

ORIGINAL



APPLICATIONS:

APPEAL APPLICATION

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

1. APPELLANT BODY/CASE INFORMATION

Appellant Body:

- Area Planning Commission, City Planning Commission, City Council, Director of Planning

Regarding Case Number: CPC-20 15-2893-VZC-HD-CUB-ZAA-SPR

Project Address: 6407-6411 W. Sunset Blvd. and 1511 N. Ivar Ave. and 1512 N. Cahuenga Blvd.

Final Date to Appeal: 12/20/2016

- Type of Appeal: Appeal by Applicant/Owner, Appeal by a person, other than the Applicant/Owner, claiming to be aggrieved, Appeal from a determination made by the Department of Building and Safety

2. APPELLANT INFORMATION

Appellant's name (print): Roberto Mazariegos

Company:

Mailing Address: 1419 N. Kingsley Dr., # 105

City: Los Angeles State: CA Zip: 90011 90028

Telephone: (323) 316-4581 E-mail: rmazariegos@gmail.com

- Is the appeal being filed on your behalf or on behalf of another party, organization or company?

Self, Other:

- Is the appeal being filed to support the original applicant's position? Yes, No

3. REPRESENTATIVE/AGENT INFORMATION

Representative/Agent name (if applicable): Gideon Kracov

Company: Law Office of Gideon Kracov

Mailing Address: 801 S. Grand Ave., 11th Floor

City: Los Angeles State: CA Zip: 90017

Telephone: (213) 629-2071 E-mail: gk@gideonlaw.net

4. JUSTIFICATION/REASON FOR APPEAL

Is the entire decision, or only parts of it being appealed? Entire Part

Are specific conditions of approval being appealed? Yes No

If Yes, list the condition number(s) here: _____

Attach a separate sheet providing your reasons for the appeal. Your reason must state:

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

5. APPLICANT'S AFFIDAVIT

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

Appellant Signature: _____

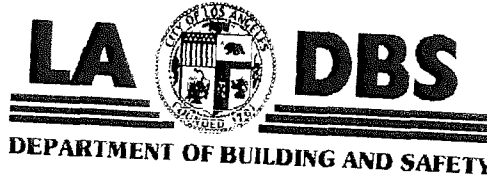
Date: 12/16/16

6. FILING REQUIREMENTS/ADDITIONAL INFORMATION

- ✓ Eight (8) sets of the following documents are required for each appeal filed (1 original and 7 duplicates):
 - ✓ Appeal Application (form CP-7769)
 - ✓ Justification/Reason for Appeal
 - ✓ Copies of Original Determination Letter
- A Filing Fee must be paid at the time of filing the appeal per LAMC Section 19.01 B.
 - Original applicants must provide a copy of the original application receipt(s) (required to calculate their 85% appeal filing fee).
- NW** ● All appeals require noticing per the applicable LAMC section(s). Original Applicants must provide noticing per the LAMC, pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of the receipt.
- NP** ● Appellants filing an appeal from a determination made by the Department of Building and Safety per LAMC 12.26 K are considered Original Applicants and must provide noticing per LAMC 12.26 K.7, pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of receipt.
- NP** ● A Certified Neighborhood Council (CNC) or a person identified as a member of a CNC or as representing the CNC may not file an appeal on behalf of the Neighborhood Council; persons affiliated with a CNC may only file as an individual on behalf of self.
- NP** ● Appeals of Density Bonus cases can only be filed by adjacent owners or tenants (must have documentation).
- NP** ● Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the Area or City Planning Commission must be filed within 10 days of the date of the written determination of said Commission.
- A CEQA document can only be appealed if a non-elected decision-making body (ZA, APC, CPC, etc.) makes a determination for a project that is not further appealable. [CA Public Resources Code ' 21151 (c)].

This Section for City Planning Staff Use Only		
Base Fee: <u>\$89</u>	Reviewed & Accepted by (DSC Planner): <u>Ann M. Vidal</u>	Date: <u>12/16/16</u>
Receipt No: <u>0203375725</u>	Deemed Complete by (Project Planner):	Date:
<input type="checkbox"/> Determination authority notified		<input type="checkbox"/> Original receipt and BTC receipt (if original applicant)

Office: Van Nuys
Applicant Copy
 Application Invoice No: 33840



Scan this QR Code® with a barcode reading app on your Smartphone. Bookmark page for future reference.

LA Department of Building and Safety
 VN LAUR 203093507 12/16/2016 12:08:37 PM

NOTICE: The staff of the Planning Commission will give your application, regardless of the outcome, fair and impartial consideration to represent you.

PLAN & LAND USE \$107.69

Sub Total: \$107.69

Receipt #: 0203375725

Applicant: MAZARIEGOS, ROBERTO (C:323-3164581)
Representative:
Project Address: 1511 N IVAR AVE, 90028

NOTES:

CPC-2015-2893-VZC-HD-CUB-SPR-1A			
Item	Fee	%	Charged Fee
Appeal by Aggrieved Parties Other than the Original Applicant *	\$89.00	100%	\$89.00
Case Total			\$89.00

Item	Charged Fee
*Fees Subject to Surcharges	\$89.00
Fees Not Subject to Surcharges	\$0.00
Plan & Land Use Fees Total	\$89.00
Expediting Fee	\$0.00
Development Services Center Surcharge (3%)	\$2.67
Development Surcharge (6%)	\$5.34
Operating Surcharge (7%)	\$6.23
General Plan Maintenance Surcharge (5%)	\$4.45
Grand Total	\$107.69
Total Invoice	\$107.69
Total Overpayment Amount	\$0.00
Total Paid (this amount must equal the sum of all checks)	\$107.69

LA Department of Building and Safety
 VN LAUR 203093507 12/16/2016 12:08:37 PM

PLAN & LAND USE \$107.69

Sub Total: \$107.69

Receipt #: 0203375725

Council District: 13
 Plan Area: Hollywood
 Processed by VIDAL, ANNA on 12/16/2016

Signature: *Anna Vidal*

GIDEON KRACOV

Attorney at Law

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VIA HAND DELIVERED

December 16, 2016

Development Services Center
Department of City Planning
6262 Van Nuys Blvd., Room 251
Van Nuys, CA 91401

Re: Appeal Application for Hollywood Ivar Gardens Project (CPC 2015-2893-VZC-HD-CUB-ZAA-SPR; ENV-2015-2895-MND) – Letter of Determination Mailed 12/5/16 Regarding City Planning Commission Project Approvals on 9/8/16 Item No. 7

To Whom It May Concern:

On behalf of Roberto Mazariegos (“Appellant”), this Office seeks to appeal the City of Los Angeles (“City”) City Planning Commission (“Commission”)’s decision on September 8, 2016 approval of R.D. Olson Development (“Applicant”)’s Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-ZAA-SPR) (“Project”), which became effective on December 5, 2016 with the mailing of the Letter of Determination (“LOD”). As discussed in the appeal package, the Commission approved the Project’s Conditional Use Permit, Zoning Administrator’s Adjustment, and Site Plan Review (collectively “Approvals”), and recommended for City Council (“Council”)’s approval the Projects Vested Zone Chance and Height District Change. Although these other entitlements are part and parcel of the Project as a whole, only the Project Approvals are appealable at this time in accordance with the instructions provided in the LOD.

In short, Appellant challenges the Project Approvals on grounds that the Commission erred when relying on an inadequate environmental review of the Project impacts, and the Commission abused its discretion by failing to make the necessary findings to support granting these discretionary entitlements. Therefore, Appellant submits this appeal application requesting Council to reverse the Commission’s decision and deny the Project Approvals until a proper environmental analysis is prepared and circulated to the public.

This appeal application includes the entire administrative record of the Approvals and all previously provided materials in connection with the Project including but not limited to Neal Liddicoat, P.E. expert comment letter dated September 1, 2016, Appellant’s lawyer’s letter dated September 5, 2016 and oral testimony during the Project hearing on September 8, 2016. These materials have already been provided to the City; if not in its

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possession, let Appellant's lawyer know at once. Also included in this appeal and specifically attached are eight sets (one original and 7 duplicates) of the Appeal Application form CP-7769, Attachment: Justifications/Reason for Appeal, copies of the LOD, and Mr. Liddicoat's comment letter dated December 13, 2016 in response to the LOD. When Council serves as an appellate body to Commission's approval of a Site Plan Review, as in is here, Council must base its decision "upon evidence in the record, including testimony and documents produced at the hearing before [it]." See LAMC § 16.05-H.4.

All said documents, including this cover letter and attachments hereto, are incorporated by this reference in their entirety. Please ensure that all of these documents are included in the record for the Project and any future action taken by the City.

Finally, this Office is requesting, on behalf of the Appellant, all notices required under the California Environmental Quality Act ("CEQA") and any approvals, Project CEQA determinations, or Project public hearings under any provision of Title 7 of the California Government Code (California Planning and Zoning Law). This request is filed pursuant to Pub. Res. Code §§ 21092.2 and 21167(f), and Government Code § 65092, and Municipal Code §§ 12.28.C.3, 12.32.D.2 and 16.05.G.3.b, that collectively require local agencies to mail such notices to any person who has filed a written request for them. Please send notice by electronic and regular mail to: Gideon Kracov, Esq., 801 S. Grand Avenue, 11th Fl., Los Angeles, CA 90017, gk@gideonlaw.net.

Thank you for considering this appeal application. We again ask that they be placed in the Administrative Record for the Project.

Sincerely,

Gideon Kracov
Law Office of Gideon Kracov
Lawyer for Appellant, Roberto Mazariegos

Encl.:

Appeal Application Form CP-7769
Attachment: Justification/Reason for Appeal
Original Letter of Determination mailed December 5, 2016
MRO Engineer Letter dated December 13, 2016

ATTACHMENT: JUSTIFICATION/REASON FOR APPEAL

Roberto Mazariegos ("Appellant") appeals the City of Los Angeles ("City") City Planning Commission ("Commission")'s approvals for R.D. Olson Development ("Applicant")'s Hollywood Ivar Gardens Project (ENV-2015-2895-MND; CPC 2015-2893-VZC-HD-CUB-ZAA-SPR) ("Project"). While the Commission made its decision during the Project's public hearing on September 8, 2016, its actions did not become effective until the mailing of the Letter of Determination ("LOD") on December 5, 2016. Currently, only the Project's Conditional Use Permit ("CUB"), Zoning Administrator's Adjustment ("ZAA"), and Site Plan Review ("SPR") has been approved (collectively "Approvals"). The Approvals are part and parcel of the Project as a whole including its other entitlements (i.e. Vested Zone Change and Height District Change), which have been recommended for approval by the City Council ("Council") who has yet to take any action on these specific entitlements. Nevertheless, Appellant wishes to appeal the Project Approvals at this time in accordance with the timeline stated in the LOD and on the reasons and justifications discussed below.

To begin, Appellant's appeal includes the entire administrative record of the Approvals and all previously provided materials in connection with the Project including, but not limited to, Neal Liddicoat, P.E. expert comment letter dated September 1, 2016, Appellant's lawyer's letter dated September 5, 2016 and his oral testimony on this Project provided to the Commission for Item 7 on September 8, 2016. Also included in this appeal and specifically attached is Mr. Liddicoat's letter dated December 13, 2016 responding to the LOD. Because this appeal involves review of the Commissions SPR approval, Council acting as an appellate body may base its decisions on new "testimony and documents produced at the hearing before [it]." See LAMC § 16.05-H.4.

All said documents are incorporated by this reference in their entirety. These materials have already been provided to the City; if not in its possession, let Appellant's lawyer know at once. Please ensure that all of this is included in the record for the Project and any future action taken by the City.

I. REASONS FOR THIS APPEAL

This Project is at 6407-6411 W. Sunset Boulevard, 1512 N. Cahuenga Boulevard, and 1511 N. Ivar Avenue in the Hollywood Community Plan and Hollywood Redevelopment Plan areas of the City. The Project involves the demolition of an existing fast food restaurant and surface parking, and the construction of a 21-story, 141,895 square-foot mixed use building at 6:1 FAR containing 275 hotel guestrooms with kitchenettes and 1,900 square feet of ground floor commercial space. The Project also includes four levels of subterranean parking. Project construction will require the export of 3,882 square feet of demolition material and 56,000 cubic yards of soil – approximately 4,000 heavy duty, diesel hauling-trips. Vehicular access for Project is proposed by way of two driveways: 1) a full-access driveway on Cahuenga Boulevard that would serve entering and exiting guests, visitors, and employees, as well as exiting service and delivery vehicles; and 2) a gate-controlled service driveway on Ivar Avenue; those vehicles would exit by way of the main driveway on Cahuenga Boulevard.

Appellant challenges this Project chiefly on two grounds; (1) the City failed to properly assess the Project's environmental impacts, and (2) the City cannot make the necessary findings to support the Project Approvals and other requested discretionary entitlements. The City prepared a Mitigated Negative Declaration/Initial Study ("MND") to assess the Project's impact on the surrounding environment rather than a comprehensive Environmental Impact Report ("EIR"), pursuant to the California Environmental Quality Act ("CEQA"). As explained in greater detail below, the MND failed to adequately assess various environmental impacts –particularly traffic impacts in this heavily congested part of Hollywood. Additionally, the Project Approvals and other requested entitlements are discretionary under the LAMC and require certain findings to be made by the City, including those under Redevelopment Plan § 506.2.3 demanding traffic impacts to be overridden by other social, economic or physical considerations. Here, no attempt was made to make these findings for a project that includes virtually zero community benefits and threatens Los Angeles' prosperity.

For these reasons, Appellant requests that the Council reverse the Commission's Project Approvals and require the City to prepare an EIR compliant with CEQA.

II. APPELLANT IS AGGRIEVED

Appellant is a resident of the City of Los Angeles and lives with his family approximately 1.5 miles from the Project location. Given this proximity, Appellant and his family risk a host of environmental impacts if the Commission's decision is not reverse and the Project is allowed to be built without further environmental review. Among this risks include more traffic congestion, greater noise from 3,000+ heavy-duty truck trips and poorer air quality caused by diesel emissions. Because of these Project impacts, Appellant is considered "aggrieved" under LAMC §§ 12.24.1-E and 12.24-1.2.

Furthermore, Appellant filled out a speaker card and testified before the Commission during the Project hearing on September 8, 2016. Those comments and this appeal are made to exhaust remedies under *Pub. Res. Code* § 21177 concerning the Project, and incorporates by this reference all written and oral comments submitted on the Project by any commenting party or agency. It is well established that any party, as Appellant did here, who participates in the administrative process can assert all factual and legal issues raised by anyone. *Citizens for Open Government v. City of Lodi* (2006) 144 Cal.App.4th 865, 875.

III. THE COMMISSION ERRED & ABUSED ITS DISCRETION

When making the Project Approvals, the Commission (A) erred in relying on an inadequate MND and problematic LOD, and (B) abused its discretion by failing to make the necessary findings.

A. Under CEQA, The Commission Erred By Relying On An Inadequate MND And LOD.

A MND was prepared for this 21-story high rise project, not a more comprehensive EIR pursuant to CEQA law. This means that the less deferential “fair argument” standard applies. The “fair argument” standard creates a “low threshold” favoring environmental review through an EIR rather than through issuance of a negative declaration, even if other substantial evidence supports the opposite conclusion. *Mejia v. Los Angeles* (2005) 130 Cal.App.4th 322; *Pocket Protectors v. Sacramento* (2005) 124 Cal.App.4th 903. “Substantial evidence includes ... expert opinion.” Pub. Res. Code § 21080(e)(1); 14 Cal. Code Regs. § 15064(f)(5). An agency’s decision not to require an EIR can be upheld only when there is no credible evidence to the contrary. *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th, 1307, 1318.

When making its decision on September 8, 2016, the Commission knew there was a “fair argument” that the Project may cause traffic impacts in this congested part of Hollywood and that, as matter of law, the City needed to prepare an EIR. As indicated in traffic engineer Neal Liddicoat’s letter dated September 1, 2016, there were several substantial issues affecting the validity of the MND’s conclusions and that a corrected traffic impact analysis would reveal one or more significant impacts not documented in the MND. Not only was it suggested to prepare a modified traffic impact analysis into a revised environmental document, but Appellant’s attorney’s letter dated September 5, 2016 explicit stated it was required as a matter of law.

The newly released LOD fails to cure these errors. This appeal incorporates by this reference Mr. Liddicoat’s review of the LOD dated December 13, 2016. As noted on page 1, the LOD repeatedly states that comment letters critical of the Project’s MND was received, and that formal responses were prepared. However, none of these responses addressed the issues raised in Mr. Liddicoat’s September 1 letter. Furthermore, the LOD contains additional inaccuracies and contradictions. First, several of the approval conditions raise truck traffic issues such as blocking traffic flow due to insufficient 20-foot reservoir space between the security gate and property line (Condition of Approval 4a), blocking access to the site during trash pickup due to the location of containers (Condition of Approval 5b), and lack of information discussing how restrictions on truck activity will be enforced (Condition of Approval 34c, 34e, and 34f). Second, the LOD make numerous inaccurate references to “reduction of traffic congestions” associated with the Project when it will in fact increase traffic congestions – adding a net total of 1,285 daily trips, 77 AM peak hour trips, and 113 PM peak hour trips. Finally, the LOD completely contradicts itself when it states on p. F-38 that the Project “does not have any residential component,” but repeatedly treats it like one in order to meet certain goals, objectives, and policies.

Because the MND and LOD were deficient under CEQA, the Commission erred when granting the Project Approvals without proper analysis to environmental impacts.

B. The Commission Abused Its Discretion by Failing to Make the Necessary Finding Required Under the LAMC.

This Project is discretionary, not by right. The Project Approvals and other entitlements are discretionary approvals under the City's Municipal Code. As such, the Commission must make express findings under the Municipal Code, Hollywood Community Plan and Hollywood Redevelopment Plan. *The Commission has clear legal authority to disapprove the Project if these findings cannot be made.* *Kavanau v. Santa Monica Rent Control* (1997) 16 Cal.4th 761.

More specifically, Redevelopment Plan § 506.2.3 requires findings that the Project's impacts upon the transportation and circulation system of the area are overridden by other social, economic or physical considerations. *They are not.* in exchange for a host of discretionary development favors, the City requires close to nothing in return. First, the required Owner Participation Agreement ("OPA") or Hollywood Redevelopment Plan § 506.2.3 and Ordinance No. 165,660 "D" Limitation Development and Disposition Agreement ("DDA") are nowhere to be found. It has not been explained why those documents on a separate track. Second, there are virtually zero community benefits for the Project, other than required enhancements to mitigate direct transportation impacts – R.D. Olson offers one \$1,000 scholarship, a "[c]ommitment to coordinate" a job fair and two internships.

In reality, the proposed findings make no attempt to determine the required "social, economic or physical considerations" of the Project required by Hollywood Redevelopment Plan § 506.2.3. For example, there is no disclosure of the kind of jobs created by the Project, in either the construction or operational phase, what the likely salary and wage ranges of these jobs will be, and whether employees will have the right to collectively bargain. Without this information, the City lacks substantial evidence to make any statement of overriding considerations.

Inequality threatens Los Angeles' prosperity by frustrating the goal of making our City a place of opportunity for all – a place where its members can work and afford to live. This Project does nothing to help either concern, and fails to satisfy the City's required zoning findings and General Plan goals and policies in this regard. The Commission, on the record before it, cannot find that the economic and social benefits of the Project outweigh the environmental costs.

Because the necessary findings could not be made on the record before it, the Commission abused its discretion when granting the Project Approvals.

IV. SPECIFIC POINTS AT ISSUE

Due to the specific issues discussed below, Council should (A) reject the MND and require an EIR, and (B) deny the Project Approval on grounds that the required land use findings cannot be made.

A. Council Should Reject the MND and Require an EIR.

Multiple impacts are inadequately analyzed under the Project's MND, which is not cured by the LOD that raises additional concerns, specifically the following:

1. Traffic and Transportation Impacts: CEQA requires analysis of traffic impacts related to a project. *Kings County Farm Bureau v. Hanford* (1990) 221 Cal.App.3d 692, 727. Expert traffic engineer Neal Liddecoat P.E.'s September 1, 2016 comment on the IS/MND reveals significant deficiencies and a "fair argument" of significant traffic impacts that must be addressed prior to approval of the Project and its related environmental documentation. Expert Liddecoat concludes in his September 1, 2016 letter, the entirety of which is incorporated in this appeal, that:

"The trip generation estimates developed with respect to the proposed Ivar Gardens Hotel project are flawed. The decision to use the "average rate" was wrong, the trip generation approach was not sufficiently conservative, and the treatment of pass-by and diverted trips was erroneous. We have demonstrated that correcting these errors will almost certainly result in significant impacts in both the AM and PM peak hours.

With very few exceptions, our analysis reveals higher project-related traffic at each of the study intersections. Table 3 summarizes a comparison of our project traffic assignment to the corresponding values presented on Figure 7-2 in the LLG report (p. 41). Only the movements where project traffic has been added are represented in Table 3; any movements not shown would have no project trips.

Only one movement would have a lower project-related volume under our assignment compared to the LLG assignment (i.e., the westbound through at Cahuenga Boulevard/Hollywood) and one would be the same (i.e., the eastbound left turn at Vine Street/Sunset Boulevard). In every other case, our assignment indicates higher project traffic. Although the differences may seem minor, as we demonstrated above, differences of as little as one additional project vehicle could determine whether or not a significant impact would occur. In the example we presented above, we found that the addition of one PM peak-hour eastbound left turn at Cahuenga Boulevard/Sunset Boulevard would result in a significant impact.

Our traffic assignment indicates that 13 more project-generated vehicles will occur on that movement than were accounted for in the LLG analysis. With that being the case, a significant impact would occur at Cahuenga Boulevard/Sunset Boulevard not revealed in the IS/MND . . .

Table 3: Project Traffic Assignment Comparison				
Intersection		Net Project Traffic Assignment		Difference
Approach	Movement	MRO	LLG ¹	
<i>Cahuenga Blvd./Sunset Blvd.</i>				
Southbound	Right	30	23	7
	Thru	6	2	4
	Left	20	13	7
Westbound	Right	26	21	5
	Thru	-6	-12	6
Northbound	Thru	6	0	6
Eastbound	Left	14	1	13
Notes: ¹ Reference: Linscott, Law & Greenspan, <i>Traffic Impact Study - Ivar Gardens Hotel Project</i> , December 23, 2015				

Our review of the “Transportation and Traffic” section of the Initial Study/Mitigated Negative Declaration for the Hollywood Ivar Gardens Project revealed several substantial issues affecting the validity of the conclusions presented. Our review indicates that a corrected traffic impact analysis will reveal one or more significant impacts that were not documented in the IS/MND. A modified traffic impact analysis must be prepared, and incorporated into a revised environmental document.”

Also, expert traffic engineer Liddecoat’s letter comments on a lack of information and potential safety concerns given the Project driveway configuration in this heavily trafficked area in Hollywood:

“Project Driveway Operations – The project proposes one full-access (i.e., all turning movements allowed) public driveway on Cahuenga Boulevard plus an inbound-only, gate-controlled service driveway on Ivar Avenue. All traffic (including delivery trucks and service vehicles) must exit at the Cahuenga Boulevard location. Both driveways are located about 100 - 125 feet (i.e., 4 - 5 car lengths) north of Sunset Boulevard.

However, no analysis of either project driveway intersection is done. Issues to address include:

- Will drivers be able to safely make left turns into and out of the site at the Cahuenga Boulevard driveway? This is a particular issue for exiting trucks.

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- It appears that Cahuenga Boulevard has a “painted median” at the driveway (i.e., “double-double” yellow lines). As described in the 2016 California Driver Handbook , it is illegal to turn left across a barrier/painted median, so this driveway must be limited to right-turns only.
- How much delay will drivers experience as they enter or exit?
- When delays become excessive, will drivers perform ill-advised and unsafe maneuvers, such as trying to turn into or through inadequate gaps in Cahuenga Boulevard traffic?
- As noted above, the driveways are only about 100 - 125 feet north of Sunset Boulevard. How long will the queues be on southbound Cahuenga Boulevard and southbound Ivar Avenue, and what effect will those queues have on the ability to enter or exit the site?
- How long will the inbound queue of delivery trucks/service vehicles be at the gate-controlled Ivar Avenue driveway? Will the trucks back out onto the public street and block northbound and/or southbound traffic on Ivar Avenue?
- Will trucks waiting on northbound Ivar Avenue to turn left into the site block the northbound traffic flow on Ivar Avenue, potentially causing queues to extend back to Sunset Boulevard?

...

These issues must be addressed to ensure that the public fully understands the potential impacts of developing the proposed project. A revised traffic analysis is necessary.”

All of these potential “fair argument” transportation impacts require the preparation of an EIR for the Project, *as a matter of law*, and raise unidentified and unanalyzed General Plan and Community Plan inconsistency with regard to transportation and circulation issues. *See City of Los Angeles General Plan Mobility Plan 2035* Objective 1.1 “Roadway User Vulnerability: Design, plan, and operate streets to prioritize the safety of the most vulnerable roadway user”; Objective 2.3 “Pedestrian Infrastructure: Recognize walking as a component of every trip, and ensure high quality pedestrian access in all site planning and public right-of-way modifications to provide a safe and comfortable walking environment”; Chapter 2 Policies “Achieve established performance levels on 100% of the streets within the Neighborhood Enhanced Network by 2035 . . .” and “Increase vehicular travel time reliability on all segments of the Vehicle Enhanced Network by 2035”; Policy L.U.1.22 “Keep existing streets open for public use. Protect existing streets from closure to prevent the creation of “superblocks”, improve circulation, keep streets publicly accessible, and support walkable and bikeable neighborhoods”; *Hollywood Community Plan* Objective 6 “[t]o make provision of a circulation system coordinated with land uses and densities and adequate to accommodate traffic”; and Circulation Standards and Criteria “[n]o increase in density shall be effected by zone change or subdivision unless it is determined that the

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local streets . . . available in the area of the property involved, are adequate to serve the traffic generated.”¹

2. Land Use Inconsistency: A DEIR must discuss any inconsistencies between the proposed Project and applicable General Plan. 14 Cal. Code Regs. “*CEQA Guidelines*” § 15125(d). This inconsistency is particularly acute here when it comes to taking away land zoned for housing, including affordable housing – a topic that the Project DEIR ignores.

The Project’s 275-guestroom hotel will take away the ability to develop housing on the site, especially affordable housing that would be allowed under the site’s C4 zoning designation. This is a great concern. According to the UCLA Ziman Center, Los Angeles housing prices have grown about four times faster than incomes since 2000 and “affordable housing production and preservation needs to accelerate.”² Los Angeles is the least affordable rental market in the country, according to Harvard University’s Joint Center for Housing Studies, and has been ranked the second-least affordable region for middle-class people seeking to buy a home.³ The City of Los Angeles’ Housing Needs Assessment indicates that through September 30, 2021, 20,426 additional housing units are needed in the City for very low-income, 12,435 for low-income, and 13,728 are for moderate income.⁴

The City’s General Plan reflects this urgent need for affordable housing. *See City of Los Angeles General Plan Housing Element* Goal 1 “A City where housing production and preservation result in an adequate supply of ownership and rental housing that is safe, healthy and affordable to people of all income levels, races, ages, and suitable for their various needs”; Policy 1.1.1 “Expand affordable home ownership opportunities and support current homeowners in retaining their homeowner status”; Policy 1.1.2 Expand affordable rental housing; Objective 2.5 “Promote a more equitable distribution of affordable housing opportunities throughout the City”; Policy 2.5.1 “Target housing resources, policies and incentives to include affordable housing in residential development, particularly in mixed use development, Transit Oriented Districts and designated Centers”; and Policy 2.5.2 “Foster the development of new affordable housing units citywide and within each Community Plan area.”⁵

The same affordability concerns must be addressed under the governing Hollywood Community Plan and Redevelopment Plan. *See City of Los Angeles Hollywood Community Plan* Objective 3 “To make provision for the housing required to satisfy the varying needs and desires of all economic segments of the Community . . . [a]dditional low and moderate-income housing is needed in all parts of this Community”; *Hollywood Redevelopment Plan* Goal 300.9 “Provide housing choices and increase the supply and improve the quality of housing for all income and age groups, especially for persons with low and moderate incomes; and to provide home ownership opportunities and other housing choices which meet the needs of the resident population”; Goal 410.4 “At least fifteen percent (15%) of all

¹ See <http://planning.lacity.org/documents/policy/mobilityplnmemo.PDF>; see also <http://cityplanning.lacity.org/cpu/hollywood/text/HwdCommunityPlan.pdf>.

² See <http://www.anderson.ucla.edu/Documents/areas/ctr/ziman/2014-08WPrev.pdf>.

³ See <http://www.latimes.com/opinion/editorials/la-ed-affordable-housing-part-1-20150111-story.html>.

⁴ See <http://planning.lacity.org/HousingInitiatives/HousingElement/Text/Ch1.pdf>.

⁵ See <http://planning.lacity.org/HousingInitiatives/HousingElement/Text/Ch6.pdf>.

10/17/17 [signature]

new or rehabilitated units developed within the Project Area by public or private entities or persons other than the Agency shall be for persons and families of low or moderate income; and of such fifteen percent, not less than forty percent (40%) thereof shall be for very low income households”; and Goal 412 “The social needs of the community include but are not limited to the need for day care facilities, housing for very low and low income persons including the elderly, the homeless, and runaways, educational and job training facilities, counseling programs and facilities.”⁶

By taking away the ability to build housing on site, this Project likely is General, Community and Redevelopment Plan inconsistent, not in the “general welfare,” and the City may be paying mere lip service to the mandates of its governing Plans. *If the City is going to bless this zero housing Project, real community benefits should be required.*

3. Hazardous Substances Analysis: The potential existence of toxic contamination on a Project site is a significant impact requiring CEQA review. *McQueen v. Board of Directors* (1988) 202 Cal.App.3d 1136. As set forth in the SWAPE July 5, 2016 comment letter incorporated in its entirety by this reference, the potential presence of dry cleaning volatile organic compound (“VOC”) releases onsite has not been properly investigated. The Hollywood Laundry existed on the site for over two decades. This is a major red flag. Yet, the Texaco UST cleanup from the mid-1980s, when cleanup technology was less sophisticated and regulatory sampling standards less thorough than today, never sampled for dry cleaner chemicals such as perchloroethylene (“PCE”). The Geotracker database, and the IS/MND Appendix C “SOILS INVESTIGATION REPORT Geo-Etka, Inc., Foundation Soils Investigation and Pavement Design Recommendations at the Northwest Corner of Sunset Boulevard and Cahuenga Boulevard Hollywood” confirm this omission to sample – at all – for VOCs or PCE. A site investigation study and sampling should be conducted to do so. A lead agency is precluded from making the required CEQA findings unless the record shows that all uncertainties regarding the mitigation of impacts have been resolved; an agency may not rely on mitigation measures of uncertain efficacy or feasibility. *Kings County Farm Bureau v. Hanford* (1990) 221 Cal.App.3d 692, 727 (finding groundwater purchase agreement inadequate mitigation because there was no evidence that replacement water was available). This approach helps “insure the integrity of the process of decisionmaking by precluding stubborn problems or serious criticism from being swept under the rug.” *Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935.

⁶ See <http://planning.lacity.org/complan/pdf/HwdCpTxt.pdf>; <http://www.crala.org/internet/site/Projects/Hollywood/upload/HollywoodRedevelopmentPlan.pdf>.

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4. Noise Impacts: The Project as designed will create noise impacts during construction on the adjacent residents on Ivar Avenue and Cahuenga and Sunset Boulevards. It is unclear in the MND what significance threshold the City is applying for construction noise in Table III-13. Vibration noise from the 3,000+ heavy-duty haul truck trips is undisclosed. The fact that construction noise is “temporary” does not mean it is not significant, and there is a “fair argument” or significant noise impacts. Further, the construction noise mitigation in the MND for mufflers (N-3) lacks appropriate performance standards. *Mount Shasta Bioregional Ecology Center v. County of Siskiyou* (2012) 210 Cal.App.4th 184, 207. So too, there is no discussion in the IS/MND of hours of operation for open space noise.

5. Air Quality/Health Risk Assessment: Air quality impacts, and their concomitant impacts on human health, must be studied in the CEQA document. *Bakersfield Citizens*, 124 Cal.App.4th at 1220. Here, as set forth in the July 5, 2016 SWAPE comment letter incorporated herein in its entirety by this reference, the MND does not adequately analyze through a health risk assessment whether the Project will expose sensitive receptors including the nearby residential uses to substantial pollutant concentrations during Project construction, including diesel particulate matter through the use of diesel-fueled construction equipment on-site.

6. Cultural Resources: CEQA requires analysis of the Project’s impact on cultural resources. In particular, Appellant respectfully insists on compliance with AB 52, set forth in Pub. Res. Code §§ 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 5097.94. Yet, the MND does not mention AB 52. Under AB 52, a project that may cause a substantial adverse change in the significance of a tribal cultural resource is defined as a project that may have a significant effect on the environment under CEQA.⁷ AB 52 requires the City to provide notice to tribes that are traditionally and culturally affiliated with the geographic area of Project. If the tribe requests consultation within 30 days upon receipt of the notice, the City of Los Angeles must consult with the tribe. Mitigation measures agreed upon during consultation must be recommended for inclusion in the environmental document.

7. Failure to Cure: The LOD fails to address the abovementioned issues that were raised in traffic expert Neal Liddicoat’s letter dated September 1, 2016. Therein, Mr. Liddicoat highlighted several substantial issues affecting the validity of the conclusions presented in the MND. He indicated that a corrected traffic impact analysis would reveal one or more significant impacts that were not documented in the MND, and that a modified traffic impact analysis needed to be prepared, and incorporated into a revised environmental document. Rather than addressing these issues, the LOD states (at pp. F-7, F-17, F-28, F-35, and F-38) that three comment letters were received in connection with the Project’s MND and that formal responses were prepared for all three comments. However, these responses do not address the issues raised in the September 1 letter.

⁷ See https://www.opr.ca.gov/s_ab52.php.

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8. Conditions of Approval: The conditions imposed raise additional traffic issues not adequately addressed in the LOD.

- Condition of Approval 4a. (p. C-1) calls for a minimum 20-foot reservoir space between any security gate and the property line. The project proposes a gated service entrance on Ivar Avenue. The required 20-foot reservoir space will not accommodate the trucks that will use this entrance, however, as those vehicles could be 60 - 70 feet long. Consequently, trucks will extend over the sidewalk and into Ivar Avenue, potentially blocking traffic flow on the public street and creating a safety hazard.
- Condition of Approval 5b. (p. C-2) states that, "Trash/recycling containers shall not be placed in or block access to required parking." According to the project site plan presented as Figure II-7 in the IS/MND (p. II-13), the proposed trash enclosures are located along the Ivar Avenue service entrance and, therefore, will block access to the site when trash is being picked up. This issue was raised on p. 6 of the September 1 letter.
- Conditions of Approval 34. (p. C-7) is supposed to impose restrictions on truck activity at the project site, such as restrict where truck loading and unloading can occur (Condition 34c); limit the number of trucks to no more than two at a time (Condition 34e); and prohibit staging of trucks on public streets (Condition 34f). However, truck activity at the site will change often through the course of a day. Nowhere does the LOD address how these limits on trucks are to be enforced.

9. LOD Contradictions: First, the LOD contains numerous inaccurate references to "reduction of traffic congestion" associated with the Project. Very simply, the project does not reduce traffic congestion. In fact, the MND Table III-26 (p. III-115) shows that it will add to the road network a net total of 1,285 daily trips, 77 AM peak hour trips, and 113 PM peak hour trips. Further, MND Tables III-27 through III-30 (MND pp. III-117 - III-119) show that the volume/capacity (V/C) ratios at the study intersections increase when project traffic is added to the street system (with limited exceptions), representing increases in traffic congestion. Second, in order to meet certain goals, objectives, and policies, the Project is repeatedly treated as being residential, although on p. F-38 (under item 14) the document states that, the proposed Project "does not have any residential component."

B. Council Should Deny the Project Approval Because the Required Land Use Findings Cannot be Made.

The CEQA, land use and other concerns addressed in this appeal must be adequately addressed in order to make the required City Zoning Code, Community Plan, and Redevelopment Plan findings. The entitlements are discretionary, not by right. Absent compliance with the issues addressed herein, the Commission could not make the necessary findings and therefore should have rejected Applicant's requested discretionary entitlements. *Los Angeles Municipal Code* § 12.32.F.1 (requiring for zone change "that the public necessity, convenience, general welfare or good zoning practice so require"); § 12.24.E (conditional use permit for alcohol requires that Project "will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding

neighborhood . . ." and "substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan . . ."); § 12.28.C.4 (zoning administrator adjustment for zero-foot rear yard must show Project " will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety" and "is in substantial conformance with the purpose, intent and provisions of the General Plan, the applicable community plan . . ."); § 16.05.F (site plan review findings must show "that the project is in substantial conformance with the purposes, intent and provisions of the General Plan, applicable community plan . . ." and "that the project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, that is or will be compatible with existing and future development on adjacent properties and neighboring properties"); and *Hollywood Redevelopment Plan* § 506.2.3 (in order to grant up to 6:1 FAR Project must be designed "to concentrate high intensity and/or density development in areas with reasonable proximity or direct access to high capacity transportation facilities or which effectively utilize transportation demand management programs" and "[a]ny adverse environmental effects especially impacts upon the transportation and circulation system of the area caused by proposed development shall be mitigated or are overridden by other social, economic or physical considerations, and statements of findings are made").

In particular, Appellant wants to call attention to the purported Redevelopment Plan § 506.2.3 required findings that impacts to transportation and circulation caused by the Project are overridden by other social, economic or physical considerations. This required statement of overriding considerations must be supported by substantial evidence in the record and the agency must present an explanation to supply the logical steps between the ultimate finding and the facts in the record. *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515. It has not.

Here, in exchange for giving this Project a host of discretionary development favors, the City is requiring close to nothing. First, the OPA⁸ or required Hollywood Redevelopment Plan § 506.2.3 and Ordinance No. 165,660 "D" Limitation DDA or "binding written agreement with the Agency . . . providing for, among other things, Agency review and approval of all plans and specifications, the compliance with all conditions applicable to development in excess of a 4:5:1 site FAR and the provision of adequate assurances and considerations for the purpose of effectuating the objectives of the Plan" are nowhere to be found. Why are those documents on a separate track? The most that is said is buried in the MND note 49 that suggests "Applicant expects to enter" into an OPA. Second, there are

⁸ In light of CRA/LA dissolution, the appropriate action in order to remove the limitation requiring the OPA or otherwise divest the CRA/LA of its responsibility to enter into OPAs would be to: i) transfer the powers of the former CRA to the City, or ii) amend the Hollywood Redevelopment Plan. Neither has yet occurred. The City is in the process of considering an ordinance to take control from the former CRA's responsibilities. <https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=13-1482-S1>; <https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=11-0086-S4>; <https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=12-0014-S4>. Once the City transfers authority, then it will have the ability to assume the role of the former CRA/LA. In the absence of a successor agency to administer redevelopment activities, the Applicant cannot cherry pick portions of Hollywood Redevelopment Plan that it likes (the FAR increase) while ignoring others (the OPA/DDA requirement).

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virtually zero community benefits for the Project, other than required enhancements to mitigate direct transportation impacts. Applicant offers one \$1,000 scholarship, a “[c]ommitment to coordinate” a job fair and two internships. Is this really appropriate for a Project of this magnitude?

In reality, the proposed findings make no attempt to determine the required “social, economic or physical considerations” of the Project. For example, identifying new jobs created by the Project, in either the construction phase or the operational phase, the likely salary and wage ranges, and whether employees will have the right to collectively bargain. Without this information, the City lacks substantial evidence to make any statement of overriding considerations. The City cannot find that the economic and social benefits of the Project outweigh the environmental costs.

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December 13, 2016

Mr. Gideon Kracov
Attorney at Law
801 S. Grand Ave., 11th Floor
Los Angeles, CA 90017

Subject: ***Letter of Determination – Los Angeles City Planning Commission
Ivar Gardens Hotel Project, 6409 Sunset Blvd., Los Angeles, California***

Dear Mr. Kracov:

On September 1, 2016, MRO Engineers, Inc., (MRO) prepared a letter documenting our review of the "Transportation and Traffic" section of the Initial Study/Mitigated Negative Declaration (IS/MND) for the Hollywood Ivar Gardens Project (Parker Environmental Consultants, June 9, 2016). The "Transportation and Traffic" section of the IS/MND was based on a traffic impact analysis prepared by Linscott, Law & Greenspan (LLG). (Reference: Linscott, Law & Greenspan, *Traffic Impact Study – Ivar Gardens Hotel Project*, December 23, 2015.)

Our review revealed several substantial issues affecting the validity of the conclusions presented in the IS/MND. We also determined that a corrected traffic impact analysis would reveal one or more significant impacts that were not documented in the IS/MND, and that a modified traffic impact analysis must be prepared, and incorporated into a revised environmental document.

We have now received a copy of the December 5, 2016 "Letter of Determination" from the Los Angeles City Planning Commission with respect to the proposed Ivar Gardens Hotel Project. That letter documents the approval of the project by the Planning Commission as well as the Conditions of Approval that apply to the project. This letter documents the results of our review of the Letter of Determination.

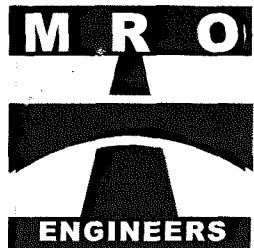
First, we note that the Letter of Determination states (at pp. F-7, F-17, F-28, F-35, and F-38) that three comment letters were received in connection with the Ivar Gardens Hotel IS/MND, and that formal responses were prepared for all three comments. It does not appear, however, that any response has been prepared to address the issues raised in our September 1 letter.

In addition, we have the following comments:

1. Conditions of Approval

- a. Condition of Approval 4a. (p. C-1) calls for a minimum 20-foot reservoir space between any security gate and the property line. The project proposes a gated service entrance on Ivar Avenue. The required 20-foot reservoir space will not accommodate the trucks that will use this entrance, however, as those vehicles could be 60 - 70 feet long. Consequently, trucks will extend over the sidewalk and into Ivar Avenue, potentially blocking traffic flow on the public street and creating a safety hazard.
- b. Condition of Approval 5b. (p. C-2) states that, "Trash/recycling containers shall not be placed in or block access to required parking." According to the project site plan presented as Figure II-7 in the IS/MND (p. II-13), the proposed trash enclosures are located along the

16 of 17 MW JS



Ivar Avenue service entrance and, therefore, will block access to the site when trash is being picked up. This issue was addressed on p. 6 of our September 1 letter.

- c. Conditions of Approval 34c., 34e., and 34f. (p. C-7) are intended to impose restrictions on truck activity at the project site.
 - i. Condition 34c. restricts where truck loading and unloading can occur.
 - ii. Condition 34e. limits the number of trucks to no more than two at a time.
 - iii. Condition 34f. prohibits staging of trucks on public streets.

Truck activity at the site will change often through the course of a day. Nowhere does the Letter of Determination address how these limits on trucks are to be enforced.

- 2. The Letter of Determination contains numerous inaccurate references to “reduction of traffic congestion” associated with the Ivar Gardens Hotel project. Very simply, the project does not reduce traffic congestion. In fact, IS/MND Table III-26 (p. III-115) shows that it will add to the road network a net total of 1,285 daily trips, 77 AM peak hour trips, and 113 PM peak hour trips. Further, IS/MND Tables III-27 through III-30 (MND pp. III-117 - III-119) show that the volume/capacity (V/C) ratios at the study intersections increase when project traffic is added to the street system (with limited exceptions), representing increases in traffic congestion.
- 3. Finally, we note that, in order to meet certain goals, objectives, and policies, the project is repeatedly treated as being residential, although on p. F-38 (under item 14) the document states that, “The Proposed Project does not have any residential component.”

We hope this information is useful. If you have questions concerning anything presented here, please feel free to contact me at (916) 783-3838.

Sincerely,

MRO ENGINEERS, INC.

A handwritten signature in black ink, which appears to read 'Neal K. Liddicoat'. The signature is written in a cursive style.

Neal K. Liddicoat, P.E.
Traffic Engineering Manager

170-17 Handwritten initials 'ML' and a checkmark-like mark.