

FRIENDS OF THE COALITION TO PRESERVE LA

VIA HAND DELIVERY

Los Angeles City Council

200 North Spring Street, Room 350 Los Angeles, CA 90012

Re: Objections to a General Plan Amendment, Zone Change, Height

District Change, Vesting Zone Change, Conditional Use Permits including Master Conditional Use for Alcoholic Beverages and Conditional Use Permit for Live Entertainment, Site Plan Review and Zone Variance for the Project located at 12101 West Olympic Boulevard

CPC-2015-4455-DA

ENV-2012-3063-EIR

16-0763-S1 – Council File Number

Honorable Council Members:

We are the Friends of the Coalition to Preserve LA. The Friends of the Coalition to Preserve LA (FCPLA) supports the Coalition to Preserve LA (CPLA) in its goals which include, but are not limited to, preserving and protecting Los Angeles and the residents of its many neighborhoods from the harmful effects of out of character over development. This objection is filed on behalf of the FCPLA.

We appeal every issue previously raised by our and other organizations and our representatives that has not been adequately addressed in the Determination Letters, Conditions of Approval and Findings. We also wish to incorporate all past statements, testimony and correspondence to be part of this appeal. Friends of the Coalition to Preserve LA adopts and incorporates by reference all Project objections raised by themselves and others during the environmental review and land use entitlement processes before the City of Los Angeles, including Tuesday's hearing before the City Council.

We object to the following language transmitted by Councilman Bonin's Letter of September 8, 2016 to the PLUM Committee, titled:

Re; Martin Expo Town Center Development Agreement (CF No. 16-0763)

.2.3.1. Non-application of Changes in Applicable Rules. Any change in, or addition to, the applicable Rules, including, without limitation, any change in any applicable general plan, zoning or building regulation, adopted or becoming effective after the Effective Date of this Agreement, including, without limitation, any such change by means of ordinance including but not limited to adoption of a specific plan or overlay zone, City Charter amendment, initiative, referendum, resolution, motion, policy, order or moratorium, initiated or instituted for any reason whatsoever and adopted by the City, the Mayor, City Council, Planning Commission, any City Agency, or any officer or employee thereof, or by the electorate, as the case may be, which would, absent this Agreement, otherwise be applicable to the Project and which would conflict in any way with the Applicable Rules, Project Approvals, or this Agreement, shall not be applied to the Project unless such changes represent an exercise of the City's Reserved Powers, or are otherwise agreed to in this Agreement. Notwithstanding the foregoing, Developer may, in its sole discretion, give the City written notice of its election to have any subsequent change in the Applicable Rules applied to some portion or all of the Property as it may own, in which case such subsequent changes in the Applicable Rules shall be deemed to be contained within the Applicable Rules insofar as that portion of the Property is concerned. In the event of any

conflict or inconsistency between this Agreement and the Applicable Rules, the provisions of this Agreement shall control. (emphasis added).

This section of the development Agreement (reproduced above) which says that the Development Agreement trumps the initiative process and the power of the voters as well as the land use power of the city is an unconstitutional delegation of the land use powers of the city.

It does not appear that a proper and appropriate response to Cal Trans, as a "responsible agency", has been fully done. That is essential.

Cal Trans requires that a traffic study which complies with Cal Trans standards that were developed as a result of the traffic issues in the Millennial Project in Hollywood must be done. A memo of understanding was signed with the city by Cal Trans. It is not established that this project used those standards or followed a proper and complete process required by Cal Trans.

It is clear from what has been said that no one has responded to Cal Trans appropriately and therefore the city has violated CEQA.

THE PROJECT PROPOSES THAT THE CITY COUNCIL VIOLATE THE CITY CHARTER PROHIBITION OF PIECEMEAL AMENDMENTS OF THE CITY GENERAL PLAN TO ENABLE THIS PROJECT.

None of the entitlements requested as a general plan amendment are lawful requests because they require the City to initiate and process a General Plan Amendment for an individual parcel or parcels associated with a single real estate development project.

The City Charter And LAMC Bar This Project From Seeking A General Plan Amendment.

Los Angeles City Charter Section 555 expressly prohibits the City from proposing, considering, or approving any general plan amendment that does not encompass a geographical area with "significant social, economic, or physical identity." The entire Project as conceived and applied for is a clear violation of Section 555 because it assumes that the general plan amendment as requested by the applicant for a single real estate development project, can be granted by the City. It cannot. Because so much rides on the General Plan Amendment, the Project's house of cards falls.

As conceded by the applicant and City in the Draft EIR, the applicant seeks to amend the West Los Angeles Community Plan to designate the entire project site at a higher density, higher Floor Area Ratio, and higher height than currently permitted by the Community Plan. But Charter Section 555 does not authorize an individual property owner to apply for a general plan amendment to enable rezoning like this. For such a small bit or piece of the City, the Charter bars a general plan amendment because the geographical area involved lacks a "significant social, economic, or physical identity."

These restrictions on the powers of the Mayor, City Planning Commission and City Planning Director were imposed by vote of the People, exercising their home rule powers, so that the City's General Plan would retain its force and integrity to guide the long-term and comprehensive development of the City. It specifically bans what the City and Project developer here seek to accomplish.

Los Angeles Municipal Code Section 11.5.6 contains provisions that implement the City Charter procedures for the general plan. With respect to who may request a general plan amendment and the required minimum scope of a general plan amendment, the LAMC repeats the limitations imposed by Charter Section 555.

The Martin Expo Project applicant filed a Master Land Use Permit Application Form "requesting" a general plan amendment. In no way does the Project site constitute a geographical area that meets the limitation or restriction imposed by the People on the frequency and scope of general plan

amendments. The City's pattern and practice is unlawful, and its use in the instant case illustrates how developers are permitted to violate the law by densifying individual parcels beyond that permitted by the General Plan or ever analyzed in the EIRs originally used to approve the General Plan.

The City Planning Director himself also has no authority to propose a general plan amendment as is sought herein. The language contained in the City Charter prohibits the processing of a general plan amendment unless such proposal involves the entire General Plan, an entire Element, a significant part of an Element, or a geographical area so long as the Element part or geographical area constitutes a "significant social, economic, or physical identity."

The California Supreme Court has acknowledged that since 1972, a city's general plan is a constitution for future real estate development and all plans, codes, and planning decisions are subordinate to and must conform with the general plan. *DeVita v. County of Napa* (1995) 9 Cal.4th 763, 772-773,

The City in this case proposes to amend the general plan to conform with the Martin Expo Project developer's desired use of land at a greater height, density, and in derogation of the current general plan land use designation. This is improper. The Supreme Court held in *Leshner Communications v. City of Walnut Creek* (1990) 52 Cal.3d 535, 541 that the primacy of the general plan cannot be overridden by enacting inconsistent zoning ordinances:

"The Planning and Zoning Law itself precludes consideration of a zoning ordinance which conflicts with a general plan as a pro tanto repeal or implied amendment of the general plan. The general plan stands. A zoning ordinance that is inconsistent with the general plan is invalid when passed [citations omitted] and one that was originally consistent but has become inconsistent must be brought into conformity with the general plan. (§ 65860.) The Planning and Zoning Law does not contemplate that general plans will be amended to conform to zoning ordinances. The tail does not wag the dog. The general plan is the charter to which the ordinance must conform."

The City Planning Department, City Planning Commission, the City Attorney, and City Council have violated the City Charter by allowing project applicants to apply for general plan amendments. Further, such project applicants have been allowed to apply for a general plan amendment merely for their own parcel(s) of land. City officials are violating the City Charter by allowing project applicants to ask for general plan amendments and to seek such amendments for, in the words of the Citizen's Committee, "small bits and pieces" of the City which is "entirely inconsistent with the comprehensive nature and coordinating purpose of the General Plan."

In a new Second District Court of Appeal case involving the City of Los Angeles, *Schafer v. City of Los Angeles* (2015) 237 Cal.App.4th 1250, 1263, the Court of Appeal observed how the grant of an exception from a currently adopted general plan or zoning code would override the great public interest in comprehensive planning and zoning.

"Zoning laws concern 'a vital public interest - not one that is strictly between the municipality and the individual litigant. All the residents of the community have a protectable property and personal interest in maintaining the character of the area as established by comprehensive and carefully considered zoning plans in order to promote the orderly physical development of the district and the city and to prevent the property of one person from being damaged by the use of neighboring property in a manner not compatible with the general location of the two parcels. [Citation.] These protectable interests further manifest themselves in the preservation of land values, in esthetic considerations and in the desire to increase safety by lowering traffic volume.' . . . (*Pettitt v. City of Fresno* (1973) 34 Cal.App.3d 813, 822-823, [parallel cite omitted].)" (Emphasis added.)

As shown above, the City cannot approve the Martin Expo Project. The Project site consists of a flat asphalt parking lot surrounded by shrubbery. A single parking lot, which is the "geographical area"

proposed to be considered for a general plan amendment within in the meaning of the City Charter, has no “significant social identity,” no “significant economic identity,” or no “significant physical identity.” A parking lot is not a “logical planning unit”. A parking lot is not a “community of interest.”

The City Council Must Deny The Requested GPA, Zone Change, And Height District Entitlements.

Because the proposed general plan amendment is unlawful, the only lawful course a City Planner, the City Planning Director, and City Planning Commission, and the City Council could take is to apply the provisions of the existing West Los Angeles Community Plan. Because the Project as proposed violates all of these plans and programs, it must be denied by the City Council.

The Project application and requested approvals are not supported by law and must be denied, or at minimum sent back to Planning for revision in compliance with existing plans and zoning. In addition, the appeals of the approvals of the land use entitlements must be granted and the approvals overturned. The Project is not consistent with the City's Charter, General Plan, Municipal Code, or state law, including CEQA. We respectfully request that you reject the Project as proposed and inform the applicant that going forward, the City Planning Commission will comply with City Charter Section 555 and its obligations to maintain a proper West Los Angeles Community Plan density balance.



Miki Jackson
Friends of the Coalition to Preserve LA



PRESERVE **LA**

VIA HAND DELIVERY
Los Angeles City Council
200 North Spring Street, Room 350 Los Angeles, CA 90012

September 19, 2016

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We are the Coalition to Preserve LA. The Coalition to Preserve LA (CPLA) is the sponsor of the Neighborhood Integrity Initiative. The CPLA is concerned that the Los Angeles City Charter is being violated by numerous General Plan Amendments and the machinations being employed to enact exceptions for private interests. The goals of the CPLA, include, but are not limited to, preserving and protecting Los Angeles and the residents of it's many neighborhoods from the harmful effects of out of character over development. The CPLA further seeks to ensure that all due, proper and complete processes of the city are followed and all residents are afforded their rights to participate in the actions and process of the City of Los Angeles. This objection is filed on behalf of the CPLA.

We appeal every issue previously raised by our and other organizations and our representatives that has not been adequately addressed in the Determination Letters, Conditions of Approval and Findings. We also wish to incorporate all past statements, testimony and correspondence to be part of this appeal. The Coalition to Preserve LA adopts and incorporates by reference all Project objections raised by themselves and others during the environmental review and land use entitlement processes before the City of Los Angeles, including Tuesday's hearing before the City Council.

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Miki Jackson,
Government Relations Coordinator
Coalition to Preserve LA.