand as the City’s noise ordinance. It asserts that various mitigation measures, including compliance with the very same (albeit admittedly ineffectual) City noise ordinance and a handful of other purportedly noise-attenuating measures “would ensure impacts associated with construction-related noise levels are mitigated to the maximum extent feasible and temporary construction-related noise impacts would be considered less than significant.” (MND at pg. III-71.) Like the noise ordinance, the other noise-attenuating measures are rendered toothless because they are all qualified with vague phrases like “state-of-the-art” or non-obligatory qualifiers such as “to the maximum extent possible.”

The noise analysis, in other words, finds that there is a significant impact, asks the applicant to make its best efforts to try to reduce noise, and then on that basis – and that basis alone – declares the impact to be less than significant.

The City cannot do this. The construction noise impacts of the project are significant, and they are not mitigated. Thus, there is a fair argument that the Project, after mitigation, will have a significant construction noise impact. An EIR should be prepared to analyze this potential impact.

## 8. Public Services

As discussed above, the Project blocks two of the driveway accesses historically used by other properties in the former Plaza, and partially blocks a third. This blockage of access has serious implications for public safety and thus public services such as police and fire, including the following:

- Emergency vehicles such as fire trucks, police cars and ambulances would be limited in their means of access to the various properties in the former Plaza, as well as to the large parking lot that lies in its midst.
- Isolated areas of the former Plaza could become attractive nuisances, increasing the need for police response.

- Physical separation of the various properties and elimination of street access for existing parking areas for any of the properties could allow more opportunity for the commission of crimes such as burglaries and robberies, increasing the need for police services.

All of these constitute potentially significant impacts on public services which should have been analyzed in an EIR.

## 9. Transportation and Traffic

The traffic study prepared by the applicant estimated that the Project would generate a net increase of approximately 2,846 daily trips, including 188 trips in the a.m. peak hour and 228 trips in the p.m. peak hour. (See memorandum in file from Tomas Carranza of LADOT to Karen Hoo, dated October 8, 2013.) Although the traffic study goes to great pains to avoid declaring any of the resulting traffic to constitute a significant impact, in fact there is a fair argument that a significant impact would exist.

First, as discussed above, the Project would eliminate existing vehicular access driveways presently used by other existing commercial properties at the Santa Barbara Plaza site. This would affect site deliveries, employees and customers alike. Without the easy access to the rear of the properties that is presently afforded by the driveways at Santa Rosalia Drive and/or Marlton Avenue, vehicles would have to queue on the only remaining driveway at Martin Luther King Jr. Blvd., which could impede traffic and/or block parking along that major artery. The impact would be especially severe for trucks making deliveries and at times of day when customer visits peak at various locations. In addition, because they would be deprived of adequate parking in the parking lot, customers and other visitors would be forced to cruise public streets to look for on-street parking, causing congestion and traffic conflicts. All of these are potentially significant adverse impacts that have not even been addressed, much less mitigated, in the MND.

Mr. Parker, in his letter, attempts to avoid this obviously significant impact on traffic by alleging that “none of the existing land uses within the former Marlton Square area are accessible through the Project Site.” (See Parker Letter, response 21.1.2, at pg. 54.) However, this lack of access is merely the result of Kaiser’s recent – and illegal – blockage of the longstanding historic access to the Plaza properties by the construction of a fence around the Kaiser property, which blockage is subject at any time to be removed pursuant to a court process instituted by MLK Marlton or any other affected property. For purposes of CEQA, this temporary blockage of access does not avoid a finding that permanent blockage of such access by the proposed construction project would constitute a significant impact on traffic around the Plaza site.

Second, as discussed above, by eliminating two of the historic access driveways to the properties at the Plaza site, and by constricting a third, the Project would potentially result in inadequate emergency access to some or all of the numerous other commercial properties on the site, and to what remains of the large shared Parking/Access Area. With the Project, the only remaining driveway access for all of the commercial parcels other than the applicant's Project would be the driveway at Martin Luther King Jr. Boulevard.

Mr. Parker argues in his letter that this significant impact on emergency access will not occur because "it is reasonable to assume that any future development of the other non-Kaiser ... parcels ... would likely become consolidated as part of a larger redevelopment plan/project which could have very different access and parking schemes than what has been existing since the 1950's." (See Parker Letter, response 21.1.3, at pg. 55.) This is merely self-serving speculation designed to avoid environmental review. There are structures and uses on the Plaza property that remain precisely as they have been for decades – including those of MLK Marlton and its neighbor, Johnny Edwards. Other than the Kaiser project there is no other project presently proposed for any site within the Plaza property, and there is no land use plan or other document that dictates or even predicts how development will unfold on the Plaza property. Thus, Mr. Parker has no business assuming that the Plaza will develop in any particular way, much less in a manner completely different from the historical pattern.

Third, the traffic study improperly reduces the base trip generation by fifteen percent for transit trips. The Los Angeles Department of Transportation June 2013 manual (Traffic Study Policies and Procedures) allows a reduction of up to fifteen percent in assumed trip generation if a project is within a quarter mile walking distance of transit station or Rapid Bus stop. However, this trip credit is predicated on the Project meeting certain other conditions including implementation of all of the following standards:

- Provision of a wider than standard sidewalk along the streets fronting the Project through additional sidewalk easement or by dedicating additional right-of-way beyond street standards.
- Improvement of the condition and/or aesthetics of existing sidewalks leading to transit station(s) with adequate lighting to provide for a safer pedestrian environment.
- Provision of continuous paved sidewalks / walkways with adequate lighting from all buildings in the Project to nearby transit services and stops, including mid-block paseos.
- Implementation of transit shelter improvements/beautification.

While some of these may be provided with the Project, they are not all described in the MND. Therefore, the traffic study has improperly calculated trip generation and its conclusions of no significant impact are rendered invalid.

Fourth, the traffic study for the Project indicates that when other cumulative projects in the area are taken into account, many of the study area intersections will experience significant degradation of traffic level of service over time. For some of these, the Project would have a de minimis effect, increasing levels-of-service (LOS) by barely .001, and on that basis the MND may have assumed that there was no significant impact. However, there are cases in which the Project does contribute a measurable, greater-than-de-minimis effect to the significant cumulative impact. These include La Brea and Jefferson (at which the p.m. peak hour increases from .837 to .946, with the Project contributing .004 to the .109 cumulative increase in LOS); and Crenshaw and Stocker (at which the p.m. peak hour increases from .834 to .963, with the Project contributing .009 to the .129 cumulative increase in LOS). In these locations, the cumulative impact on traffic is significant.

Fifth, LADOT found that there is a significant impact pre-mitigation at the intersection of Arlington Avenue and Martin Luther King Jr. Boulevard, and yet the MND proposes a purely illusory measure to mitigate this impact below a level of significance – namely, the preparation in the future of a Transportation Demand Management (TDM) plan. (See Carranza memorandum dated 10/8/13.) According to the LADOT memorandum, a TDM plan “includes design elements and trip reduction strategies, [which] would reduce the Project's overall trip generation by discouraging single occupancy vehicle use and by promoting the use of alternative travel modes.” However, the MND merely requires that this plan be provided to LADOT for review; it contains no specifics about what the TDM must contain, and there is no evidence that any particular measure would in fact reduce trips sufficiently to bring the impact below a level of significance. Therefore, it was improper for the MND to assume that the significant impact at Arlington and Martin Luther King Jr. Boulevard would be mitigated to a level of insignificance. Instead, there is a fair argument that even with mitigation the Project would have a significant impact on traffic at this intersection.

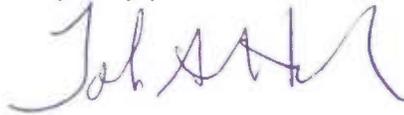
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L. **Conclusion.**

“No house should ever be on a hill, or on anything. It should be of the hill.” -- *Frank Lloyd Wright*

The Project as proposed is being put “on” the neighborhood where it sits. It is not “of” the neighborhood. As such, it should be denied outright.

Very truly yours,

A handwritten signature in blue ink, appearing to read "John A. Henning, Jr.", written in a cursive style.

John A. Henning, Jr.

Enclosures

**Exhibit 1**

DECLARATION OF RESTRICTIONS

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33961-311

THIS DECLARATION, made this 18th day of July, 1950, by Capital Company, a California corporation, hereinafter referred to as Declarant,

WITNESSETH:

WHEREAS, Declarant is the owner of that certain real property in the City of Los Angeles, County of Los Angeles, State of California, and more particularly described as:

All of Tract 16050, as per map recorded in Book 370, pages 44, 45 and 46 of maps in the office of the County Recorder of Los Angeles County; and

WHEREAS, Declarant intends to sell said property for commercial property and in connection therewith, and prior thereto desires to subject said property to conditions, reservations, terms, restrictions and charges as hereinafter set forth, for the benefit of said property and all of it, and for the benefit of the present and subsequent owners of said property,--

NOW THEREFORE, Declarant hereby declares that the property above described is and shall be held and conveyed subject to the reservations, terms, restrictions and charges set forth in this Declaration, to wit:

ARTICLE I

Lots 51 and 52 of said Tract 16050 shall not be used for any purpose other than the parking of automobiles and other vehicles, and for the purpose of ingress and egress to other lots in Tract 16050.

ARTICLE II

No lot or property or any part thereof within the said Tract 16050 shall be used for any purpose, nor shall any

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buildings or improvements be erected, constructed, converted, altered or enlarged, moved upon or maintained on said property for any purpose except only those purposes specifically permitted as of the date hereof by Section 12.15 of Ordinance No. 90500 (amended to and including Ordinance No. 93346) -- being the comprehensive zoning plan of the City of Los Angeles and defining zone "C3 -- Commercial Zone."

ARTICLE III

The owners of any portion of the property described above are hereby required to surface or landscape the rear lot areas on which no building improvements have been erected.

ARTICLE IV

It is hereby provided that no refuse, debris or waste materials shall be allowed to accumulate in any open areas outside of any building improvements on any of the property described above.

ARTICLE V

No temporary buildings of any kind or character except only temporary buildings actually and bona fideally used in and during the construction of permanent buildings

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shall ever, at any time, be erected on any part of the property described above. It is hereby provided that all rear entrances of any building shall be of an attractive design and of a kind that shall meet the approval of the Architectural Committee hereinafter referred to, except that it shall be sufficient in respect to Lot 50 if the same is paved only.

ARTICLE VI

Except as to Lot 50, no building, fence, wall or other structure shall be erected or maintained upon the premises, or any part thereof, nor shall any alteration be made in the exterior of any structure thereon, unless complete plans and specifications therefor, showing the nature, kind, shape, height, material, and color scheme thereof, and indicating the location of such structure or of such alterations to any structure, shall have been submitted to the Architectural Committee, and approved in writing by said Architectural Committee. No alterations shall be made in the exterior color of any structure unless written approval of the Architectural Committee shall have first been obtained. The term "Architectural Committee," as used herein, shall designate such person or persons as may be appointed, from time to time, by the Capital Company, its successors or assigns, as such committee, and its functions as such shall include the duty of passing upon, approving or rejecting any and all applications for permission to erect buildings or improvements

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of any kind or nature on the property which is subject to this Declaration of Restrictions. The Architectural Committee may consist of one or such additional persons as the Capital Company may, from time to time, determine. The identity of such committee shall be established, from time to time, by a notice posted by the Capital Company, containing the names and addresses of such committee, and the date of their appointment, at the main office of the Capital Company, in the City of Los Angeles, or at such other place as the Capital Company may hereafter determine, and, also, at or adjacent to the property which is the subject of this Declaration of Restrictions. Capital Company shall have complete and perpetual authority to delegate the right of appointment of such committee to such other person, firm or corporation as it may choose. The failure of Capital Company to post, or keep posted, such notices shall in no manner prevent it from thereafter appointing such a committee, nor shall such failure in any manner impair the validity or binding force of any provisions, conditions, restrictions or reservations herein contained.

Notwithstanding the above provisions, nevertheless it is hereby provided that after all of the lots from 1 to and including 49 of said Tract 16050 have been sold by Capital Company, the Architectural Committee shall be appointed by the stockholders of Santa Barbara-Crenshaw Parking Company, a corporation. Said Architectural Committee shall be appointed either by vote at a stockholders meeting or by the written designation of a majority of said stockholders.

#### ARTICLE VII

The breach of any of the conditions, and covenants herein contained, shall cause the premises on which the breach occurs, together with the appurtenances thereunto belonging,

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to be forfeited and to revert to the Declarant, its successors and assigns, each of whom shall have the right to immediate entry upon said premises in the event of such breach; provided, however, that before any forfeiture may be declared or enforced, the Declarant, its successors or assigns, shall post, in a conspicuous place on the premises, and shall mail (by registered mail "prepaid") to the record owner or owners of the premises to be affected by such forfeiture, and shall also mail a copy to the respective street addresses of such premises, a written notice declaring its intention so to do, and if, within ninety (90) days thereafter the owner shall cure the breach, then no forfeiture shall be declared or enforced therefor. In the event that said forfeiture shall apply to Lot 50 or any part thereof, then a copy of said notice shall be mailed (by registered mail "prepaid") to Barker Bros. Corporation at their executive offices in Los Angeles, California, and a similar copy to Occidental Life Insurance Company of California, at their executive offices, in Los Angeles. But the breach of any of the said conditions and covenants, or any re-entry by reason of such breach, shall not defeat or affect the lien of any mortgage or deed of trust made in good faith, for value, upon said lot, and provided, however, that the breach of any of said conditions may be enjoined, abated or remedied by appropriate proceedings, notwithstanding the lien or existence of such trust deed or mortgage; but, nevertheless, each and all of the said conditions and covenants shall remain, at all times, in full force and effect as against, and shall be binding upon, and shall be part of the estate acquired by anyone, and the successors and assigns of anyone acquiring title under and through any such deed of trust or mortgage and a forfeiture and re-entry may be enforced following any breach by them or

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any of them occurring after such acquisition of title. All, and singular the conditions and obligations herein contained are and shall be and are hereby also made covenants binding upon the lot affected thereby and running with the land for the benefit of each and all of said lots, and of each and all present and future owners thereof and their respective successors in interest, and a breach of any of said conditions, covenants or obligations may be enjoined, abated or remedied by the appropriate proceedings maintained by any or either of such owners or their successors in interest.

## ARTICLE VIII

There is being incorporated, under the laws of the State of California, a corporation under the name of Santa Barbara-Crenshaw Parking Company. All stock issued by Santa Barbara-Crenshaw Parking Company is and shall be attached and appurtenant to certain land as set forth in the Articles of Incorporation and the By-laws of said Santa Barbara-Crenshaw Parking Company, and shall be transferred with and only with the record title of the land to which said stock is respectively thus attached. Every person, firm and corporation acquiring record title in fee, in any manner whatsoever, to any portion of Tract 16050, shall be deemed to agree automatically by the acquisition thereof to accept the shares of stock appurtenant and attached to such portion and to perform all obligations imposed by such shares and accruing on or after the record date of the acquisition of such portion of real property. As Declarant hereunder is the present record owner in fee of all of Tract 16050, all stock of said corporation appurtenant and attached to any and every portion of said tract shall, upon formation of this corporation, be issued forthwith to Declarant, and Declarant agrees to accept same and perform all obligations imposed by each certificate of stock

thus received, until Declarant disposes of record title in fee to the real property to which these certificates of stock are respectively appurtenant and attached.

#### ARTICLE IX

It is hereby made a part of the intent and purpose of these restrictions that for the benefit of all lots in said Tract 16050, and for the undersigned, that there shall be conformity in the use of said lots in the matter as to the back portions thereof, and it is hereby provided that all portions of every lot shall be kept in a clean and neat condition and that the owners of each and every lot in said tract shall keep all rubbish, refuse and garbage in containers, and keep and maintain said containers in such place as may be, from time to time, provided in the rules and regulations of the said corporation, Santa Barbara-Crenshaw Parking Company, in regard thereto. All backyards and rear portions of all lots shall be properly landscaped, subject to the approval of said Santa Barbara-Crenshaw Parking Company, except that it shall be sufficient if Lot 50 is surfaced. Said Santa Barbara-Crenshaw Parking Company shall also have the right to fix rules as to the hours during which merchandise or anything else may be delivered to or picked up at the rear portion of each lot.

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Santa Barbara-Crenshaw Parking Company shall have the right to adopt rules and regulations fixing the time when the parking lot on lots 51 and 52 of Tract 16050 shall be open for business.

Any provisions hereof to the contrary notwithstanding, however, any rules and regulations adopted by said Santa Barbara-Crenshaw Parking Company shall not discriminate against any particular qualified user of the parking area.

ARTICLE X

It is hereby made a part of these restrictions, and agreed to and assumed by each and every record owner in fee of a lot or lots in said Tract 16050, and said owner assumes the following obligation upon becoming an owner of said lot, that said owner will pay his, her or its proportion as such proportion is defined and computed in the Articles of Incorporation and By-laws of Santa Barbara-Crenshaw Parking Company, of the cost of operation of the parking lot to be conducted on Lots 51 and 52 of said Tract 16050. The various percentages to be paid by such owners are fixed by the said Articles and By-laws of the corporation, Santa Barbara-Crenshaw Parking Company. It is hereby provided that Lots 50, 51 and 52 of the tract are excluded from any assessments or charges.

It is hereby provided that each lot of Tract 16050 owned by any owner is by said owner (and in acquiring said lot by any subsequent owner said subsequent owner also makes the same security as herein provided and any subsequent owner acquires said lot subject to the provisions hereof and to making said lot security as herein provided) hereby made security for the payment and performance of all amounts and acts provided for herein to be paid or performed by said owner. It is hereby further provided that the owner of said lot shall pay all costs, expenses and reasonable attorneys fees incurred in connection with the foreclosure of the lien herein provided for, and that such lot is hereby made security for the same.

If an owner is in default in the payment of any part of his payments for the maintenance and operation of said

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parking lot, then Santa Barbara-Crenshaw Parking Company (and this part of this Declaration is made for its benefit) may serve on the owner, and record a copy thereof, a notice setting forth the amount of delinquency and that if not paid within ninety (90) days the Santa Barbara-Crenshaw Parking Company shall have the right to foreclose the lien created hereby for said amount. If suit is not commenced within one hundred twenty (120) days from the recording of said notice, then said notice shall be void and of no effect. This shall not be a bar to the Santa Barbara-Crenshaw Parking Company giving any new notice or notices for the same or other defaults.

All bona fide mortgages or deeds of trust on record before the giving of the notice next above provided for shall be prior to any lien foreclosed upon hereunder. However, the purchaser of any lot under any foreclosure of any such mortgage or deed of trust, or any purchaser under the lien hereof, will himself assume and agree to be bound by the terms hereof to pay the lot's pro rata share of the cost and expense of the operation of the parking lot on Lots 51 and 52 of said Tract 16050, accruing after the date of such purchase under foreclosure, as above provided; and this shall continue to be a lien for security for the same. It is hereby provided, however, that the purchaser of any lot under any foreclosure of mortgage or deed of trust, will not assume any assessments or charges which have been levied or accrued prior to the date that such purchaser acquires title under said foreclosure proceedings. Said purchaser does assume all such assessments and charges from said date forward, but does not assume any old or delinquent assessments or charges.

There can be one or more foreclosures for the purpose of collecting said pro rata cost of operation of the parking lot. After default and after notice of default, as above

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provided, then Santa Barbara-Crenshaw Parking Company may foreclose the lien hereby created as security for the payment of the pro rata of the cost and expense of the operation of said parking lot, said cost and expense includes but it is not limited to taxes.

IN WITNESS WHEREOF, the undersigned has executed this Declaration this 18th day of July, 1950.

CAPITAL COMPANY,

By [Signature]  
Assistant Vice President

By [Signature]  
Assistant Secretary

Approved as to form  
Date July 1950  
By [Signature]

REG. 33961 PAGE 311

STATE OF CALIFORNIA }  
COUNTY OF LOS ANGELES } SS

On this 15 day of July, 1950,  
before me, Richard J. Pitts, a Notary Public  
in and for said County and State, personally appeared  
Paul C. Snow known to me to be the  
Assistant Vice President, and T. S. Minney  
known to me to be the Assistant Secretary, of the CAPITAL  
COMPANY, the corporation that executed the within instrument,  
known to me to be the persons who executed the within instru-  
ment, on behalf of the corporation herein named, and acknow-  
ledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand  
and affixed my official seal the day and year in this  
certificate first above written.

Richard J. Pitts  
Notary Public in and for  
said County and State.

My Commission Expires January 1, 1954



3051  
DOCUMENT NO. 3051  
RECORDED AT REQUEST OF  
Victor Ford Office  
AUG 10 1950  
15 NOV 3 PM  
REG. 33961 PAGE 311  
OFFICIAL RECORDS  
County of Los Angeles, California  
For 4.00  
MAMIE B. BEATTY, CLERK  
C. Dale Deputy

3051

460.35

**Exhibit 2**

**Affidavit of Johnny Edwards**

I, Johnny Edwards, do hereby declare:

I have owned the property at 3724 Martin Luther King Jr. Boulevard (also known as Lots 3 and 4) since 1983. I operate a restaurant there called Jerry's Flying Fox. This used to be called Santa Barbara Plaza. At one time all of the properties around the Plaza were in different ownerships, and there were hundreds of businesses operating there.

I bought the property with the understanding that I had the right to use any of the paved parking area in the center of the former Plaza, just like all of the other commercial properties around the Plaza. In addition, I had the understanding that I had the right to use any of five separate access driveways, to Martin Luther King Jr. Blvd., Buckingham Avenue, Marlton Avenue and Santa Rosalia Avenue, that led to this parking. The parking and access area (hereinafter, the "Parking/Access Area") was also known as Lots 51 and 52. As part of my purchase, I received shares of the Santa Barbara-Crenshaw Parking Corporation that oversaw the sharing of the parking and the access in the Parking/Access Area. A copy of these shares, the document by which the seller assigned them to me, are attached hereto.

I have used this parking and all five of these access driveways for the entire time that I have owned the property. The other businesses on the Plaza also relied on these same parking and access driveways.

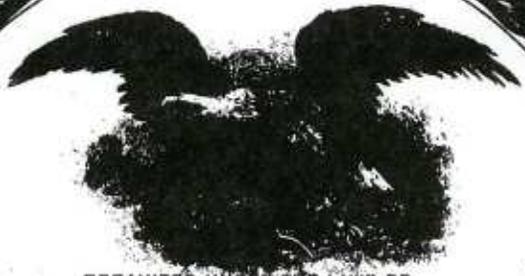
I am familiar with the property that Kaiser is proposing for a new medical facility. That property includes about half of the Parking/Access Area. Kaiser has blocked off its property with a fence that prevents me from using about half of the parking, and from using the access that I used to have to Santa Rosalia Avenue and Marlton Avenue. If I continue to be deprived of full use of the parking/access area then the value of my property will be greatly decreased and it would be difficult to sell it.

In the last several years because of numerous vacancies at the commercial properties in the former Plaza the westernmost portion of the parking/access area, approximately 1 acre in size and including a portion of the Kaiser property, has fallen into disuse and the pavement has disintegrated in this area. Because the grade of the site declines toward the west, stormwater from the entire parking lot tends to flow into this 1-acre area during the winter. During the winter vegetation between 1 and 2 feet high has grown up during the winter and the spring. I have observed hundreds of migratory birds consistently using this vegetation during recent winters.

DATED: August 11, 2014

---

JOHNNY EDWARDS



NUMBER  
104

SHARES  
60

ORGANIZED UNDER THE LAWS OF  
THE STATE OF CALIFORNIA

# Santa Barbara-Crenshaw Parking Company

CAPITALIZATION: 3100 shares of Common Stock without nominal or par value; of which 3000 are Class A Shares and 100 are Class B Shares

*This Certifies that* California Western States Life Insurance Company as Pledgee for Rudolf G. Woelfl and Hannelore A. Woelfl, h & w, as J.T. as to an undiv. 58.33%, Jose L. Ariztia and Mona Lisa Ariztia, H & W as J.T. as to an undiv. 29.17% is the record holder of SIXTY shares of the Class A Capital Stock of Santa Barbara-Crenshaw Parking Company and Diane Skaggs, a married woman as her sep. prop. as to an undivided 12.50%

transferable on the share register of said Corporation in person or by duly authorized Attorney upon surrender of this Certificate properly endorsed or assigned. The issuance of this stock is subject to the conditions set forth on the reverse side hereof. This stock is issued in connection with the ownership of Lot 3 of Tract 16059 as per map recorded in Book 370 Pages 44, 45 and 46 of maps, records of Los Angeles County. The Class A stock is assessable and the Class B Stock is non-assessable and has no obligation in connection with the maintenance of the parking lot to be operated by the corporation.

**WITNESS** the Seal of the Corporation and the signatures of the duly authorized officers.

DATED: May 15, 1968.

*Frank Kanneh*  
SECRETARY

*Andrew Chippe*  
PRESIDENT



21-1-033 927

FOR VALUE RECEIVED We HEREBY SELL, ASSIGN AND TRANSFER UNTO

JONNY EDWARDS AKA JERRY EDWARDS

SHARES REPRESENTED BY THE WITHIN CERTIFICATE AND DO HEREBY IRREVOCABLY CONSTITUTE AND

APPOINT Michael Canne ATTORNEY TO TRANSFER THE SAID SHARES ON THE SHARE REGISTER OF THE WITHIN NAMED CORPORATION, WITH FULL POWER OF SUBSTITUTION IN THE PREMISES.

DATED 11/17 19 83

IN PRESENCE OF

Walter G. Wolf  
James A. [unclear]  
Paul L. [unclear]  
Paul L. [unclear]  
Diane P. Stapp

NOTICE: THE SIGNATURE OF THIS ASSIGNEE MUST CORRESPOND WITH THE NAME AS APPEARS UPON THE PAGE OF THE CERTIFICATE, IN EVERY PARTICULAR WITHOUT ALTERATION OR ENLARGEMENT, OR ANY OTHER CHANGE.

The stockholder accepting this Certificate, by the acceptance hereof takes it subject to, and agrees to, and is bound by all of the provisions of the Articles of Incorporation and the By-laws relative to such shares and the issuance, holding and transfer thereof and to the obligations thereof, including but not limited to the obligations of maintenance of the parking lot on Lots 51 and 52 of Tract 16050 in the City of Los Angeles, California.

CALIFORNIA-WESTERN STATES LIFE INSURANCE COMPANY

By [Signature] Vice President

By [Signature] Assistant Secretary

**Exhibit 3**

### **Affidavit of Fred Leeds**

I, Fred Leeds, do hereby declare:

I have owned the property at 3710 and 3718 Martin Luther King Jr. Boulevard (also known as Lots 1 and 2) since 2012.

I bought the property with the understanding that I had the right to use any of the paved parking area in the center of the former Plaza, just like all of the other commercial properties around the Plaza. In addition, I had the understanding that I had the right to use any of five separate access driveways, to Martin Luther King Jr. Blvd., Buckingham Avenue, Marlton Avenue and Santa Rosalia Avenue, that led to this parking. The parking and access area (hereinafter, the "Parking/Access Area") was also known as Lots 51 and 52.

I am familiar with the property that Kaiser is proposing for a new medical facility. That property includes about half of the Parking/Access Area. Kaiser has blocked off its property with a fence that prevents me from using about half of the parking, and from using the access that I have a right to use to have to Santa Rosalia Avenue and Marlton Avenue. I have objected to this but Kaiser has refused to remove the fence. If I continue to be deprived of full use of the Parking/Access Area then the value of my property will be greatly decreased.

I am presently in escrow to buy the property owned by Johnny Edwards, my neighbor at 3724 Martin Luther King Jr. Blvd. (also known as Lots 3 and 4). I have a preliminary plan for a new commercial development consisting of between 40,000 and 80,000 square feet to include a sporting goods store and a fitness center on these combined properties. I am awaiting letters of intent from two publicly traded companies to complete this transaction. This project could require as many as 320 parking spaces under the City of Los Angeles zoning code. If I am deprived of full use of the Parking/Access Area these developments could be jeopardized.

Although I have only owned my parcels for about a year, I have been a real estate broker working in this neighborhood for more than 30 years. I own several hundred residential units in the neighborhood. As a broker, I have been familiar with the former Plaza property for more than a decade and visited it many times before I purchased land there. I have noticed in the several years that because of numerous vacancies at the commercial properties in the former Plaza the westernmost portion of the parking/access area, approximately 1 acre in size and including a portion of the Kaiser property, has fallen into disuse and the pavement has disintegrated in this area. Because the grade of the site declines toward the west, stormwater from the entire parking lot tends to flow into this 1-acre area during the winter. During the winter vegetation between 1 and 2 feet high has

grown up during the winter and the spring. I have observed hundreds of migratory birds consistently using this vegetation during recent winters.

I am familiar with the residential neighborhoods to the south and west of the project, as I own numerous multi-family residential apartment buildings in this area. In my experience the buildings there do not have sufficient off-street parking to meet the needs of the residents and their visitors, and as a result street parking is constantly occupied and difficult to find. Thus, any unsatisfied parking demand from the Kaiser project would seriously impact these residential neighborhoods by either depriving residents of a place to park entirely, or at least forcing them to park far from their residents and walk home, including late at night. Many of my tenants are women and elderly people who are subject to be the targets of opportunistic crimes such as robbery or assault if they are forced to park far from their homes, especially at night.

DATED: August 11, 2014

---

FRED LEEDS

**JOHN A. HENNING, JR.**  
ATTORNEY AT LAW  
125 N. SWEETZER AVENUE  
LOS ANGELES, CALIFORNIA 90048

TELEPHONE: (323) 655-6171  
E-MAIL: jhenning@planninglawgroup.com

August 15, 2014

# **FINAL LETTER OPPOSING PROJECT**

## VIA ELECTRONIC MAIL

South Los Angeles Area Planning Commission  
c/o James Williams, Commission Secretary  
City of Los Angeles  
200 N. Spring St., Room 272  
Los Angeles, CA 90012

Re: Case No. APCS-2013-4102-SPE-DRB-SPP-SPR / ENV-2013-4103-MND  
(3780 W. Martin Luther King Jr. Boulevard and 4055-4081 S. Marlton Avenue)  
(South Los Angeles Area Planning Commission Meeting Date: August 19, 2014)

Honorable Commissioners:

*"Iceberg, right ahead."*

-- Lookout Frederick Fleet at 11:40 p.m., April 14, 1912, from the  
crow's nest of the RMS *Titanic*.

This Commission is the last real chance to steer the City away from an ill-conceived proposal that would effectively steal parking and access from its neighbors and embroil the City in needless litigation. The staff report for this project concedes that Kaiser has not established that it has the right to build its facility on this site, or to exclusively use it for parking and other purposes. Thus, my client, MLK Marlton LLC, still vigorously opposes the project.<sup>1</sup>

---

<sup>1</sup> MLK Marlton owns the parcels at 3710 and 3718 Martin Luther King Jr. Boulevard. We submitted a 41-page letter to you dated August 12, 2014.

The applicant, Kaiser Foundation Health Plan, Inc. ("Kaiser") has brought this situation upon itself. Kaiser bought the property in May 2012, more than two years ago. At that time they were fully on notice that a recorded Declaration of Restrictions ("Declaration") stated that a large portion of the sit "shall not be used for any purpose other than the parking of automobile and other vehicles and for the purpose of ingress and egress to other lots in Tract 16050."

Regrettably, Kaiser did not go to the other property owners in the tract and seek permission to use the property for a different purpose. Nor did Kaiser apply to a court for a determination that the Declaration was extinguished or otherwise invalid.

Instead, in December 2013, Kaiser filed an application with the City to build this project directly onto the land burdened by the Declaration. In hundreds of pages of application materials, Kaiser made no mention whatsoever of the Declaration.

This was an outright fraud, committed against the City.

Kaiser's fraud would have gone undiscovered, except that two property owners in the tract objected. One of these property owners is my client, MLK Marlton. The other is Johnny Edwards, who has owned the adjacent parcel with his wife for more than 30 years. Both Mr. Edwards and the representative of my client, Fred Leeds, have supplied the Commission with signed affidavits asserting their unequivocal right to enforce the Declaration. These affidavits are attached.

It may initially appear as though these objections were raised at the last minute, when City staff held its public hearing on July 18, 2014. In fact, my client strenuously objected to this project directly with Kaiser more than three months earlier. On March 17, 2014, my client's attorney wrote a letter to Kaiser in which he specifically cited to the Declaration and objected to Kaiser's plan to build a project on the land subject to it. Kaiser's attorneys replied to that letter on March 26, 2014, and while they disputed the legal effect of the Declaration, they clearly acknowledged its existence, and strongly implied that Kaiser had been aware of it all along. Both of these letters are attached.

Meanwhile, since November 2013, many months before my client wrote to Kaiser, other property owners in the tract have been embroiled in litigation over similar attempts by the City itself to seize exclusive control over land burdened by the Declaration. Kaiser has never contended that it was unaware of this litigation, and as a sophisticated property owner surely was well aware of it.

While these disputes were raging over the use of parking and access in the Center, Kaiser continued pursuing its permits, and actively concealed all evidence of these disputes from the City.

Honorable Commissioners  
August 15, 2014  
Page 3

Finally confronted with these objections at the public hearing on July 18<sup>th</sup>, Kaiser presented a self-serving opinion by its own lawyer, who tried to explain away the Declaration with a series of specious arguments. My client's attorney, Geoff Gold, has fully responded to these arguments in his letter dated August 12, 2014, which was included in the Commission's hearing packet. Meanwhile, there is nothing in the record indicating that the City's lawyer – i.e., the City Attorney – agrees with Kaiser that the Declaration is void and/or unenforceable.

Staff, to its credit, has acknowledged that this is a valid issue. The staff report (at page A-4) states, "the applicant has been asked by the Department of City Planning to provide a record of property affidavits and title report to determine if the parking restriction is a valid record."

Yet despite staff's request, as of yesterday, August 14, 2014, Kaiser had not submitted any title report or other evidence indicating whether the Declaration is still in force. Evidently, Kaiser believes that it can simply ignore the request with impunity, or perhaps wait until the very last moment to insert the requested documents into the record.

In any event, regardless of what Kaiser may submit in the final moments of this proceeding, it simply cannot resolve this dispute. Instead, the facts are simply these:

- Kaiser has never disputed that the Declaration is recorded against its property.
- Kaiser's title report cannot establish that the recorded Declaration is unenforceable, but rather, merely shows what one title insurance company is willing to insure against.
- The City Attorney has not agreed with Kaiser.
- The only thing that can establish that the Declaration is unenforceable would be a decision by a court of law, and neither Kaiser nor any of its predecessors in interest in the property have ever sought such a decision.

Given these facts, this Commission has just one real option: To deny the project.

Very truly yours,



John A. Henning, Jr.

Enclosures

### Affidavit of Fred Leeds

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I am familiar with the property that Kaiser is proposing for a new medical facility. That property includes about half of the Parking/Access Area. Kaiser has blocked off its property with a fence that prevents me from using about half of the parking, and from using the access that I have a right to use to have to Santa Rosalia Avenue and Marlton Avenue. I have objected to this but Kaiser has refused to remove the fence. If I continue to be deprived of full use of the Parking/Access Area then the value of my property will be greatly decreased.

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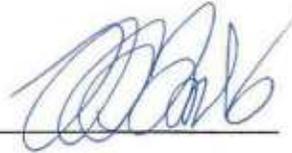
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FHL

grown up during the winter and the spring. I have observed hundreds of migratory birds consistently using this vegetation during recent winters.

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DATED: August 11, 2014



FRED LEEDS

**Affidavit of Johnny Edwards**

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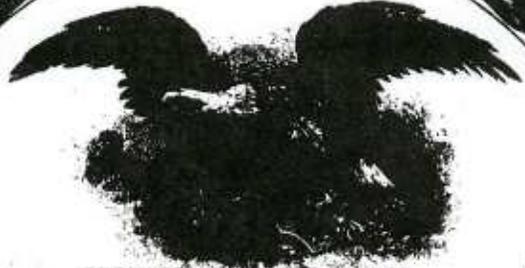
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DATED: August 11, 2014

8/11/14   
JOHNNY EDWARDS



NUMBER  
104

SHARES  
65

ORGANIZED UNDER THE LAWS OF  
THE STATE OF CALIFORNIA

# Santa Barbara-Crenshaw Parking Company

CAPITALIZATION: 3100 shares of Common Stock without nominal or par value; of which 3000 are Class A Shares and 100 are Class B Shares

*This Certifies that* California Western States Life Insurance Company as Pledgee for Rudolf G. Woelfl and Hannelore A. Woelfl, H & W, as J.T. as to an undiv. 58.33%, Jose L. Ariztia and Mona Lisa Ariztia, H & W as J.T. as to an undiv. 29.17% is the record holder of SIXTY undivided 12.50% shares of the Class A Capital Stock of

Santa Barbara-Crenshaw Parking Company

transferable on the share register of said Corporation in person or by duly authorized Attorney upon surrender of this Certificate properly endorsed or assigned. The issuance of this stock is subject to the conditions set forth on the reverse side hereof. This stock is issued in connection with the ownership of Lot 3 of Tract 16059 as per map recorded in Book 370 Pages 44, 45 and 46 of maps, records of Los Angeles County. The Class A stock is assessable and the Class B Stock is non-assessable and has no obligation in connection with the maintenance of the parking lot to be operated by the corporation.

**WITNESS** the Seal of the Corporation and the signatures of the duly authorized officers.

DATED: May 15, 1968.

*Harold Kanneh*  
SECRETARY

*Andrew Chiappe*  
PRESIDENT



FOR VALUE RECEIVED We HEREBY SELL, ASSIGN AND TRANSFER UNTO

JONNY EDWARDS AKA JERRY EDWARDS

SHARES REPRESENTED BY THE WITHIN CERTIFICATE AND DO HEREBY IRREVOCABLY CONSTITUTE AND

APPOINT Michael Canne ATTORNEY TO TRANSFER THE SAID SHARES ON THE SHARE REGISTER OF THE WITHIN NAMED CORPORATION, WITH FULL POWER OF SUBSTITUTION IN THE PREMISES.

DATED 11/17 19 83

IN PRESENCE OF \_\_\_\_\_

*Handwritten signatures:*  
Michael G. Wolf  
James E. A. [unclear]  
Paul [unclear]  
Steve [unclear]  
Diane P. Slapp

NOTICE: THE SIGNATURE OF THIS ASSURANCE AGENT CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE CERTIFICATE, IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT, ON ANY OTHER PAGE.

The stockholder accepting this Certificate, by the acceptance hereof takes it subject to, and agrees to, and is bound by all of the provisions of the Articles of Incorporation and the By-laws relative to such shares and the issuance, holding and transfer thereof and to the obligations thereof, including but not limited to the obligations of maintenance of the parking lot on Lots 51 and 52 of Tract 16050 in the City of Los Angeles, California.

CALIFORNIA-WESTERN STATES LIFE INSURANCE COMPANY

By [Signature] Vice President

By [Signature] Assistant Secretary

21-1-033 4121

David W. Nelson  
(310) 284-3770  
david.nelson@btlaw.com

www.btlaw.com

March 17, 2014

**VIA OVERNIGHT DELIVERY**

Doug Wolfley  
Real Estate Area Manager  
Kaiser Foundation Health Plan, Inc.  
393 E. Walnut Street, 4th Floor  
Pasadena, California 91188

Indrajit Obeysekere  
Legal Department  
Kaiser Foundation Health Plan, Inc.  
1800 Harrison St., 19th Floor  
Oakland, California 94612

**Re: Interference with Parking and Ingress/Egress Rights at Marlton Square**

Dear Mr. Wolfley and Mr. Obeysekere:

I write on behalf of MLK Marlton, LLC ("Marlton"), owner of the real property located at 3710 and 3718 West Martin Luther King, Jr. Blvd., Los Angeles, California 90008, also identified as Lots 1 and 2 of Tract 16050, as per map recorded in Book 370, Pages 44 through 46, inclusive, of Maps, in the Office of the Los Angeles County Recorder (the "Marlton Properties"). We understand that Kaiser Foundation Health Plan, Inc. ("Kaiser") is the owner of Parcel 1 of Certificate of Compliance for Lot Line Adjustment recorded December 22, 2011, as Instrument No. 2011-1738454 of Official Records (the "Kaiser Property"). The Kaiser Property covers certain portions of the properties also identified as Lots 51 and 52 of Tract 16050.

As you know, all lots within Tract 16050, including the Marlton Properties and the Kaiser Property, are governed by a Declaration of Restrictions dated July 18, 1950, and recorded in the Official Records of Los Angeles County on August 10, 1950 as Instrument No. 3031 (the "Declaration"). Article I of the Declaration provides that "Lots 51 and 52 of said Tract 16050 shall not be used for any purpose other than the parking of automobiles and other vehicles, and for the purpose of ingress and egress to other lots in Tract 16050." Article VII of the Declaration further provides that the restrictions contained in the Declaration run with the land and bind all present and future owners and their respective successors in interest, and that breach of any restriction "may be enjoined, abated or remedied by the appropriate proceedings maintained by any or either of such owners or their successors in interest."

Despite these restrictions, Marlton has discovered that Kaiser has erected fencing on the Kaiser Property, blocking Marlton's use of the property for automobile parking and the ingress/egress to the Marlton Properties from both Buckingham Road and Santa Rosalia Drive. Marlton further understands that Kaiser intends to erect a building on the Kaiser Property in direct violation of the Declaration.

Kaiser Foundation Health Plan, Inc.  
March 17, 2014  
Page 2

Marlton, therefore, demands that Kaiser immediately remove any fencing and/or other impairments from the Kaiser Property, fully restoring Marlton's access to the Kaiser Property for the purpose of parking and ingress/egress to the Marlton Properties. Marlton further expects that Kaiser will abide by the express terms of the Declaration that prevent the use of the Kaiser Property for any purpose other than parking and ingress/egress to the other properties of Tract 16050.

Please let me know by March 28, 2014 whether Kaiser will agree to comply with its obligations under the Declaration. If Kaiser will not agree to comply with the Declaration, Marlton will be forced to take whatever steps may be necessary to protect and enforce its rights under the Declaration.

Please feel free to contact me if you would like to discuss this matter further.

Sincerely,



David Nelson



One Maritime Plaza ♦ Eighteenth Floor  
San Francisco, California 94111-3598

Kathleen Keeler Bryski  
kbryski@sflaw.com  
(415) 773-7214  
Fax: (415) 421-2922

March 26, 2014

***VIA FEDERAL EXPRESS***

Mr. David Nelson  
Barnes & Thornburg LLP  
2029 Century Park East, Suite 300  
Los Angeles, CA 90067-2904

Re: Kaiser/Marlton Square Property  
(FN Policy No. CAFNT0972-0972-0051-0725141313-FNTIC-2012-05)

Dear Mr. Nelson:

This firm represents Kaiser Foundation Health Plan, Inc. ("Kaiser"), and we have received your letter dated March 17, 2014 addressed to Messieurs Wolfley and Obeysekere at Kaiser. Please direct any future correspondence relating to this matter to me, with a copy to Rod Pasion, Regional Counsel, Fidelity National Title Group, 455 Market Street, Suite 2100, San Francisco, California 94105.

Kaiser acquired Parcel 1 ("Parcel 1") created by Certificate of Compliance for Lot-Line Adjustment recorded December 22, 2011 in the Official Records of Los Angeles County (the "Official Records") as Instrument No. 2011-1738454 (the "Lot Line Adjustment"), along with all or most of Lots 28 through 48 as shown on Tract Map No. 16050, recorded in the Map Book 370 at pages 44, 45, and 46 of the Official Records (collectively, with Parcel 1, the "Kaiser Property"). Parcel 2 created by the Lot Line Adjustment ("Parcel 2") is owned by Marlton Recovery Partners, LLC ("MRP"). Parcel 1 and Parcel 2 account for all of former Lots 51 and 52 shown on Tract Map No. 16050, and of the remaining fifty (50) lots on such map, we believe that all but four (4) are owned by Kaiser, MRP and the City of Los Angeles.

When Kaiser acquired the Kaiser Property, Fidelity National Title Insurance Company, the title company who insured the transaction, determined that the Declaration of Restrictions dated July 18, 1950 and recorded On August 10, 1950 as Instrument No. 3031 (the "Ancient CC&Rs") did not burden the Kaiser Property. This determination may have been for a variety of reasons, including, but not limited to, the fact that (i) both the Capital Company and the Santa-Barbara-Crenshaw Parking Company referenced in the Ancient CC&Rs are defunct; and (ii) under the California Marketable Title Act, as set forth in California Civil Code 880.020 et seq., the rights of reverter set forth in Article VII of the Ancient CC&Rs are null and void. There may also be additional documentation in the form of recorded releases and quitclaims on title that

Mr. David Nelson

March 26, 2014

Page 2

supported the title company's determination that the Ancient CC&Rs do not affect the title policy. In any case, the determination was made that the CC&Rs do not burden the Kaiser Property.

Further, we have been advised that your client has had numerous contact and communication with MRP, and that MRP has offered to make reasonable parking available to your client's property on its Parcel 2. Even if the Ancient CC&Rs were applicable to the Kaiser Property, we find it difficult to believe that a court of equity would grant an injunction to enforce the Ancient CC&Rs when your client is not damaged and had apparently rejected an offer to accommodate any legitimate parking need.

Please be advised that Kaiser has tendered notice of this claim to Fidelity National Title Insurance Company and either Kaiser or Fidelity will vigorously defend any claim brought in connection with the Ancient CC&Rs.

Very truly yours,



Kathleen Keeler Bryski

KKB:wr

cc: Indrajit Obeysekere, Esq.  
Richard Greenberg, Esq.  
Rod Pasion, Esq.



# SOUTH LOS ANGELES AREA PLANNING COMMISSION

200 N. Spring Street, Room 272, Los Angeles, California, 90012-4801, (213) 978-1300  
<http://cityplanning.lacity.org/>

SEP 02 2014

**Determination Mailing Date:**

**CASE:** APCS-2013-4102-SPE-DRB-SPP-SPR  
**CEQA:** ENV-2013-4103-MND

**Location:** 3780 W. Martin Luther King Jr. Boulevard  
4055 – 4081 S. Marlton Avenue  
**Council District:** 10 – Wesson  
**Plan Area:** West Adams-Baldwin Hills-Leimert  
**Zone:** [Q]C2-2D

**Applicant:** Kaiser Foundation Health Plan, Inc.  
Rep.: Donna Shen Tripp, Craig Lawson & Co.

**At its meeting of August 19, 2014, the South Los Angeles Area Planning Commission took the following action:**

1. **Approved** the **Site Plan Review** for development of 105,000 square feet of floor area.
2. **Approved** the **Exception** from Section 14c and Design Standard 11i of the Crenshaw Corridor Specific Plan Design Guidelines and Standards Manual to allow two surface parking lots to be located on the sides of the structure, fronting along Santa Rosalia Drive and portions of Marlton Avenue and Buckingham Road.
3. **Denied** the **Exception** from Section 14c and Design Standard 8a of the Crenshaw Corridor Specific Plan Design Guidelines and Standards Manual to allow a 2'-6" high fence on top of the required 3' – 6" high wall (total 6'-0" high) adjacent to surface parking lots fronting along adjacent streets and a 6'-0" high fence fronting along adjacent streets.
4. **Approved** the **Project Permit Compliance** with the applicable regulations of the Crenshaw Corridor Specific Plan.
5. **Adopted** the attached modified **Conditions of Approval**.
6. **Adopted** the attached **Findings**.
7. **Adopted** the Mitigated Negative Declaration No. **ENV-2013-4103-MND** pursuant to Section 21082.1(c)(3) of the California Public Resources Code.
8. **Advised** the Applicant that pursuant to State Fish and Game Code Section 711.4, a Fish and Game Fee and/or Certificate of Fee Exemption is now required to be submitted to the County Clerk prior to or concurrent with the Environmental Notice of Determination (NOD) filing.

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

This action was taken by the following vote:

**Moved:** Orozco  
**Seconded:** Bates  
**Ayes:** Carson, Stern, Willis

**Vote:** 5 - 0

  
James K. Williams, Commission Executive Assistant II  
South Los Angeles Area Planning Commission

**Effective Date/Appeals:** The South Los Angeles Area Planning Commission's determination is appealable. Any aggrieved party may file an appeal within 15-days after the mailing date of this determination letter. Any appeal not filed within the 15-day period shall not be considered by the City Council. All appeals shall be filed on forms provided at the Planning Department's Public Counters at 201 N. Figueroa Street, Fourth Floor, Los Angeles, or at 6262 Van Nuys Boulevard, Suite 251, Van Nuys.

FINAL APPEAL DATE: SEP 17 2014

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

Attachments: Modified Conditions of Approval and Findings  
City Planner: Michelle Singh  
City Planning Associate: Lateef Sholebo

## CONDITIONS OF APPROVAL

1. **Site Plan.** Except as modified by this action, the use and development of the subject property shall be in substantial conformance with the attached plans labeled as "Exhibit B", stamped, signed and dated by City Planning Staff attached to the subject case file.
2. **Development Standards.** The subject use shall be permitted the following:
  - a. **Parking Lot Location.** The surface parking lot shall be permitted on the sides of the outpatient medical facility, behind a minimum three foot landscaped buffer and solid three and one-half foot decorative wall.
  - b. **Surface Parking Walls.** The project shall be limited to a three and one-half foot solid wall for surface parking lots abutting a public right of way.
  - c. **Freestanding Walls.**
    - i. The project shall be limited to a four foot high fence located on the east and west sides of the property line adjacent to open space areas, and submit revised project plans to be in compliance with this condition.
    - ii. The project shall be limited to a six foot fence on the northern interior property line, abutting commercially zoned properties.
  - d. **Access Driveway.** Prior to issuance of a building permit, the Applicant shall provide evidence that the project is granted an easement, or other agreement, demonstrating use of the access road to Martin Luther King Jr. Boulevard in substantial conformance with the site plan labeled Exhibit B. Should the project not be granted use of the access road, the site plan and driveway plan shall be reviewed by the Department of City Planning and the Department of Transportation.
  - e. **Pedestrian Entrance.** The project shall provide a pedestrian only entrance on Santa Rosalia Drive in substantial conformance with the site plan labeled Exhibit B.
3. **Public Access.** The project shall provide retractable pedestrian gates at the access points identified on the site plan.
4. **Public Signage (Wayfinding).** A sign shall be posted at each pedestrian entrance, which states that the area is open to the public during business hours.
5. **Use.** The project shall be limited to an outpatient medical facility.
6. **Height.** The project shall be limited to a maximum of 60 feet in height, not including the solar panels.
7. **Parking.** A total of 525 parking spaces shall be provided pursuant to LAMC Section 12.21.A.4. The Applicant shall install bicycle parking spaces that conform to Section 12.21 A.16(c) through (h) of the Code.
8. **Landscape Buffer.** The Project shall provide a three foot landscape buffer in front of any freestanding wall or fences. One tree for every 15 linear feet shall be planted at a size of 24" inch box trees.
9. **Sign.** Any approval for sign(s) shall be filed under a separate application, other than that required under condition number 4.

10. **Landscape Plan.** The Applicant shall provide a revised landscape plan that shows an irrigation system for the landscaped areas. All landscaped areas shall be irrigated with an automated watering system including the public right-of-way. The landscaping shall be maintained in good health for the life of the project.
11. **Utilities.** All new utility lines which directly service the lot or lots shall be installed underground. If underground service is not currently available, then provisions shall be made by the Applicant for future underground service.
12. **Surface Mechanical Equipment.** All surface or ground mounted mechanical equipment, including transformers, terminal boxes, pull boxes, air conditional condensers, gas meters and electric meters cabinets shall be screened from public view and /or treated to match the materials and colors of the building which they serve.
13. **Roofs and Roof Top Equipment.** Building equipment and ducts on roofs shall be screened from view from any street, public right-of-way or adjacent property. The screening shall be solid and match the exterior materials, design and color of the building. Solar panels need not be screened.
14. **Storage, Trash and Loading Areas.** Trash enclosures shall be enclosed by a minimum five foot high, decorative masonry wall that is not located adjacent to a public street, consistent with Exhibit B. The trash area shall have a separate, enclosed area for recyclable materials.
15. **Security Devices.** If at any time during the life of the project the property owner wishes to install security devices such as window grilles and/or gates, such security devices shall be designed so as to be fully concealed from public view. The property owner shall be required to acquire approval from the Director of Planning through a Building Permit sign-off, for the installation of any security devices.

### Environmental Conditions

16. **Aesthetics (Landscape Plan).** All open areas not used for buildings, driveways, parking areas, recreational facilities or sidewalks shall be attractively landscaped and maintained in accordance with a landscape plan and an automatic irrigation plan, prepared by a licensed Landscape Architect and to the satisfaction of the decision maker.
17. **Aesthetics (Landscape Buffer).** A minimum three-foot wide landscape buffer shall be planted adjacent to the residential use.
18. **Aesthetics (Surface Parking)**
  - a. A minimum of one 24-inch box tree (minimum trunk diameter of two inches and a height of eight feet at the time of planting) shall be planted for every four new surface parking spaces.
  - b. The trees shall be dispersed within the parking area so as to shade the surface parking area and shall be protected by a minimum 6-inch high curb, and landscape. An automatic irrigation plan shall be approved by the Department of City Planning.
  - c. Palm trees shall not be considered in meeting this requirement.

- a. The genus or genera of the tree(s) shall provide a minimum crown of 30'- 50'. Please refer to City of Los Angeles Landscape Ordinance (Ord. No.170,978), Guidelines K - Vehicular Use Areas.

#### 19. Aesthetics (Vandalism)

- a. Every building, structure, or portion thereof, shall be maintained in a safe and sanitary condition and good repair, and free from, debris, rubbish, garbage, trash, overgrown vegetation or other similar material pursuant to Municipal Code Section 91.8104.
- b. The exterior of all buildings and fences shall be free from graffiti when such graffiti is visible from a street or alley, pursuant to Municipal Code Section 91.8104.15.

#### 20. Aesthetics (Signage on Construction Barriers)

- a. The applicant shall affix or paint a plainly visible sign, on publically accessible portions of the construction barriers, with the following language: "POST NO BILLS."
- b. Such language shall appear at intervals of no less than 25 feet along the length of the publically accessible portions of the barrier.
- c. The applicant shall be responsible for maintaining the visibility of the required signage and for maintaining the construction barrier free and clear of any unauthorized signs within 48 hours of occurrence.

21. **Aesthetics (Light).** Outdoor lighting shall be designed and installed with shielding, such that the light source cannot be seen from adjacent residential properties or the public right-of-way.

22. **(Aesthetics (Glare).** The exterior of the proposed structure shall be constructed of materials such as, but not limited to, high-performance and/or non-reflective tinted glass (no mirror like tints or films) and pre-cast concrete or fabricated wall surfaces to minimize glare and reflected heat.

#### 23. Air Pollution (Demolition, Grading, and Construction Activities)

- a. All unpaved demolition and construction areas shall be wetted at least twice daily during excavation and construction, and temporary dust covers shall be used to reduce dust emissions and meet SCAQMD District Rule 403. Wetting would reduce fugitive dust by as much as 50 percent.
- b. The construction area shall be kept sufficiently dampened to control dust caused by grading and hauling, and at all times provide reasonable control of dust caused by wind.
- c. All clearing, earth moving, or excavation activities shall be discontinued during periods of high winds (i.e., greater than 15 mph), so as to prevent excessive amounts of dust.
- d. All dirt/soil loads shall be secured by trimming, watering or other appropriate means to prevent spillage and dust.

- e. All dirt/soil materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amount of dust.
- f. General contractors shall maintain and operate construction equipment so as to minimize exhaust emissions.
- g. Trucks having no current hauling activity shall not idle but be turned off.

**24. Habitat Modification (Nesting Native Birds, Non-Hillside or Urban Areas).** Proposed Project activities (including disturbances to native and non-native vegetation, structures and substrates) should take place outside of the breeding bird season which generally runs from March 1 - August 31 (as early as February 1 for raptors) to avoid take (including disturbances which would cause abandonment of active nests containing eggs and/or young). Take means to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture of kill (Fish and Game Code Section 86).

If project activities cannot feasibly avoid the breeding bird season, beginning thirty days prior to the disturbance of suitable nesting habitat, the applicant shall:

- a. Arrange for weekly bird surveys to detect any protected native birds in the habitat to be removed and any other such habitat within properties adjacent to the project site, as access to adjacent areas allows. The surveys shall be conducted by a qualified biologist with experience in conducting breeding bird surveys. The surveys shall continue on a weekly basis with the last survey being conducted no more than 3 days prior to the initiation of clearance/construction work.
- b. If a protected native bird nest is found, the applicant shall delay all clearance/construction disturbance activities within 300 feet of suitable nesting habitat for the observed protected bird species until August 31.
- c. Alternatively, the Qualified Biologist could continue the surveys in order to locate any nests. If an active nest is located, clearing and construction within 300 feet of the nest or as determined by a qualified biological monitor, shall be postponed until the nest is vacated and juveniles have fledged and when there is no evidence of a second attempt at nesting. The buffer zone from the nest shall be established in the field with flagging and stakes. Construction personnel shall be instructed on the sensitivity of the area.
- d. The applicant shall record the results of the recommended protective measures described above to document compliance with applicable State and Federal laws pertaining to the protection of native birds. Such record shall be submitted and received into the case file for the associated discretionary action permitting the Project.

**25. Tree Removal (Non-Protected Trees).**

- a. Prior to the issuance of any permit, a plot plan shall be prepared indicating the location, size, type, and general condition of all existing trees on the site and within the adjacent public right(s)-of-way.
- b. All significant (8-inch or greater trunk diameter, or cumulative trunk diameter if multi-trunked, as measured 54 inches above the ground) non-protected trees on the site proposed for removal shall be replaced at a 1:1 ratio with a minimum 24-inch box

tree. Net, new trees, located within the parkway of the adjacent public right(s)-of-way, may be counted toward replacement tree requirements.

- c. Removal or planting of any tree in the public right-of-way requires approval of the Board of Public Works. Contact Urban Forestry Division at: 213-847-3077. All trees in the public right-of-way shall be provided per the current standards of the Urban Forestry Division the Department of Public Works, Bureau of Street Services.

## 26. Cultural Resources (Archaeological).

If any archaeological materials are encountered during the course of the Project development, all further development activity shall halt and:

- a. The services of an archaeologist shall then be secured by contacting the South Central Coastal Information Center (657-278-5395) located at California State University Fullerton, or a member of the Society of Professional Archaeologist (SOPA) or a SOPA-qualified archaeologist, who shall assess the discovered material(s) and prepare a survey, study, or report evaluating the impact.
- b. The archaeologist's survey, study or report shall contain a recommendation(s), if necessary, for the preservation, conservation, or relocation of the resource.
- c. The applicant shall comply with the recommendations of the evaluating archaeologist, as contained in the survey, study or report.
- d. Project development activities may resume once copies of the archaeological survey, study or report are submitted to:

SCCIC Department of Anthropology  
 McCarthy Hall 477  
 CSU Fullerton  
 800 North State College Boulevard  
 Fullerton, CA 92834

- e. Prior to the issuance of any building permit, the applicant shall submit a letter to the case file indicating what, if any, archaeological reports have been submitted, or a statement indicating that no material was discovered.
- f. A covenant and agreement binding the applicant to this condition shall be recorded prior to issuance of a grading permit.

## 27. Cultural Resources (Paleontological). If any paleontological materials are encountered during the course of the Project development, all further development activities shall halt and:

- a. The services of a paleontologist shall be secured by contacting the Center for Public Paleontology - USC, UCLA, Cal State Los Angeles, Cal State Long Beach, or the County Natural History Museum – who shall assess the discovered material(s) and prepare a survey, study or report evaluating the impact.
- b. The paleontologist's survey, study or report shall contain a recommendation(s), if necessary, for the preservation, conservation, or relocation of the resource.

- c. The applicant shall comply with the recommendations of the evaluating paleontologist, as contained in the survey, study or report.
  - d. Project development activities may resume once copies of the paleontological survey, study or report are submitted to the Los Angeles County Natural History Museum.
  - e. Prior to the issuance of any building permit, the applicant shall submit a letter to the case file indicating what, if any, paleontological reports have been submitted, or a statement indicating that no material was discovered.
  - f. A covenant and agreement binding the applicant to this condition shall be recorded prior to issuance of a grading permit.
28. **Cultural Resources (Human Remains).** In the event that human remains are discovered during excavation activities, the following procedure shall be observed:
- a. Stop immediately and contact the County Coroner:  
  
1104 N. Mission Road  
Los Angeles, CA 90033  
323-343-0512 (8 a.m. to 5 p.m. Monday through Friday) or  
323-343-0714 (After Hours, Saturday, Sunday, and Holidays)
  - b. The coroner has two working days to examine human remains after being notified by the responsible person. If the remains are Native American, the Coroner has 24 hours to notify the Native American Heritage Commission.
    - a) The Native American Heritage Commission will immediately notify the person it believes to be the most likely descendent of the deceased Native American.
    - b) The most likely descendent has 48 hours to make recommendations to the owner, or representative, for the treatment or disposition, with proper dignity, of the human remains and grave goods.
    - c) If the descendent does not make recommendations within 48 hours the owner shall reinter the remains in an area of the property secure from further disturbance, or;
    - d) If the owner does not accept the descendant's recommendations, the owner or the descendent may request mediation by the Native American Heritage Commission.
29. **Seismic.** The design and construction of the Project shall conform to the Uniform Building Code seismic standards as approved by the Department of Building and Safety.
30. **Erosion/Grading/Short-Term Construction Impacts.** The Project Applicant shall provide staked signage at the site with a minimum of 3-inch lettering containing contact information for the Senior Street Use Inspector (Department of Public Works), the Senior Grading Inspector (LADBS) and the hauling or general contractor.

Chapter IX, Division 70 of the Los Angeles Municipal Code addresses grading, excavations, and fills. All grading activities require grading permits from the Department of Building and Safety. Additional provisions are required for grading activities within

Hillside areas. The application of BMPs includes but is not limited to the following mitigation measures:

- a. Excavation and grading activities shall be scheduled during dry weather periods. If grading occurs during the rainy season (October 15 through April 1), diversion dikes shall be constructed to channel runoff around the site. Channels shall be lined with grass or roughened pavement to reduce runoff velocity.
  - b. Stockpiles, excavated, and exposed soil shall be covered with secured tarps, plastic sheeting, erosion control fabrics, or treated with a bio-degradable soil stabilizer.
31. **Geotechnical Report.** The Project shall comply with the conditions contained within the Department of Building and Safety's Geology and Soils Report Approval Letter for the Proposed Project and as it may be subsequently amended or modified.
32. **Green House Gas Emissions**
- a. Install a demand (tankless or instantaneous) water heater system or high efficiency central boiler system, sufficient to serve the anticipated needs of the dwelling(s).
  - b. Only low- and non-VOC-containing paints, sealants, adhesives, and solvents shall be utilized in the construction of the Project.
33. **Hazardous Materials Site.** Prior to the issuance of any use of land, grading, or building permit, the applicant shall obtain a sign-off from the Fire Department and the LARWQCB indicating that all on-site hazardous materials, including contamination of the soil and groundwater, have been suitably remediated, or that the proposed project will not impede proposed or on-going remediation measures.
34. **Stormwater Pollution (Demolition, Grading, and Construction Activities).** Sediment carries with it other work-site pollutants such as pesticides, cleaning solvents, cement wash, asphalt, and car fluids that are toxic to sea life.
- a. Leaks, drips and spills shall be cleaned up immediately to prevent contaminated soil on paved surfaces that can be washed away into the storm drains.
  - b. All vehicle/equipment maintenance, repair, and washing shall be conducted away from storm drains. All major repairs shall be conducted off-site. Drip pans or drop clothes shall be used to catch drips and spills.
  - c. Pavement shall not be hosed down at material spills. Dry cleanup methods shall be used whenever possible.
  - d. Dumpsters shall be covered and maintained. Uncovered dumpsters shall be placed under a roof or be covered with tarps or plastic sheeting.
35. **Standard Urban Stormwater Mitigation Plan.** Prior to issuance of a grading permit, the Project shall comply with the Standard Urban Stormwater Mitigation Plan (SUSMP) and/or the site-specific mitigation plan to mitigate stormwater pollution as required by Ordinance Nos. 172,176 and 173,494. The appropriate design and application of Best Management Practices (BMP) devices and facilities shall be determined by the

Watershed Protection Division of the Bureau of Sanitation, Department of Public Works. More information may be obtained at [www.lastormwater.org](http://www.lastormwater.org).

**36. Increased Noise Levels (Demolition, Grading, and Construction Activities)**

- a. The Project shall comply with the City of Los Angeles Noise Ordinance No. 144,331 and 161,574, and any subsequent ordinances, which prohibit the emission or creation of noise beyond certain levels at adjacent uses unless technically infeasible.
- b. Construction and demolition shall be restricted to the hours of 7:00 am to 6:00 pm Monday through Friday, and 8:00 am to 6:00 pm on Saturday.
- c. The project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices.
- d. Noise and groundborne vibration construction activities whose specific location on the site may be flexible (e.g., operation of compressors and generators, cement mixing, general truck idling) shall be conducted as far as possible from the nearest noise- and vibration-sensitive land uses, and natural and/or manmade barriers (e.g., intervening construction trailers) shall be used to screen propagation of noise from such activities towards these land uses to the maximum extent possible.
- e. Barriers such as, but not limited to, plywood structures or flexible sound control curtains extending eight feet in height shall be erected around the perimeter of the construction site to minimize the amount of noise during construction on the nearby noise-sensitive uses.
- f. The Project shall comply with the City of Los Angeles Building Regulations Ordinance No. 178,048, which requires a construction site notice to be provided that includes the following information: job site address, permit number, name and phone number of the contractor and owner or owner's agent, hours of construction allowed by code or any discretionary approval for the site, and City telephone numbers where violations can be reported. The notice shall be posted and maintained at the construction site prior to the start of construction and displayed in a location that is readily visible to the public.

**37. Public Services (Fire).** The following recommendations of the Fire Department relative to fire safety shall be incorporated into the building plans, which includes the submittal of a plot plan for approval by the Fire Department either prior to the recordation of a final map or the approval of a building permit. The plot plan shall include the following minimum design features: fire lanes, where required, shall be a minimum of 20 feet in width; all structures must be within 300 feet of an approved fire hydrant, and entrances to any dwelling unit or guest room shall not be more than 150 feet in distance in horizontal travel from the edge of the roadway of an improved street or approved fire lane.

**38. Public Services (Police – Demolition/Construction Sites).** Fences shall be constructed in compliance with the Crenshaw Corridor Specific Plan design standards, and around the site to minimize trespassing, vandalism, short-cut attractions and attractive nuisances.

**39. Public Services (Police).** The plans shall incorporate the Design Guidelines (defined in the following sentence) relative to security, semi-public and private spaces, which may

include but not be limited to access control to building, secured parking facilities, walls/fences with key systems, well-illuminated public and semi-public space designed with a minimum of dead space to eliminate areas of concealment, location of toilet facilities or building entrances in high-foot traffic areas, and provision of security guard patrol throughout the project site if needed. Please refer to "Design Out Crime Guidelines: Crime Prevention Through Environmental Design," published by the Los Angeles Police Department. Contact the Community Relations Division, located at 100 W. 1st Street, #250, Los Angeles, CA 90012; (213) 486-6000. These measures shall be approved by the Police Department prior to the issuance of building permits.

40. **Increased Vehicle Trips/Congestion.** The Applicant shall comply with all mitigation measure(s) and conditions of approval detailed in the Department of Transportation's communication to the Planning Department dated October 8, 2013 (attached to this expanded IS/MND). The Project Traffic Study and subsequent revisions, dated July 8, 2013, and mitigation measure(s) are incorporated herein by reference.

41. **Transportation (Haul Route)**

- a. The developer shall install appropriate traffic signs in accordance with the LAMC around the site to ensure pedestrian and vehicle safety.
- b. (Non-Hillside): The Projects involves the import/export of 20,000 cubic yards or more of dirt. The Project Applicant shall obtain haul route approval by the Department of Building and Safety in accordance with the LAMC.
- c. Flag persons shall be utilized to direct haul trucks entering and leaving the site to ensure safe turning movements and prevent conflicts with pedestrian and vehicular traffic.

42. **Increased Vehicle Trips/Congestion**

- a. A Construction work site traffic control plan shall be submitted to DOT for review and approval in accordance with the LAMC prior to the start of any construction work. The plans shall show the location of any roadway or sidewalk closures, traffic detours, haul routes, hours of operation, protective devices, warning signs and access to abutting properties. All construction related traffic shall be restricted to off-peak hours.
- b. All delivery truck loading and unloading shall take place on site.

43. **Utilities (Local Water Supplies - Landscaping).** The Project shall comply with Ordinance No. 170,978 (Water Management Ordinance), which imposes numerous water conservation measures in landscape, installation, and maintenance (e.g., use drip irrigation and soak hoses in lieu of sprinklers to lower the amount of water lost to evaporation and overspray, set automatic sprinkler systems to irrigate during the early morning or evening hours to minimize water loss due to evaporation, and water less in the cooler months and during the rainy season).

In addition to the requirements of the Landscape Ordinance, the landscape plan shall incorporate the following:

- a. Weather-based irrigation controller with rain shutoff.
- b. Matched precipitation (flow) rates for sprinkler heads.
- c. Drip/microspray/subsurface irrigation where appropriate.

- d. Minimum irrigation system distribution uniformity of 75 percent.
- e. Proper hydro-zoning, turf minimization and use of native/drought tolerant plan materials.
- f. Use of landscape contouring to minimize precipitation runoff.
- g. A separate water meter (or submeter), flow sensor, and master valve shutoff shall be installed for existing and expanded irrigated landscape areas totaling 5,000 sf. and greater.

#### 44. Utilities (Local Water Supplies - All New Construction)

- a. If conditions dictate pursuant to the LAMC, the Department of Water and Power may postpone new water connections for this Project until water supply capacity is adequate.
- b. Install high-efficiency toilets (maximum 1.28 gpf), including dual-flush water closets, and high-efficiency urinals (maximum 0.5 gpf), including no-flush or waterless urinals, in all restrooms as appropriate.
- c. Install restroom faucets with a maximum flow rate of 1.5 gallons per minute.
- d. A separate water meter (or submeter), flow sensor, and master valve shutoff shall be installed for all landscape irrigation uses.
- e. Single-pass cooling equipment shall be strictly prohibited from use. Prohibition of such equipment shall be indicated on the building plans and incorporated into tenant lease agreements. (Single-pass cooling refers to the use of potable water to extract heat from process equipment, e.g. vacuum pump, ice machines, by passing the water through equipment and discharging the heated water to the sanitary wastewater system.)

#### 45. Utilities (Local Water Supplies - New Commercial or Industrial). All restroom faucets shall be of a self-closing design.

#### 46. Utilities (Solid Waste Recycling)

- a. *(Operational)* Recycling bins shall be provided at appropriate locations to promote recycling of paper, metal, glass and other recyclable material. These bins shall be emptied and recycled accordingly as a part of the Project's regular solid waste disposal program.
- b. *(Construction/Demolition)* Prior to the issuance of any demolition or construction permit, the applicant shall provide a copy of the receipt or contract from a waste disposal company providing services to the project, specifying recycled waste service(s), to the satisfaction of the Department of Building and Safety. The demolition and construction contractor(s) shall only contract for waste disposal services with a company that recycles demolition and/or construction related wastes.
- c. *(Construction/Demolition)* To facilitate on-site separation and recycling of demolition- and construction-related wastes, the contractor(s) shall provide temporary waste separation bins on-site during demolition and construction. These bins shall be emptied and the contents recycled accordingly as a part of the project's regular solid waste disposal program.

**Administrative Conditions of Approval**

47. **Approval, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, review or approval, plans etc., as may be required by the subject conditions, shall be provided to the Department of City Planning for placement in the subject file.
48. **Code Compliance.** All other use, area, height, and yard regulations of the Los Angeles Municipal Code (LAMC) and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except where conditions are granted in this Determination.
49. **Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning and any designated agency or the agency's successor and in accordance with any stated laws or regulations, or any amendments thereto.
50. **Building Plans.** All the Conditions of Approval, and any other written modifications, shall be printed on the final building plans/drawings submitted to the Department of City Planning and the Department of Building and Safety.
51. **Corrective Conditions.** The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the City Planning Commission, or the Director pursuant to Section 12.27.1 of the Municipal Code, to impose additional corrective conditions if, in the Commission's or Director's opinion, such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
52. **Final Plans.** Prior to approval of final building plans/drawings by the Department of Building and Safety, the Applicant shall submit four (4) final plan check plans, including any modifications and all corrections noted on the plans originally submitted to the Department of City Planning, to be approved by Department of City Planning staff for compliance with this Director's Determination letter and subsequently, for the Department of Building and Safety use. One set of plans shall be provided to the Department of City Planning and attached to subject file; two others shall go to the Department of Building and Safety.
53. **Department of Building and Safety.** The granting of this Determination by the Director of Planning does not in any way indicate compliance with applicable provisions of the Los Angeles Municipal Code (LAMC). Any corrections and/or modifications to plans made subsequent to this determination by a Department of Building and Safety Plan Check Engineer that affect the uses, or any part of the exterior design or appearance of the project as approved by the Director, and which are deemed necessary by the Department of Building and Safety for Building Code compliance, shall require a referral of the revised plans back to the Department of City Planning for additional review and sign-off prior to the issuance of any permit in connection with those plans.
54. **Covenant.** Prior to the issuance of any permits relative to this matter, an agreement concerning all the information contained in these Conditions of Approval shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent owners, heirs or assigns. Further, the agreement must be submitted to the Department of City Planning for approval before being recorded. After recordation, a copy bearing the Recorder's number and date must be given to the Department of City Planning for attachment to the subject file.

55. **Indemnification.** The applicant shall defend, indemnify and hold harmless the City, its agents, officers, or employees from any claim, action or proceedings against the City or its agents, officers, or employees relating to or to attack, set aside, void or annul this approval which action is brought within the applicable limitation period. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim action or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.

## FINDINGS

### General Plan/Charter Findings

1. **General Plan Land Use Designation.** The subject property is located within the area covered by the West Adams-Baldwin Hills-Leimert Community Plan, which was adopted by the City Council on May 6, 1998. The West Adams-Baldwin Hills-Leimert Community Plan designates the subject property as Regional Commercial with a zoning designation of [Q]C2-2D. The subject site is also located within the Crenshaw Corridor Specific Plan in Subarea C.
2. **General Plan Text.** The West Adams-Baldwin Hills-Leimert Community Plan text includes the following relevant land use policies relating to commercial development:

**Policy 2-1.1:** New commercial uses shall be located in existing, established commercial areas or existing shopping centers.

The Project Site is designated Regional Commercial by the Community Plan and is zoned [Q]C2-2D which allows for office, business or professional uses. The Proposed Project includes the development of 105,000 square feet of outpatient medical facility and is therefore consistent with the existing land uses designated for this site and thus is consistent with this policy.

**Policy 1-1.5:** Require that projects be designed and developed to achieve a high level of quality, distinctive character, and compatibility with existing uses and development.

The Proposed Project would be compatible with existing land uses surrounding the Project Site. To the east of the Project Site, across Marlton Avenue, is the Baldwin Hills Crenshaw Plaza. Properties to the east are zoned C2-D2. To the west of the Project Site, across Buckingham Road are one and two story multifamily residences. Properties to the west are zoned R3-1. Adjoining the Project Site, to the immediate northwest, is a four story senior housing development. Adjoining the Project Site to the immediate north are one and two story commercial buildings facing on to Martin Luther King Jr. Boulevard. Properties to the north of the Project Site are zoned C2-D2. To the south of the Project Site, across Santa Rosalia Drive is the Crenshaw Family YMCA, Bethlehem Church of God Holiness, and multi-family residences. Properties to the south are zoned C2-D2 and R3-1. Therefore, the Proposed Project would be consistent with this policy.

**Policy 1-4.1:** Encourage the development of offices in the vicinity of the Crenshaw-Baldwin Hills Plaza and in mixed-use areas.

The Proposed Project would be located to the west of the Crenshaw Baldwin Plaza, across Marlton Avenue and would provide 105,000 square feet of medical office uses. As such, the Proposed Project would be consistent with this policy.

**Policy 1-5.2:** New development should add to and enhance the existing pedestrian street activity.

The Proposed Project would enhance existing pedestrian connections between the commercial and residential properties surrounding the Project Site to the Baldwin Hills Crenshaw Plaza to the east of Marlton Avenue. The Proposed Project would improve the site with pedestrian walkways that would be utilized by employees, visitors and the

community. With these improvements and only as conditioned above, the Proposed Project would be consistent with this policy.

**Policy 1-5.3:** Ensure that commercial infill projects achieve harmony with the best of existing development.

The Proposed Project would develop a vacant site with a new outpatient medical facility. The Proposed Project would be compatible with existing surrounding uses and would include open space and pedestrian paths, which would be available to the public. Therefore the Proposed Project would be consistent with this policy

**Policy: 1-6.1:** Improve the appearance and landscaping of commercial properties.

The Project Site is currently vacant and there is no significant vegetation on the site. The Proposed Project would include open space and landscaping that includes amenities such as a garden area, outdoor plaza and pedestrian paths. These amenities would improve the appearance of the Project Site and enhance the surrounding commercial properties and thus would be consistent with this policy.

**Policy: 1-6.3:** Improve safety and aesthetics of parking areas in commercial areas.

The proposed parking areas would provide landscaping per the requirements of the LAMC and the Crenshaw Corridor Specific Plan and Design Guidelines and Standard Manual. Parking areas would also include pole lighting for security purposes. As discussed in Section XIV (ii), the Proposed Project would include adequate and strategically positioned functional and thematic lighting to enhance public safety. Visually obstructed and infrequently accessed "dead zones" would be limited. The building and layout design of the Proposed Project would also include crime prevention features, such as nighttime security lighting and secure parking facilities. As such, the Proposed Project would be consistent with this policy.

**Open Space and Recreation Policy 2-1.1:** Encourage the retention of passive and visual open space which provides a balance to the urban development of the Plan area.

The Proposed Project would improve the currently vacant site with new commercial medical office space. The Proposed Project would include open space such as a garden area, plaza space and pedestrian paths for visitors, employees and the public. These amenities would provide passive and active open space for the community. Therefore, the Project Site would be consistent with this policy.

**Open Space and Recreation Policy 2-1.3:** Require development in major opportunity sites to provide public open space.

The Project is a portion (8.6 acres) of a larger site (22 acres) identified by the Community Plan as a major opportunity site. While the proposed project does not provide a public open space dedicated to City, a greenway spanning from the west property line to the east property line is provided. As part of the project design, the open space area will be open to the public during business hours.

**Police Policy 5-1.1:** Coordinate with Police Department as part of the review of significant development projects and General Plan Amendments affecting land use to determine the impact on service demands.

As part of the review process, condition 39, the Proposed Project would be required to submit the architectural plans and security program to the LAPD for review. Upon review with the LAPD, the proposed Project would be consistent with this policy.

**Fire Policy 6-1.1:** Coordinate with the Fire Department as part of the review of significant development projects and General Plan Amendments affecting land use to determine the impact on service demands.

As part of the approval process, condition 37, the Project Applicant would be required to submit the Project plans to the LAFD for review. This would ensure compliance with LAMC required fire protection, life and safety provisions. During their review, the LAFD would determine the need for additional fire safety or other requirements. Upon review with the LAFD the Proposed Project would be consistent with this policy.

**Transportation and Parking Policy: 7-1.1:** Maintain an LOS not to exceed LOS "D" for streets and highways that are currently operating at LOS "D" or better. Where existing levels of service are LOS "E" or LOS "F" on any portion of a major or secondary highway, then those segments should be improved, where economically feasible and environmentally acceptable, to operate at LOS "E" or, at a minimum, those segments should be maintained to operate at their existing level of service.

As noted in the Traffic Study (See Appendix G to the IS/MND), the Proposed Project is expected to result in a significant impact at one of the 17 study intersections; Intersection No. 15 at Arlington Avenue and Martin Luther King Jr. Boulevard. Weekday peak hour trips with the addition of ambient growth, related projects traffic, and project-related traffic increases the AM peak hour V/C ratio by 0.010 [to 0.969 (LOS E) from 0.959 (LOS E)]. The Applicant will be responsible for implementing traffic mitigation measures including a Transportation Demand Management (TDM) plan to limit or reduce the project's potential contribution of vehicular traffic on the local street system. Such measures are designed to reduce the amount of vehicular traffic that would be generated by a project as compared to an unmanaged condition. With implementation of the recommended mitigation measures, traffic impacts at the significantly impacted intersection would remain at LOS E, which is consistent with the criteria identified in policy 7-1.1. Thus, with mitigation the Project's traffic impacts would be reduced to less than significant levels.

**Policy 7-2.2:** New development projects should be designed to minimize disturbance to existing traffic flow with proper ingress and egress to parking.

Vehicular access to the site will be provided via an existing 60-foot wide private driveway easement extending from Martin Luther King Jr. Boulevard and access points along Buckingham Road and Marlton Avenue. The Martin Luther King Jr. Boulevard driveway will be a primary access point and will include two inbound and outbound lanes separated by a landscaped raised median island. This driveway is planned to accommodate access both for the Proposed Project and the adjacent retail parcels. It is anticipated that full access (i.e., left-turn and right-turn ingress and egress turning movements) will be accommodated at this driveway. The Proposed Project will also include pedestrian pathways that provide connections to the surrounding community. Thus, the Proposed Project would be consistent with this policy.

**Policy 7-2.3:** Require that driveway access points onto major and secondary highways and collector streets be limited in number and be located to ensure the smooth and safe flow of vehicles and bicycles.

The primary vehicular access to the site will be provided via a single access drive along Martin Luther King Jr. Boulevard. Additional access to the Project Site will be accommodated via a single driveway on Buckingham Road and two driveways on Marlton Avenue. Vehicular circulation and connectivity throughout the Project Site will be provided via an internal roadway system which will facilitate drop-off and pick-up operations near the outpatient medical facility and access to/from the project's parking facilities. Therefore, the Proposed Project will be consistent with this policy.

**Policy 7-2.4:** Require that new development install traffic signals at intersections on arterials when such is warranted on an individual case by case study.

The Project is proposing to install a three-way traffic signal at the Martin Luther King Jr. Boulevard driveway easement located approximately mid-block between Buckingham Road and Marlton Avenue. This driveway will be made possible through an existing access easement that extends through the adjacent retail parcels to the north that front the south side of Martin Luther King Jr. Boulevard. The Martin Luther King Jr. Boulevard driveway will be a primary access point and will include two inbound and outbound lanes separated by a landscaped raised median island. This driveway is planned to accommodate access both for the proposed project and the adjacent retail parcels. It is anticipated that full access (i.e., left-turn and right-turn ingress and egress turning movements) will be accommodated at this driveway. Additionally, it is expected that the future intersection at Martin Luther King Jr. Boulevard to be created with this driveway will be controlled by a traffic signal. With the installation of this traffic signal, the Proposed Project would be consistent with this policy.

**Policy 11-1.1:** Plan for and encourage funding and construction of bicycle routes connecting residential neighborhoods to regional open space areas and employment centers.

Bicycle access to the Project Site is facilitated by the City of Los Angeles bicycle roadway network. Existing or proposed bicycle facilities (e.g., Class I Bicycle Path, Class II Bicycle Lanes, Class III Bicycle Routes, Proposed Bicycle Routes, Bicycle Friendly Streets, etc.) in the City's 2010 Bicycle Plan are located within an approximate one-mile radius from the Project Site. The Proposed Project would include new pedestrian paths through the Project Site for use by visitors, employees and the surrounding community. Bicycle parking would be provided for visitors and employees. These paths and bicycle parking spaces would create new connections between existing residential and commercial uses and thus, the Proposed Project would be consistent with this policy.

## **Entitlement Findings**

### **3. Specific Plan Exception Approval Findings.**

- a. *The strict application of the regulations of the specific plan to the subject property **would result** in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the specific plan.*

#### **Parking Lot Location**

Design Standard 11i requires that surface parking lots be located to the rear of buildings. The general purpose and intent of the standard is to orient all structures to the main commercial street where the parcel is located and to avoid pedestrian vehicular conflicts by adhering to specified design standards, which includes the parking lot location standard. The parking lot design standard contemplates a commercial or mixed use project development fronting on the commercial street, which would have its parking located in the rear, thereby avoiding pedestrian /vehicular conflicts. The applicant is

seeking a Specific Plan Exception to locate two of four surface parking lots to the sides of the outpatient medical building instead of providing all surface parking to the rear of the building. The two parking lots located to the rear of the building will have a combined total of more than half of the on-site parking spaces so that a majority of the parking is in conformance with the Crenshaw Corridor Specific Plan Design Guideline and Standards Manual.

The practical difficulties and hardships in locating all of the parking to the rear are related to the large size of the site, and the fact that it has three street frontages to the front and sides of the building. The majority of the on-site surface parking is located in two parking lots behind the outpatient medical facility. The primary entrance and drop-off for patients is to the rear of the building, which is in compliance with the Specific Plan. By creating two additional smaller parking areas to the sides of the building, local circulation to and from the project is dispersed to all street frontages. Vehicles using the surface parking lots to the rear of the medical building enter and exit through the primary access point via the 60-foot easement off of Martin Luther King Jr., Boulevard. This creates a practical difficulty to having all parking located in the rear as the Project Site has no direct frontage on Martin Luther King Jr., Blvd and would create access impediments with only one point of entry and exit. The location of two smaller surface parking lots to the sides of the building allows for multiple entrances and exits, and separates staff and patient ingress and egress. Relocating the two surface parking lots to the rear of the outpatient medical facility would create one large surface parking lot and would eliminate the large landscape area that serves as a pedestrian linkage.

Another practical difficulty in placing all parking to the rear is that the Crenshaw Corridor commercial design standards apply predominantly to the many narrow and shallow lots along the Crenshaw Corridor. In these pedestrian oriented areas, encouraging buildings to be located at the front property line with parking in the rear increases pedestrian activity and provides more coordinated facades. However, the Project Site is much larger than the typical 60-foot by 150-foot lots (9,000 s.f.) or 55-foot by 210-foot lots (11,550 s.f.). The Project Site is 8.6 acres (376,633 s.f.) and has approximate lineal frontage on three adjacent streets as follows: 902 feet along Santa Rosalia Drive, 443 feet along Marlton Avenue and 208 feet along Buckingham Road. The Project Site is a through lot with front yards on Marlton Avenue and Buckingham Road and side yards along Santa Rosalia Drive and the interior lot line adjacent to the property to the north which differs from the clear front side and rear yards of the typical narrow shallow lots, many of which have adjacent rear alleys.

- b. *That **there are exceptional** circumstances or conditions applicable to the subject property involved or to the intended use or development of the subject property that do not apply generally to other property in the specific plan area.*

The Community Plan designates the project site and the larger 22 acre site as Regional Commercial land use and identifies the site as a "Major Opportunity Site". The characteristics that were considered in identifying this site as a major opportunity site were:

- The community identity or uniqueness of a parcel
- The unimproved or underdeveloped nature/acreage of the parcel
- The potential build out created by new development
- The potential for construction jobs that new development could bring
- The adequacy of the existing and proposed infrastructure
- The potential benefit to the Community

The Kaiser property is 8.6 acres of a 20-acre site identified in the Community Plan as the "Santa Barbara Plaza". The site is described as critical to the Community because of its size, potential to generate significant development and its location close to the Baldwin Hills Crenshaw Mall. It is the largest opportunity site in the Specific Plan area.

The Kaiser project provides a community amenity that is not found in other projects in the plan area. Placement of two parking lots on the sides of the building allows creation of a horizontal green corridor running street to street, from Buckingham Road to Marlton Avenue. The 2.35-acre landscaped area is heavily landscaped and contains walking paths and a plaza. The pedestrian paths provide exercise opportunities for patients, staff and the community. Given the location of the project, these amenities encourage pedestrian activity and connection to the Baldwin Hills Crenshaw Mall and the future Crenshaw Metro station.

Also, as stated above the Project Site is 8.6 acres (376,633 s.f.) and has approximate lineal frontage on three adjacent streets as follows: 902 feet along Santa Rosalia Drive, 443 feet along Marlton Avenue and 208 feet along Buckingham Road. The Project Site is a through lot with front yards on Marlton Avenue and Buckingham Road and side yards along Santa Rosalia Drive and the interior lot line adjacent to the property to the north which differs from the clear front side and rear yards of the typical narrow shallow lots, many of which have adjacent rear alleys. It is one of the largest project areas in the Specific Plan.

The Community Plan has an Open Space Policy to require development in major opportunity sites to provide public open space. As part of the project, Kaiser will provide a community amenity that is available to the public during daytime operating hours. The open space area will be secured with a four-foot high fence as permitted by the Specific Plan. The fence will have several pedestrian access points and is conditioned to provide adequate signage to notify the public of the hours of operation. The gates are also conditioned to be retractable and open during daytime hours. Since the placement of the landscaped area is internal to the site, yet open to the community, these conditions will ensure that the community is aware of the public amenity.

- c. *That an exception from the specific plan is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the specific plan area in the same zone and vicinity but, which because of special circumstances and practical difficulties or unnecessary hardships is denied to the property in question.*

The large size of the Project Site, the location with street frontages to the front and sides of the proposed building and not having street or alley frontage to the rear of the building, all create impediments to meeting the strict parking regulations of the Specific Plan. These characteristics of the site are unique to this property. With the Exception, the project still complies with the purposes and intent of the Specific Plan.

Another practical difficulty in placing all parking to the rear is that the Crenshaw Corridor commercial design standards apply predominantly to the many narrow and shallow lots along the Crenshaw Corridor. In these pedestrian oriented areas, encouraging buildings to locate at the property line with parking in the rear increases pedestrian activity and provides more coordinated facades. This large property is not in the Pedestrian Oriented District, and a single site plan coordinates the landscape and design for more than 8.6 acres, achieving the intent of the Specific Plan standards. The front façade and street frontages are all landscaped, buffered from adjacent uses and the medical office

utilizes high quality architecture with design features such as glass, screening and building setbacks to increase attractiveness from the street frontages.

- d. *That the granting of an exception will not be detrimental to the public welfare or injurious to the property or improvements adjacent to or in the vicinity of the subject property.*

Development of the site with a 105,000 square-foot outpatient medical facility, which also includes but is not limited to clinics, outpatient pharmacy, medical laboratories, outpatient surgery center, and medical offices, will bring health benefits to the plan area by making these services more accessible. Use of this facility would be of benefit not only to the immediate community, but will serve a more regional need. The large open space area with walking paths and a plaza provide opportunities for exercise and pedestrian connections to and from the Baldwin Hills Crenshaw Mall and transit.

For 20 years the site has been identified for development to remove an unsightly, blighted property and bring economic vitality to the area. The physical design of the project creates an aesthetically pleasing new four-story building, stepping down to two stories where it faces residential and commercial uses. Along Buckingham Road the adjacent use is a senior citizen project and several multi-family residences across the street. To the south, across Santa Rosalia Drive are several multi-family buildings, a church and YMCA facility. Diagonal street parking is located along Santa Rosalia Drive directly south of the outpatient medical facility. Along Marlton Drive, to the west, is the Baldwin Hills Crenshaw Plaza Mall. The site is undeveloped immediately adjacent to the north.

The proposed plot plan shows all perimeters of the site to be landscaped. The improvements will be visually beneficial to the adjacent properties. All landscaping and buffers will meet or exceed the design standards and guidelines of the Specific Plan.

The project represents a major private investment in the community, as recommended by the Community Plan and the Redevelopment Plan. The project will bring increased economic development and patients to the area. The project will have a beneficial economic impact during construction and long-term, as it will provide needed medical services.

- e. *That the granting of an exception will be consistent with the principles, intent and goals of the specific plan and any applicable element of the general plan.*

The granting of the exception would allow a development that is consistent with the intent and goals of the specific plan and the other applicable land use plans. The objectives of the West Adams Baldwin Hill Leimert Park Community Plan state the following:

**Objective 1-4:** Attract uses which strengthen the economic base and expand market opportunities for existing and new businesses.

**Objective 1-4.2:** Identify appropriate revitalization/redevelopment areas and encourage uses that would enhance the economic vitality of the Community

The Kaiser Outpatient Medical Facility brings a major high quality development to this site. Medical uses are strong economic generators of the economy. The large number of staff and patients would provide economic stimulus to adjacent retail uses.

The Crenshaw Corridor Specific Plan Section 2 lists the following purposes:

- To provide standards for the Crenshaw corridor which will promote controlled development/redevelopment while encouraging and stimulating economic revitalization.
- To assure a balance of commercial land uses in the Specific Plan area that will address the needs of the surrounding communities and greater regional area

The project will develop a 105,000 square-foot medical building providing needed services for the surrounding community and larger area. The facility will provide economic development and health care. The outpatient medical facility also includes but is not limited to clinics, outpatient pharmacy, medical laboratories, outpatient surgery center, and medical offices. The site has been identified for redevelopment for 20 years, but is still vacant. This project represents a major investment in the area promoting economic revitalization.

- To promote a compatible and harmonious relationship between residential and commercial development where areas of commercial development are contiguous to residential neighborhoods.

Multi-family residential dwellings are across Buckingham Road and Santa Rosalia Drive, adjacent to the outpatient medical facility. The principal entry and drop-off for patients is to the rear of the medical building and accessed by the easement from Martin Luther King Jr. Boulevard. It is not visible from the residential uses.

The plot plan has been designed with extensive landscaping, that complies with all landscape and buffering standards of the Specific Plan. Decorative walls 3.5 feet high buffer the perimeters of the surface parking lots. In addition to required landscaped setbacks and trees, by placing two of the parking lots alongside the building, a landscaped open space corridor will run the length of the site and provide walking paths, encouraging walking as exercise. This will be an amenity for the public as well as patients and staff at the Kaiser facility as it will facilitate pedestrian access through the site and to the Baldwin Hills Crenshaw Plaza Mall, to existing transit and the future Crenshaw Metro station.

- To preserve and enhance community aesthetics by establishing coordinated and comprehensive standards for signs, buffering, setbacks, building and wall height, open space, lot coverage, parking, landscaping and façade treatment.

The project complies with all design standards for buffering, setbacks, landscaping and façade treatment. The project provides 3.5-foot high decorative walls at the perimeter of the surface parking lots, a minimum of 3-foot wide landscape buffers between the walls and sidewalk, 15-gallon trees every 20 feet, and landscaping of 7% of the surface parking lots. These meet the buffering and landscaping requirements of the Specific Plan.

The Community Plan states that one of the reasons for locating parking to the rear is to avoid pedestrian/vehicular conflicts. Since this project is a single large development, the applicant has established one comprehensive site plan for the 8.6 acres. It identifies entrances and exits and provides one comprehensive landscape plan. Pedestrian/vehicular conflicts are eliminated because the entire site is planned with one site plan, unlike multiple retail or commercial uses along a corridor. A large circular area is provided for drop-offs and pick-ups for post-surgical patients, the elderly and the disabled. Pedestrian access is provided by a wide, landscaped open space corridor with

walking paths and a plaza. This coordinated plan for the 8.6-acre site meets the intent of the Specific Plan.

While Design Standard 11 i states that surface parking shall be in the rear of buildings, the design standards do provide for occasions where a surface parking lot abuts a public street or public sidewalk. The project complies with all parking lot design standards.

#### 4. Specific Plan Exception Denial Findings

Pursuant to Section 11.5.7.F.1 (f) of the Municipal Code, a Specific Plan Exception from Section 14c and Design Standard 8a of the Crenshaw Corridor Specific Plan Design Guidelines and Standards Manual to allow a 2'-6" high fence on top of the required 3' – 6" high wall (total 6'-0" high) adjacent to surface parking lots fronting along adjacent streets and a 6'-0" high fence fronting along adjacent streets;

- a. *That the strict application of the regulations of the specific plan to the subject property would not result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the specific plan.*

Design Standard 8a of the Crenshaw Corridor Specific Plan Design Guidelines and Standards Manual limits "freestanding walls" located parallel to and visible from a public street to a maximum height of four feet. This standard also states that chain-link, barbed-wire and wrought iron are not permitted. The Applicant is requesting an Exception to this requirement to permit a six foot high fence for additional security along the perimeter of Santa Rosalia Drive, Buckingham Road, and Marlton Ave. On either side of the proposed Medical Office Building, two surface parking lots are proposed along Santa Rosalia Drive, with frontage along portions of Buckingham Road and Marlton Ave. As required by Design Standard 11f, the Applicant is providing a three and one-half (3.5) foot solid decorative wall between the pedestrian sidewalk and parking lots along Santa Rosalia, Buckingham and the southeasterly Marlton Ave. frontage. On top of this 3.5 foot wall, for additional security purposes the Applicant is proposing a two and a half (2.5) foot fence for a total of a six foot tall wall/fence.

One of the primary purposes of the Specific Plan is to preserve and enhance community aesthetics by establishing coordinated and comprehensive standards for signs, buffering, setbacks, building and wall height, open space, lot coverage, parking, landscaping and façade treatment.

The intent of the Crenshaw Corridor Specific Plan is to improve visual and physical appearances of commercial sites in the Plan area and to preserve and enhance the community aesthetics by establishing coordinated and comprehensive standards for wall height, setbacks, buffering, parking, landscaping etc. The design guideline and standard for freestanding walls are of such importance it is a stated purpose of the Specific Plan.

The intent of this design standard is to give direction for wall material, landscaping, and design because they are visible from the public right of way and they affect the pedestrian experience and public realm. The requirement for solid walls was meant to ensure that high quality materials would be used as opposed to lower quality chain link fences and wrought iron. The applicant proposes a fence that is of high quality material, with an architectural design, however the height of the six foot fence exceeds the maximum of four feet. Compliance with the wall/fence height limit does not preclude the applicant from developing the building, open space areas, or achieving the intent of the Specific Plan.

The applicant's request for additional fence height is not justified by any measurable hardship. The Applicant will be able to ensure a safe and clean environment by deterring and preventing unauthorized access through a combination of physically securing the site after business hours with the allowable four foot fence, lighting, and other security measurements. The allowable four foot fence does not result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Specific plan.

- b. *That **there are not** exceptional circumstances or conditions applicable to the subject property involved or to the intended use or development of the subject property that do not apply generally to other property in the specific plan area.*

Although the project site of 8.6 acres is a unique site for development with amenities such open space with benches, walking path and a plaza that are not found in other projects in the vicinity, this unique circumstance does not make the site difficult to secure after business hours. Security cameras, the permitted four foot fence, and personnel can both be used to secure the site in lieu of an additional two feet in fence height, which violates the of the Specific Plan requirements.

- c. *That an exception from the specific plan **is not necessary** for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the specific plan area in the same zone and vicinity but which, because of special circumstances and practical difficulties or unnecessary hardships is denied to the property in question.*

The Design Standard 8a, which restricts fence height to four feet applies to both commercial and residential uses in the Specific Plan area. Several of the surrounding uses that appear to have fences taller than four feet either received fence permits prior to the Specific Plan adoption or they are not included in the boundaries of the Specific Plan. For example the Crenshaw Plaza across the street maintains a perimeter fence; however the project site is not within the Specific Plan boundaries. The abutting residential property to the west received land use entitlements prior to the Specific Plan adoption. No other requests have been made for over in height fences within the Specific Plan boundaries. Development projects are required to comply with the four foot height limit in order to achieve the goals and objectives of the Specific Plan of well-coordinated and comprehensive standards for wall height. Granting such an exception will set a precedent and deter from the goals of the Specific Plan.

- d. *That the granting of an exception **will be detrimental** to the public welfare or injurious to the property or improvements adjacent to or in the vicinity of the subject property.*

Granting the exception for increased fence height will result in a fence that is inconsistent with the intent of the Specific Plan. The intent of the freestanding wall height limitation is to improve the visual and physical appearance of commercial sites in the Plan area and to preserve and enhance the community aesthetics. Permitting an exception to the wall height limit will directly undermine the intent and purpose of the Specific plan.

- e. *That the granting of the exception **will not be consistent** with the principles, intent and goals of the specific plan and any applicable element of the general plan.*

Granting an exception to allow a six foot fence is not consistent with the intent and goals of the specific plan. The goals and intent of the plan are to improve the visual and physical appearance of commercial sites in the Plan area and to preserve and enhance

the community aesthetics by establishing coordinated and comprehensive standards for wall height, setbacks, buffering, parking and landscaping. The proposed tall fence negates the quality of the overall site design, and does not further the following Community Plan land use policies:

Policy 1-5.2: New development should add to and enhance the existing pedestrian street activity.

Policy 1-5.3: Ensure that commercial infill projects achieve harmony with the best of existing development.

Policy: 1-6.1: Improve the appearance and landscaping of commercial properties.

Policy: 1-6.3: Improve safety and aesthetics of parking areas in commercial areas.

## 5. SITE PLAN REVIEW FINDINGS

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

The purpose, intent and provisions of the General Plan are primarily to further the economic vitality of the community. The West Adams, Baldwin Park, Leimert Community Plan designates the site as regional commercial and identifies it as a "Major Opportunity Site".

Approval of the site plan would allow a development that is consistent with the intent and goals of the specific plan and the other applicable land use plans. The Community Plan includes the following relevant land use objectives and policies:

**Objective 1-4:** Attract uses which strengthen the economic base and expand market opportunities for existing and new businesses.

**Policy 1-4.2:** Identify appropriate revitalization/redevelopment areas and encourage uses that would enhance the economic vitality of the Community.

The Kaiser outpatient medical facility brings a major development to this underutilized site. Medical uses are among the strongest economic generators of the economy. The 105,000 square foot facility will require a large number of staff and be heavily utilized by patients. These activities will provide economic stimulus to adjacent retail uses and the community.

The Project Site has been identified for redevelopment for 20 years, and is currently vacant. This project represents a major investment in the area that will promote economic revitalization. The Project Site is currently blighted and the new development would create a major economic stimulus for the community. Given the large size of the site, the redevelopment should encourage upgrading and development of the surrounding area. This would meet the primary intent of the land use plans for the site.

The project is consistent with the following Purposes of the Crenshaw Corridor Specific Plan:

- To provide standards for the Crenshaw corridor which will promote controlled development/redevelopment while encouraging and stimulating economic revitalization.

- To assure a balance of commercial land uses in the Specific Plan area that will address the needs of the surrounding communities and greater regional area

The project is consistent with these provisions in that it will develop a 105,000 square foot outpatient medical facility that will provide a much needed services for the surrounding community and larger area. The closest Kaiser facility with medical office uses and a hospital is located in West Los Angeles on Cadillac Avenue and La Cienega Boulevard which is operating beyond capacity. The other nearby Kaiser outpatient medical facility is located on Manchester Avenue and Denker Avenue in South Los Angeles. The Kaiser Project would provide medical services to an area that is underserved and warrants its own outpatient medical facility. The facility will provide economic development and health care. The outpatient medical facility also includes but is not limited to clinics, outpatient pharmacy, medical laboratories, outpatient surgery center, and medical offices. The development is controlled by a unified site plan for 8.6 acres under single development.

- To promote a compatible and harmonious relationship between residential and commercial development where areas of commercial development are contiguous to residential neighborhoods.

Multi-family residential dwellings are located across from the facility on Santa Rosalia Drive, and a senior housing development is adjacent to the outpatient medical facility along Buckingham Road. The principal entry and drop-off for patients is to the rear of the medical building and accessed by an easement from Martin Luther King Boulevard. This principal entrance is not visible from the residential uses. The portal entry element that is comprised of a walkway covered by the photovoltaic canopy provides a pedestrian linkage from Santa Rosalia Drive to the primary entrance internal to the site.

The plot plan has been designed with extensive landscaping, that complies with all landscape and buffering standards of the Crenshaw Corridor Specific Plan Design Guidelines and Standards Manual. Decorative walls three and one-half feet high buffer the perimeters of the surface parking lots. In addition to required landscaped setbacks and trees, by placing two of the parking lots alongside the building, a landscaped open space corridor will run the length of the site and provide walking paths, encouraging walking as exercise. During business hours, this will provide an amenity for the public as well as patients and staff at the Kaiser facility. The walkways will facilitate pedestrian access through the site and to the Baldwin Hills Crenshaw Plaza Mall, to existing transit and to the future Crenshaw transit station.

- To preserve and enhance community aesthetics by establishing coordinated and comprehensive standards for signs, buffering, setbacks, building and wall height, open space, lot coverage, parking, landscaping and façade treatment.

The project provides a coordinated site plan that complies with all design standards for buffering, setbacks, landscaping and façade treatment. A three and one-half foot high solid decorative wall will be provided at the perimeter of the surface parking lots where they abut Marlton Avenue, Santa Rosalia Drive and Buckingham Road. A minimum of a three-foot wide landscape buffer will be provided between the walls and sidewalk. One 15-gallon tree will be planted every 20 lineal feet. Seven per cent of the surface parking lots will be landscaped. A six-foot high decorative wall currently exists between the Project Site and the senior housing development on Buckingham Road.

The four-story outpatient medical facility is shown as 60 feet to the roof parapet, stepping down to 28 feet high, or two stories, fronting on Santa Rosalia Drive. The building façade is highly articulated with tall windows for each office. Architectural features include monumental structural glass, and curtain walls with colored glass fins. The façade is predominantly earth-toned in warm beige and greys with a more colorful ground floor and accent colors used in the glass fins above and adjacent to the building entry. Perforated decorative screening provides additional articulation and interest.

Since this project is a single large development, the applicant has established a comprehensive site plan for the 8.6 acres. It identifies entrances and exits and provides a coordinated landscape plan. Pedestrian/vehicular conflicts are eliminated because the entire site is planned with one site plan, unlike multiple retail or commercial uses along a corridor. A large circular area is provided for drop-offs and pick-ups for post-surgical patients and the disabled. Pedestrian access is provided by a wide, landscaped open space corridor with walking paths and a plaza. This coordinated plan for the 8.6-acre site meets the intent of the Specific Plan.

Signage is not included in this application. A separate signage application package will be submitted.

- b. *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.*

The Project Site includes 8.6 acres of a 20-acre property identified as "Santa Barbara Plaza" in the West Adams, Baldwin Hills, Leimert Community Plan. The Kaiser property has street frontage on Buckingham Road, Santa Rosalia Drive and Marlton Drive. It has a 60-foot wide easement to access Martin Luther King Jr. Boulevard located to the north. The majority of the site is currently vacant. Four existing retail establishments are located north of the Project Site and fronting on Martin Luther King Boulevard. These are separated from the proposed development by undeveloped acreage. A senior housing development is located adjacent to the site along Buckingham Road. Residential uses are also located across Buckingham Road and on the eastern portion of Santa Rosalia Drive across from the Project Site. Other adjacent uses include a church and YMCA building. The Baldwin Hill Crenshaw Plaza Mall is located across Marlton Drive, east of the Project Site.

The Project Site is located in Subarea C of the Crenshaw Corridor Specific Plan. The maximum building height allowed in most sections of Subarea C is 60 feet. The outpatient medical facility is designed to be four-stories or 60 feet in height to the top of the parapet and stepping down to 28 feet or two-stories fronting on Santa Rosalia Drive across the street from residential uses. Additionally the structure is setback 20 feet from the property line on Santa Rosalia. This design provides non-required transitional height compatible with adjacent development.

Architectural features of the outpatient medical facility include articulation on 70% of the façade. Tall windows are used for all offices. Other features include monumental structural glass, curtain walls with colored glass fins and decorative perforated metal screening rising from ground level to a photovoltaic roof canopy.

Lighting will be placed in the parking area and pedestrian walkways to provide safe secure access to the site. Lighting will be placed to limit illumination to adjacent properties as much as possible. No floodlighting will be located so as to shine directly

onto any adjacent residential property. All non-security on-site lighting will be shielded and directed onto the site.

Four surface parking lots provide 525 surface parking spaces to meet LAMC parking standards. Bicycle parking is also provided to LAMC requirements. Trash and loading facilities are accessed from Santa Rosalia Drive. The trash facilities are located in a service yard that is enclosed by a minimum five-foot high solid wall. The service yard is attractively designed and will have minimum impacts on pedestrians and traffic flow as it is setback from the sidewalk and has a separate driveway.

Three feet of landscape buffer and a six-foot high decorative wall will be provided between the Project Site and the senior housing development on Buckingham Road. Additionally, a landscaped green corridor running the horizontal length of the Project Site will be immediately adjacent to the senior housing.

The plot plan has been designed with extensive landscaping, that complies with all landscape and buffering standards of the Specific Plan. The project provides three and one-half foot decorative walls at the perimeter of the surface parking lots, a minimum of three-foot landscape buffers between the walls and sidewalks, 15-gallon trees every 20 linear feet, and landscaping of seven per cent of the surface parking lots. These meet the buffering and landscaping requirements of the Specific Plan. In addition to required landscaped setbacks and trees, by placing two of the parking lots alongside the building, a landscaped open space corridor will run the length of the site and provide walking and bicycle paths, encouraging exercise. During business hours this will be an amenity for the public as well as patients and staff at the Kaiser facility. The walkways will provide a pedestrian linkage through the site and to the Baldwin Hills Crenshaw Plaza Mall and transit options.

6. **Project Permit Compliance Findings. Pursuant to Section 11.5.7 C. of the LAMC: That the project substantially complies with the applicable regulations, findings, standards and provisions of the Specific Plan.**
- a. The proposed project is an outpatient medical facility and does not include any of the prohibited uses listed in Section 6. A of the Specific Plan, which are gun and/or Pawn Shops, swap meets, public self-storage, motels, bars not attached to dining, dancing and/or entertainment related uses, and recycling collection or buyback centers and mobile recycling centers, except as permitted by State Law.
  - b. The proposed project is an outpatient medical facility and does not include any of the limited uses drive-through fast-food establishments.
  - c. The Project Site is located in Subarea C and the use limitations in Pedestrian Oriented Areas do not apply.
  - d. Other Uses. In determining whether a use not specifically listed in the LAMC is permitted in each of the various zones, the Director of Planning, pursuant to Section 11.5.7 H of the Code, shall make a final determination that the use conforms to the purposes, intent and provisions of this Specific Plan. The proposed project is an outpatient medical facility and is a use that is permitted by right pursuant to Section 12.14 A of Los Angeles Municipal Code.
  - e. Mixed Use Projects. The proposed project is an outpatient medical facility not a Mixed Use project and the regulations listed in Sections 7, 8, and 9 do not apply.

- f. Height. Notwithstanding Section 8, no Project located in whole or in part within the Specific Plan area shall exceed 45 feet in height, except that Projects located within Subarea C may exceed 45 feet, but shall not exceed a height of 60 feet. The Project Site is located within Subarea C and the maximum building height proposed is 60 feet.
- g. Signs. The current entitlement application does not include signage. The Applicant will submit a separate sign application at a later date.
- h. The Project Site is located within Subarea C and the parking requirements listed in Section 12 do not apply.
- i. Underground Utilities. Section 13 of the Specific Plan states that to the extent physically feasible, all new utility lines that directly service a Project shall be installed underground. If underground service is not currently available, then provisions shall be made for future underground service, as determined by the Department of Water and Power. All on site utility lines will be placed underground and connected with existing underground utilities at the project property line as required under the condition of approval No.11.
- j. Design Guidelines and Standards. Section 14c of the Specific Plan requires that all projects be in substantial conformance with the following Development Standards and Design Guidelines:
  - 1) Design standard 1a states, transparent building elements such as windows and doors should occupy a minimum of 50% of the exterior wall surface of the ground floor facade. The proposed project's ground floor has 11-foot ceilings. The glass areas extend from floor to ceiling, and the percentage of glass of the façade is 50%.
  - 2) Design standard 1b states, transparent building elements such as windows and doors should occupy at least 40% of the surface area of the rear elevation of the ground floor portion of any building which has surface parking located to the rear of the structure. The proposed project's ground floor has 11-foot ceilings. The glass areas extend from floor to ceiling, and the percentage of glass of the façades internal to the site is 50%.
  - 3) Design standard 1c states all exterior building walls should provide a break in the plane, or a change in material, every 20 feet in horizontal length and every 15 feet in vertical length, created by an articulation or architectural detail. The proposed building is highly articulated with tall windows for each office. The other areas feature walls that are all-glass, either monumental structural glass, curtain wall with colored glass fins, or unadorned curtain wall in protected areas under the portal. The portal architectural element is comprised of a photovoltaic canopy which is supported by structures on the roof on the east side. On the west side an additional structure solely to support the solar panels is wrapped in a decorative screening skin which is perforated to provide transparency while shading the western exposure of the building. The skin is comprised of two layers of perforated metal in an artistic pattern that is 70% open at the bottom and 20% open at the top, and a smooth gradient of openness in-between.
  - 4) Design standard 1d states that for all buildings more than one story in height, a horizontal element should be employed for the full length of the exterior building facade that distinguishes and provides definition for each floor utilizing such elements as: horizontal molding, cornice lines, raised stucco designs that are raised at least 6 inches. Each floor line is expressed through color variation and a 3-inch depth change.
  - 5) Design standard 1e states that not more than 30% of the total exterior surface area of any building facade or of any visible side or rear elevation should be free

from architectural features or articulation(s). The project's entire exterior surface area is highly articulated with architectural features which include: tall windows, monumental structural glass, porcelain tiles, curtain walls with colored glass fins and decorative perforated metal screening rising from ground level to a photovoltaic roof canopy.

- 6) Design standard 2a states that in-fill development should take into consideration, and where appropriate, reflect and/or complement existing themes, colors and use of adjacent parcels. The proposed project complements the existing development in Subarea C of the Specific Plan with a modern building design that is 28 feet in height or two-stories along Santa Roasalia Drive and steps back 20 feet before reaching a height of 60 feet for the remainder of the four story building.
- 7) Design standard 2b states that all buildings should apply at least two types of complementary building materials to exterior building facades. Accents such as decorative glass block, brick, or tile, are materials that are encouraged as accents. The proposed building includes at least two types of complementary building materials, integral-colored rainscreen wall panels, and colorful back-painted glass panels at the ground floor.
- 8) Design standard 2c states that building materials such as brick, stone, metal, glass, tile or any similar material should be employed to provide relief to untreated portions of exterior building facades. The proposed building material palette is designed to respond to the scale of the adjacent residential properties with a combination of tile at the base, glass storefront systems, and integral colored rainscreen wall panels.
- 9) Design standard 2d states a variety of paint colors may be used. Color schemes should be simple, harmonious and compliment adjacent structures, particularly where specific architectural/historical themes exist. Accent colors are encouraged. A variety of colors are intended for the project. Predominately earth-toned in warm beige and greys, with a more colorful ground floor, and accent colors used in the glass fins above and adjacent to the building entry.
- 10) Design standard 2e states that desired colors for large scale areas/projects, should include, but are not limited to, earth-tones such as warm beige and grays. The façade is predominately earth-toned in warm beige and greys, with a more colorful ground floor, and accent colors used in the glass fins above and adjacent to the building entry.
- 11) Design standard 2f states that Awnings may be used in moderation to create shade and architectural interest. However, there are no awnings used in the project.
- 12) Design standard 2g states that all paint products, awning fabrics and other color elements should be durable and fade resistant. All paint products, and other color elements will be durable and fade resistant.
- 13) Design standards 3b and 3c apply to exterior and interior security barriers, which are not proposed in the project; therefore, these standards are not applicable.
- 14) Design standard 4a states that all architectural screening devices should be designed as an integral part of the building architecture. The project's materials for the screen wall of the service yard are designed to accommodate climbing plants for a dense, monolithic vegetated wall.
- 15) Design standard 4b states that all surface or ground mounted mechanical equipment, including transformers, terminal boxes, pull boxes, air conditioner condensers, gas meters and electric meter cabinets should be screened from public view and/or treated to match the materials and colors of the building which they serve. The project's ground mounted equipment will predominantly be placed in the service yard screened from public view. Additional remote

- equipment will be screened with landscaping and treated to match adjacent materials and colors.
- 16) Design standard 4c states that courtyards and outdoor areas should include seating/eating areas, landscaping which provides shade, sculpture and/or water elements and should maximize the hours of exposure to the sun to the greatest extent possible. The project will provide a variety of outdoor areas which will include seating areas with landscaping which will provide shade as well as the opportunity for learning about conservation and sustainable concepts. A water feature is also contemplated for the project.
  - 17) Design standard 5a and 5b apply to flat and pitched roofs. The project has a parapet roof and does not include a flat nor pitched roof; therefore these design standards are not applicable.
  - 18) Design standard 5c states that the parapet roof should be designed and constructed to accommodate roof-mounted equipment. Any portion of the equipment or ducts which are above the parapet should be screened from view from any street, public right-of-way or adjacent property. The screening should be solid and match the exterior building material, design and color of the building. The project's upper roof above the 4th floor will contain rooftop mechanical equipment, solar panels, solar panel structures, elevator enclosures and stair enclosures. All rooftop building equipment and ducts will be screened from view from any street, public right of way or adjacent property with materials which match the character and design of the building. The rooftop mechanical equipment, solar panels, solar panel structures, elevator enclosures and stair enclosures will exceed the maximum building height limit as allowed by LAMC Section 12.21.1 B.3 (Rooftop Structures and Equipment).
  - 19) Design guideline 6 states that loading, storage and trash areas should be attractive, well-defined and located where there will be minimal negative impact, physical or visual, on pedestrians, the flow of traffic, or adjacent uses. The project's service yard which contains the loading area, the trash compactor and trash enclosures will be located immediately to the east of the proposed outpatient medical facility and to the west of the surface parking lot. The service yard's vehicular driveway fronts along Santa Rosalia Drive. The service yard is attractively designed and will have minimal negative impacts on pedestrians and on the traffic flow and adjacent uses as it is setback from the Santa Rosalia public sidewalk and it has a separate driveway.
  - 20) Design standard 6a states that a trash enclosure is required for all projects, which should be enclosed by a minimum 5-foot high, decorative masonry wall, and each trash area should have a separate, enclosed area for recyclable materials. The project's trash compactor and trash enclosures are located in the service yard. The wall and gate enclosing the service yard will have a minimum height of 5 feet. The service yard includes a separate, enclosed area for recyclable materials.
  - 21) Design standard 7a states that on-site lighting should be installed along all vehicular access ways and pedestrian walkways. Such lighting should be directed onto the driveways and walkways within the development and away from adjacent properties. On-site lighting will be placed in the parking area and pedestrian walkways to provide safe secure access to the site. Lighting will be placed to limit illumination of adjacent properties as conditioned by condition number 21.
  - 22) Design standard 7b states that all other on-site lighting should be shielded and directed onto the site. No floodlighting should be located so as to shine directly onto any adjacent residential property. This condition should not preclude the installation of low-level security lighting. All other on-site lighting will be shielded

- and directed onto the site. No floodlighting will be located so as to shine directly onto any adjacent residential property.
- 23) Design standard 8a states that freestanding walls located parallel to and visible from a public street should provide a minimum three-foot wide landscaped buffer for the length of the wall adjacent to that public street, with a maximum height of four feet. The landscaped buffer should contain clinging vines, oleander trees or similar vegetation capable of covering or screening the length of such wall, and should include the installation of an automatic irrigation system. Chain-link, barbed-wire and wrought iron are not permitted. The project will construct a 3.5-foot high solid decorative wall along the property line where the surface parking lots abut Marlton Avenue, Santa Rosalia Drive and Buckingham Road. Additionally, a 3-foot wide landscape buffer will be provided between the sidewalk and the wall which contains one 15 gallon tree every 20 lineal feet. The project requested a Specific Plan exception to allow a six foot wall in lieu of a four foot wall, however the request is denied and the project is conditioned to comply with the design standard of four feet.
  - 24) Design standard 11a states that landscaping which includes grouping of plant materials, consisting of small trees, shrubs, planter boxes or tubs of flowers should be placed at entrances to courtyards and along walkways. The project's landscaping will be placed to provide clear definition of entrances and walkways within the site. Plant materials will vary appropriately to define different site features and uses within the site.
  - 25) Design standard 11b states that lighting should not impede upon adjacent properties. The project's lighting in the landscaped areas will not impede upon adjacent properties. Lighting will be designed to be contained on-site in compliance with condition number 21.
  - 26) Design standard 11c states that side and rear yards should be landscaped using plant materials similar to those used in the front yard or entrance of a project. The Project Site has a C Zone designation and there are no required yards.
  - 27) Advisory design criteria for surface parking state that a minimum of 7% of the total area of a surface parking lot is to be landscaped. The project's surface parking lots provide landscaping that is more than 7% of the total area of the surface parking lots.
  - 28) Design standard 11d states that all surface parking lots should contain one tree for every 4 parking spaces and such trees should be dispersed evenly throughout the parking lot. The project's four surface parking lots will contain a minimum of one tree for every four parking spaces. The trees will be dispersed evenly throughout the four surface parking lots.
  - 29) Design standard 11e states that wherever a surface parking lot abuts a public street, public sidewalk or public alley, a three foot landscaped buffer should be provided, that should contain one 15-gallon tree every 20 lineal feet. The project's surface parking lots that abut Marlton Avenue, Santa Rosalia Drive and Buckingham Road provide a minimum 3-foot landscaped buffer which contains one 15-gallon tree every 20 lineal feet.
  - 30) Design standard 11f states that a three and one-half foot solid decorative wall should be provided along the property line facing such public right-of-way. As part of the project, a three and one-half foot high solid decorative wall will be provided along the property line where the surface parking lots abut Marlton Avenue, Santa Rosalia Drive and Buckingham Road.
  - 31) Design standard 11g states wherever a surface parking lot abuts, or is directly across an alley from any residential use or R zoned lot, a solid decorative wall, at least six feet in height, should be erected along the perimeter of the parking area facing such residential use or R zoned lot. A minimum three-foot wide landscaped buffer should be installed along the residential side of this wall and

planted with ground cover. The surface parking lot on the northwest portion of the site is adjacent to an existing senior housing development. The existing wall between the Project Site and the existing senior housing development is a 12-foot high solid decorative wall. The project will provide a 3-foot landscape buffer on the project side of the wall between the parking and the existing wall, which will be planted with ground cover.

- 32) Design standard 11h states an automatic irrigation system should be installed for all landscaped areas. As part of the project, an automatic irrigation system will be installed for all landscaped areas. This requirement is also identified as project mitigation measures and is condition of approval No. 10.
- 33) Design standard 11i states that surface parking lots, parking structures, garages and carports shall always be to the rear of the buildings. The majority of the parking will be placed away from the street on the far side of the building. Due to the site configuration a portion of the parking will occur to the sides of the building and be buffered from the street with a buffer wall and appropriate landscaping. A Specific Plan Exception request to allow two surface parking lots on the sides of the building is part of this application.
- 34) Design standard 12a states that large, continuous areas of unbroken plain concrete are prohibited. These areas should be interspersed with other paving materials or with plant materials, which can include the following: Integrated color cement with salt finish, stamped concrete, brick and tiles, precast pavers, murals/ artwork by local artists. On site paving will consist of integral colored concrete in multiple colors and finishes.
- 35) Design standards 13a through 13d apply to parking structures. A parking structure is not included in the project; therefore, these standards are not applicable.
- 36) Design standards 14a through 14e apply to signs. The current entitlement application does not include signage. The Applicant will submit a separate signage application at a later date.

**7. The project incorporates mitigation measures, monitoring measures when necessary, or alternatives identified in the environmental review, which would mitigate the negative environmental effects of the project, to the extent physically feasible.**

A Mitigated Negative Declaration, ENV-2013-4103-MND, was prepared for the proposed project. On the basis of the whole of the record before the lead agency including any comments received, the lead agency finds that, with imposition of the mitigation measures described in the MND (and incorporated into the Conditions of Approval herein), there is no substantial evidence that the proposed project will have a significant effect on the environment. The attached Mitigated Negative Declaration reflects the lead agency's independent judgment and analysis. The records upon which this decision is based are with the Environmental Review Section of the Planning Department in Room 750, 200 North Spring Street.

## PUBLIC HEARING AND COMMUNICATIONS

A Public Hearing conducted by the Hearing Officer on this matter was held at Los Angeles City Hall, 200 North Spring Street, 10<sup>th</sup> Floor, Room 1050, Los Angeles, CA 90012 on Friday, July 18, 2014 at 10:00 a.m.

### Summary of Public Hearing

1. Attendance: Present at the hearing was: the Applicant, the Applicant's Representative, the project architect, Applicant's consultant, Council Office 10 representative, residents and property owners near the project area.
2. Present: About 30 people attended the public hearing.
3. Speaker(s): Twelve speakers provided testimonies. Nine people spoke in support of the project and three people spoke in opposition.
4. A representative from the office of Councilman Herb Wesson, CD 10 spoke and stated the Councilman support of the project

The applicant's consultants made a presentation describing the project and entitlement request. The consultant explained that the project team attended a eight community outreach meetings.

A Police Department community relation officer from the southwest division expressed the following concerns:

- Potential for trespassing, loitering, narcotic sales, prostitution, graffiti or vandalism
- Potential for homeless encampments if the site is unsecured.
- Requested the applicant post no trespassing signs

The Empowerment Congress Neighborhood Council Representative stated the following:

- The ECNC recommended approval of the project in April 2014, but the Specific Plan Exception for additional fence height was not proposed at that time. Subsequent to the April Neighborhood Council meeting, Kaiser returned with the additional Specific Plan exception request.
- The council does not support the six-foot fence height.
- A commanding officer for the subject area attended an ECNC meeting and stated that during July 6 through July 14, 2014 there was zero reported crime.
- The fence was not proposed or discussed at three of the four ECNC meetings Kaiser attended
- Fences that were erected in surrounding neighborhood were done prior to 2004 (adoption of the Specific Plan).
- ECNC is opposed to the six-foot fence; it would not be conducive to the pedestrian experience.
- Contrary to the community relations officer statement about the various activity that might occur on the Kaiser site, the currently vacant 20 acre site does not experience those issues or activities.

Community members Comments include the following:

- Adjacent property owner to the north stated that the interior parking spaces are under an easement that is to ensure the land is maintained as a parking lot and available to the adjacent business owner. A parking certificate was furnished by the property owner
- The site has become a water reservoir.

- The wall and/or fence would not make the person testifying feel safer. Most buildings in the area do not have fences, and the only reason the subject site is currently fenced is because it is vacant.
- Members of the YMCA support a fence because they feel it would maintain the beauty of the facility.
- Representative of the Church across Santa Rosalia Drive supports the project and the fence.
- The project will provide a service to the community
- Will construction of the project employ local workers and represent the diversity of the community?
- The project's MND does not discuss the migratory birds in the on-site "pond"
- The site is contaminated
- The applicant should provide a security guard and more parking to the rear
- The current site fencing is illegal and violates other property owners property right
- A 1950 declaration of restriction exist and is an easement for parking and access driveways.
- Construction noise will be a significant impact

### **Communications Received**

One letter was received from John A Henning, Jr., Esq., on behalf of MLK Marlton LLC which owns parcels at 3710 and 3718 Martin Luther King Boulevard abutting the project site. The properties are less than 200 feet from the subject project. The adjacent owners oppose the project's entitlement request, and believe the Mitigated Negative Declaration is an inadequate CEQA clearance.