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September 9, 2016

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Planning and Land Use Management Committee
Los Angeles City Hall
200 N. Spring Street
Los Angeles, CA 90012

Re: City Planning Case Nos: TT-71751-2A and
ENV-2007-2460-EIR
Project Address: 5555 W. Melrose Avenue and various

On July 14, 2016, the City Planning Commission certified the EIR and granted in part, and denied in part, the first level appeal of TT-71751 to permit technical corrections to the Letter of Determination issued by the Deputy Advisory Agency on June 7, 2016 permitting 10 lots for the construction of up to approximately 1,922,300 square feet of new stage, production office, support, office, and retail uses, the removal of approximately 536,600 square feet of stage, production office, support, office and retail uses for a new increase of approximately 1,385,700 square feet of floor area under the guidance of the Paramount Pictures Specific Plan.

A second level appeal of the City Planning Commission's entire action and recommendation of TT-71751-1A, was filed on August 19, 2016. The appeal was filed by Beth S. Dorris, Representative on behalf of Mary Ann Biewener, an aggrieved individual.

APPEAL ANALYSIS

The *statements of the Appellant* have been summarized below:

- A. *The surrounding buildings within 0.5 mile are very low lying structures with both commercial and residential buildings limited to one or two stories in contrast with building heights and mass proposed in excess of current buildings on site. While border streets of the Site allow commercial use, immediately beyond them are a vast majority of residential neighborhoods.*

Staff Response:

Generally, the majority of building heights proposed would be substantially similar to buildings in the vicinity of the Project. For example, immediately south of the Project Site, the Raleigh Studios, encompasses one block with a height of four stories. In addition, a parking structure of approximately 56 feet in height is currently located on the Lemon Grove Lot, Parcel A. Within half a mile of the Project Site there are several buildings with heights of 140 and 160 feet. Furthermore, the majority of on-site existing buildings are taller than the surrounding residential and low-rise commercial properties. The tallest existing building on the Project Site is 95 feet tall, and the tallest structure is 145 feet tall. It should be noted that the existing zoning on the majority of the Main Lot includes a [Q] Condition allowing for a maximum height of 150 feet if accompanied by a Development Agreement. The height of the tallest Project buildings was thus capped at 150 feet (reduced from the 240 foot height proposed by the Applicant) by the City Planning Commission in recognition of the precedent set by the existing zoning.

The Appellant correctly points out commercial uses border the Project Site with residential neighborhoods beyond these commercial areas. Therefore, the maximum building height of 150 feet, permitted by the existing [Q] Condition, is proposed to be located within the Main Lot of the Project Site, along Melrose Avenue and consistent with the commercial uses across the street. Proposed buildings abutting residential uses, would be capped at 45 feet, with the exception of the Lemon Grove Lot, Parcel B, which is proposed as an extension of the existing parking structure on Parcel A at 55 feet.

In terms of massing, the Appellant correctly describes the Project to include net new construction of 1,385,700 square feet of facilities on the Project Site. However, this would bring the Floor Area Ratio over the Project Site to 1.2:1, far below the 3.0:1 allowed by current zoning. Therefore, the amount of development on the Project Site is not out of scale with the surrounding area.

- B. *The Site has remained unchanged for decades and includes open space and large swaths zoned Medium Residential. Although there are existing commercial buildings on Site, they are low-lying, set back and fully screened from surrounding residential area by 18-foot high hedges.*

Staff Response:

Although the Project Site has remained unchanged for decades, the Applicant is within their right to file entitlement requests to the appropriate decision-makers in order to modify or improve their property. As described above, the majority of parcels abutting residential uses would be capped at 45 feet. In addition, although the City Planning Commission approved a zone change to the Paramount Pictures Specific Plan (PPSP), including those ancillary lots designated as residential, the Commission retained the residential land use designation for Parcels C and D of the Lemon Grove Lot (whereas all other ancillary lots were redesignated as General Commercial), thus taking into consideration the scale of these two ancillary parcels in relation to the abutting single family residential uses. In addition, the proposed Paramount Pictures Specific Plan restricts uses on Parcels C and D which are compatible with the abutting residential uses.

In terms of open space, the Proposed Project includes the preservation of existing open space such as Lucy Park in the RKO Historic District and Production Park in the Paramount Pictures Historic District. While the Proposed Project does involve a height increase, walls and hedges will screen much of the activity within the Project Site. Many of the existing buildings are built with no setback from the public right-of-way at all, particularly within the potential RKO Studios Historic District.

- C. *The Proposed Project requires an entire rewrite of all applicable land use, zoning, landscaping, green energy, water conservation, and signage regulations, (including entitlements beyond the Tentative Tract approval) which requires an expansive set of changes similar to the last Hollywood Community Plan Update ultimately rescinded and vacated by Court Order.*

Staff Response:

The Appellant's statement about the number of entitlements necessary to approve the Project is not clear. There are indeed several entitlements associated with the Project. But it should be noted that the version approved by the City Planning Commission reduced the number of separate entitlements by incorporating sign regulations originally requested as a Sign District into the Specific Plan, constrained the types of signs permitted by prohibiting digital signs, supergraphics, and projecting image signs, and approved a more limited scope of a General Plan Amendment than the option proposed by the Applicant to redesignate all the ancillary lots as General Commercial. The specific details and circumstances of the vacated Hollywood Community Plan Update are irrelevant as to whether this Project should be approved, as the Project generally conforms to the Hollywood Community Plan currently in place.

- D. *The Appellant is Aggrieved Because She and Her Tenants will Potentially Experience Significant Impacts From the Proposed Project, as will Neighboring Residents.*

Staff Response:

The EIR for the Project identified several Significant and Unavoidable Impacts, some of which are likely to be felt by the Appellant and surrounding residential neighbors. However, the significant and unavoidable impacts were fully disclosed in the EIR and CEQA Findings. CEQA does not require that all impacts be mitigated, but rather, it requires full disclosure of all significant and unavoidable impacts so decision-makers can make informed decisions.

- E. *The Proposed Project Does Not Provide Overriding Conditions to Justify Imposing Such Severe Significant Impacts on so many neighboring Families, especially since Paramount may be sold to foreign country interests which is now facilitated by the bundle of special entitlement favors providing special exceptions from zoning and signage protections, further exempting permitting requirements for future owners/developers through the Development Agreement.*

Staff Response:

The City Planning Commission recommended approval of a general plan amendment, zone, specific plan, code amendment and a development agreement. It also granted in part and denied in part the first level appeal of the TT-71715 for technical corrections. It is unclear what the Appellant refers to as "special." The requested entitlements adhered to the procedures and processes as required by the Los Angeles Municipal Code (LAMC) and relevant state laws. Notifications were duly provided in accordance with these procedures in order to provide a transparent and publicly accessible process. The property owner must comply with all regulations of the Specific Plan as well as with any regulatory requirements. Moreover, the Development Agreement requires that the property owner must adhere to the project approvals. In addition, the Development Agreement requires the City's consent with regard to the transferring of the Development Agreement obligations to ensure fulfillment of all the public benefits.

- (i) *The Tentative Tract Map facilitates breaking off and selling of the Studio with no real studio use assured.*

Staff Response:

The Project Site was approved for a ten lot subdivision in accordance with the procedures set forth in Article 7 of the LAMC and the State Map Act. The use of the Project Site will be governed by the Paramount Pictures Specific Plan (Specific Plan). Any and all property located within the Specific Plan boundaries must adhere to the uses permitted therein, e.g. stage, production office, support (e.g. child care), office and retail. These are all studio-related uses with specific square footages assigned by Specific Plan. Any deviation from such uses would require a specific plan exception to the City Planning Commission. As indicated above, the Development Agreement requires the City's consent for any transferring of the property owner obligations as set forth in the agreement.

- (ii) *Entitlement gifts would be borne by the families living with "significant and unmitigated impacts including air quality and noise impacts, especially for children whereby these impacts who could potentially interfere with their health and education.*

Staff Response:

Again, it is unclear what the Appellant is referring to as "entitlement gifts" given all legal procedures and processes were strictly adhered to, and all required processing fees paid by the Applicant.

The Appellant does not provide any evidence as to how a child's education would be impacted by the Project. However, the Appellant is correct in that the EIR identified significant and unavoidable impacts associated with air quality during construction and operation, and noise and vibration during construction. As to whether these impacts would affect the health of children, the EIR, (Draft EIR, Section IV.B.1 Air Quality), included a health risk analysis which found that the Project would not exceed any SCAQMD-recommended localized screening thresholds, based on compliance with NAAQS (National Ambient Air Quality Standards) and CAAQS (California Ambient Air Quality Standards) established at concentrations levels to protect public health including the health of sensitive population such as asthmatics, children and the elderly. Therefore, health risk impacts were determined to be less than significant.

Nevertheless, given significant and unavoidable impacts would remain, the City Planning Commission adopted a Statement of Overriding Considerations in consideration of benefits provided by the Project outweigh the significant and unavoidable impacts. Overriding considerations included economic, social, and aesthetic benefits such as enhancing the economic vitality of the of the City by contributing to the preservation of the movie, television and entertainment industry, providing over 4,400 construction related jobs and 5,400 jobs from on-site operations. Further, the proposed Development Agreement will provide over nine million dollars in public benefits including providing free continued childcare services within the community for an additional five years, streetscape improvements, establishment of preferential parking districts, neighborhood protection plans to reduce traffic intrusion and congestion, improving pedestrian safety at crosswalks and sidewalk improvements, and improvements of residential properties to enhance neighborhood character.

- F. *The Proposed Project's Scale and Placement Create Significant Aesthetic Impacts Inadequately addressed in the EIR considering the Project's height, mass, density and set back are incompatible with the surrounding architectural aesthetic.*

Staff Response:

As previously discussed in the first level appeal, Section IV.A.1, Aesthetics/Visual Quality and Views, of the Draft EIR, proposed building heights would overall be similar to and/or compatible with those buildings currently on-site and in the surrounding area. The majority of the building heights across the Project Site would be substantially similar to other buildings in the Project vicinity, such as the four-story Raleigh Studios, and other existing mid-rise structures that would remain on-site. Buildings adjacent to residential properties would generally be limited to 45 feet with taller buildings located on the Main Lot. In terms of massing, the Project includes net new construction of 1,385,700 square feet of facilities within the Project Site which would bring the Floor Area Ratio over the Project Site to 1.2:1, far below the 3.0:1 allowed by current zoning. Therefore, the amount of development on the Project Site is not out of scale with the surrounding area.

Based on the analysis presented in Section IV.A.1, Aesthetics/Visual Quality and Views, of the Draft EIR, the proposed Project would not cause a substantial degree of contrast between proposed features and existing features that represent the Project Site's aesthetic image; or the development of buildings that detract from the existing style or image of the Project Site or surrounding area due to density, height, bulk, setbacks, signage, or other physical elements. As such, the Draft EIR concluded the proposed Project would not substantially alter, degrade, or eliminate the existing visual character of the Project Site or surrounding area, including existing visual features or resources, or introduce elements that substantially detract from the visual character. Therefore, as concluded in the Draft EIR, impacts related to aesthetics/visual quality would be less than significant.

- (i) *The historic survey and cultural impacts did not consider adjacent Neighborhood Conservation Areas or potential residences that would contribute to an HPOZ. Controls to ensure design, scale and placement of new construction so as to not overwhelm neighboring historic resources are missing from the Specific Plan, which the PC [CPC] LOD approvals relied upon thereby creating an abuse of agency discretion.*

Staff Response:

The Historic Resources analysis of the Project did not identify any impacts to surrounding off-site historic resources, and the Historic Resources Preservation Plan approved as part of the Specific Plan includes numerous design guidelines and opportunities for review to ensure compatibility with the identified historic resources. Therefore, the City Planning Commission (CPC) did not abuse its discretion as it had the opportunity to review the Specific Plan, which contains regulations associated with historic preservation, and the Historic Preservation Plan attached as Appendix B of the Specific Plan.

- (ii) *Setbacks along the southern property boundaries should be increased by 5 feet to further to mitigate view and light impacts*

Staff Response: An additional five feet of landscaping was indeed added to the setbacks from the southern property boundaries by the City Planning Commission. Furthermore, the City Planning Commission approved the staff recommendation to the Specific Plan requiring consultation with the Department of City Planning's Urban Design Studio prior to the issuance of any building permit for the South Bronson Lot and Windsor Lot; the two southern properties of

the Project Site. Further, impacts related to views and lighting were evaluated in the EIR and were found to be less than significant.

- G. *The EIR Fails to Address the Noise, Parking, Traffic, Emergency Access, and Safety Impacts Associated with the "Plymouth Gate."*

Staff Response:

As previously discussed in staff's tract appeal report to the City Planning Commission, the Final EIR discussed intersection No. 39, (Plymouth Boulevard and Melrose Avenue) which is the nearest intersection to the Plymouth Gate. The Final EIR concluded that intersection 39 was projected to operate at LOS A during morning and afternoon peak hours under both Existing with Project Conditions (Year 2011) and Future with Project Conditions (Year 2038). As such, impacts at the Plymouth Gate would be less than significant. In terms of emergency access, analysis of the traffic patterns at the Plymouth Gate were reviewed by the Los Angeles Department of Transportation, and they did not identify any issues with emergency access or safety issues at this location. Furthermore, the EIR evaluated noise and parking associated with the Proposed Project and only noise during construction was found to be significant and unavoidable as fully disclosed therein.

Nevertheless, funding was provided in the Development Agreement, approved by the Planning and Land Use Committee on September 6, 2016, allocated to Council District 4 Improvement Fund for neighborhood traffic protection and streetscape improvements.

- H. *The Proposed Project's Addition of Almost 1.4 Million Square Feet of New Commercial Facilities will create significant Transportation Impacts inadequately addressed in the EIR and MMP.*

Staff Response:

Potential traffic impacts were fully analyzed in the EIR. Mitigation measures were included to reduce the number of significantly impacted signalized intersections from 19 to 4. Further physical improvements to the area were examined but deemed infeasible due to the physical constraints of the existing built environment. Mitigation thus focused on reducing the demand for vehicular travel to and from the site through a robust Transportation Demand Management program and the establishment of a Transportation Management Organization for Hollywood. Impacts were fully addressed and all significant and unavoidable impacts were fully disclosed in the EIR thereby requiring a Statement of Overriding Considerations as recommended for adoption by the City Planning Commission.

- I. *The Historic Preservation Plan and Associated New Construction Standards Need to be Expanded to Comply with CEQA as well Local and State Historic Preservation Standards.*

- (i) *The Project would have significant historical preservation impacts in two potential historic district and individually on the eligible KCAL Building.*

Staff Response:

Potential impacts to historic resources on site were thoroughly analyzed in the EIR, which concluded that no significant impact would occur. The requirements of the Historic Resources Preservation Plan, Appendix B of the approved Paramount Pictures Specific Plan, includes design standards for new construction as well as a requirement that any new buildings be cleared through a review process with the City's Office of Historic Resources.

- (ii) *The Proposed Project's planned construction by the historic KCAL would overwhelm the historic resource with its mass and height.*

Staff Response:

Construction near the KCAL Building is subject to KCAL Development Setbacks identified in the Paramount Pictures Historic Resources Preservation Plan whereby any construction within a 20-foot setback from the northern edge of the KCAL requires the building to be lower and inset from the exterior walls of the KCAL building. In addition, the 150-foot height of the building planned adjacent to the KCAL building, is consistent with the height allowed by the existing zoning [Q] Condition in association with an adopted Development Agreement.

- (iii) *Stages 19, 20 and 21 are the most visible aspects of Paramount Pictures Main Lot with the Studio Globe as an iconic element, thus, moving it off-site would adversely affect its cultural significance.*

Staff Response:

The RKO Radio Pictures globe at Stage 21 was correctly determined to not be considered a historic resource for CEQA purposes, as it has been significantly altered and now lacks integrity. Nevertheless, a requirement was incorporated into the Specific Plan to attempt to preserve the globe feature and maintain it on the corner of the new building when Stage 21 is demolished.

- J. *The EIR fails to Disclose and address Significant Aesthetic, Blight and Safety Impacts Associated with the Proposed Project's Signage.*

Staff Response:

This point is similar to the issue raised by the Appellant in the first level appeal of the tract, except that references to the signs being digital have been removed. With the removal of digital signs, projecting image signs and supergraphics signs from the proposal, the conditions described in the appeal are greatly exaggerated. The remaining signs allowed would be similar to the wall signs, which have existed for decades, Paramount currently uses to advertise their films and television shows similar to other wall signs at the motion picture studios south of Melrose Avenue.

Furthermore, the impacts of the signs relating to light and aesthetics were fully analyzed in the EIR and were not found to have any significant impacts. As to the content of the signs in relation to blight, the City does not have the authority, under the First Amendment to the U.S. Constitution, to regulate the content of signs.

- K. *The EIR lacks necessary information on required infrastructure improvements; The EIR improperly defers Mitigation; and Removal of Standard Permitting Requirements undermines Reliance on a vague Master Plan EIR.*

Staff Response:

Impacts due to the provision of utilities were conservatively analyzed in full in the EIR, which determined that the only impacted utility would be the future solid waste collection, as the time period of the Specific Plan exceeds the end of any existing permits for landfills. Permits, including Project Permit Compliance for any Land Use Exchange and Administrative Clearance procedure, are still required for projects approved under the Specific Plan, which will further require compliance with any relevant regulatory measures.

- L. *The EIR requires recirculation as the July EIR Revisions identify new significant impacts as the Caltrans Supplemental Analysis was omitted from the list of significant impacts*

Staff Response: The EIR does not require recirculation. No new significant Environmental Impacts have been identified and no new information has been submitted which would warrant recirculation of the EIR. The Caltrans Supplemental Analysis was included in the Impact Analysis section of the circulated Draft EIR. The analysis was inadvertently omitted from the summary of Significant Unavoidable Impacts in the Executive Summary of the Draft EIR. However, to correct this technical omission, an Errata was issued in July 2016 expressly identifying this omission and clearly correcting and referencing the Caltrans Analysis where appropriate.

- M. *The PC [CPC] LOD does not comply with CEQA on EIR Certification Procedures, and the Byzantine Approval/Appeal Process in Various City Department raise further due process, notice and potential authority/jurisdictional concerns.*

- (i) *The Deputy Advisor [Deputy Advisory Agency] does not have the authority to certify an EIR. It is unclear after CPC, who certifies the EIR, which should be done by a governing body, in this case, the City Council. How can the CPC now recommend that the City Council certify the EIR?*

Staff Response:

As previously indicated in the initial appeal, pursuant to Sec. 17.03 of the Los Angeles Municipal Code, a Department of City Planning staff member can be deputized as the Deputy Advisory Agency and, therefore, is with its authority to approve a Tract Map. The City is the Lead Agency for CEQA purposes and the Deputy Advisory Agency is the initial decision-maker on a tentative tract and must, therefore, certify the EIR as the environmental clearance for the tract. However, since the tract determination was appealed, the appeal moved forward to the City Planning Commission as the decision-making body on the appeal. Given the Commission's tract determination was appealed to City Council, the City Council will now become the final decision-making body on the second level appeal, and as such, will certify the EIR.

- (ii) *The City Full EIR with the July EIR Revisions, did not have a public hearing as required under CEQA.*

Staff Response:

If by "July EIR Revisions", the Appellant is referring to the Errata that was issued, a public hearing for the issuance of an errata is not required by CEQA. The Errata simply addressed minor revisions, i.e., technical corrections, to clarify that a supplemental Caltrans analysis was included in the Draft EIR but was inadvertently omitted from the Final EIR's Executive Summary. Therefore, given this information is not new, a public hearing is not warranted.

- (iii) *The approval of the Tentative Tract goes beyond merely approving a subdivision to create 10 new lots. The PC [CPC] essentially approves the whole Project, even though the Planning Commission clearly does not have designated City Authority to do so.*

Staff Response:

The Deputy Advisory Agency's decision to certify the EIR in no way prejudiced the other entitlements for this case, as the Letter of Determination included a condition that the Tract Map

shall be modified if the related cases were disapproved. Therefore, it did not go beyond its authority in solely approving the tract. Since the tract was appealed, and the Proposed Project included multiple approvals, the City Planning Commission became the decision-maker on the tract appeal pursuant to Sec. 12.36.C.5 of the LAMC. Consequently, the Commission had authority to act on the tract appeal.

- (iv) *A short 10-day limit from the mailing date of the PC [CPC] LOD to file this Appeal. No transcript of the hearing/meeting or redline documents were provided in the mailing to tract changes approved by the CPC.*

Staff Response:

The time period to file an appeal to the City Council on a tract is set forth by Sec. 17.06 A.4 of the Los Angeles Municipal Code which states that an appeal to the City Council shall be filed within ten days of a written determination. As such, the Department of City Planning does not have the authority to circumvent the law and extend an appeal period. Further, it is the Appellant's opinion that the 10-day appeal period is "short." The Appellant's representative filed the appeal on the 10th day of the time period thus providing the maximum amount of time to prepare a submittal given that the points raised in this second level appeal are similar to those raised to the City Planning Commission. In addition, Planning staff has been readily available and has communicated on several occasions with the Appellant, as well as with her representative, to answer questions and provide clarification on the tract and appeal procedures. A transcript of the hearing and associated redline documents were unnecessary as the technical corrections to the tract conditions were subsequently approved by the City Planning Commission, and attached to the staff's recommendation report. The staff report was made available to Ms. Mary Ann Biewener, the aggrieved party. Again, staff was available to provide any clarification on the Commission's action to the Appellant and/or her representative.

Conclusion

Upon careful consideration of the Appellant's points, the Appellants has failed to adequately disclose how the City abused its agency discretion and failed to comply with due process and notice requirements. In addition, no new substantial evidence was presented that City as erred in its actions relative to the EIR and the associated entitlements. The appellant has raised no new information to dispute the Findings of the EIR or the City Planning Commission's actions on this matter and Planning staff respectfully recommends that the second level appeal of TT-71751-2A be denied.

Sincerely,



Luciralia Ibarra
Senior City Planner
Major Projects, Department of City Planning

