

## **JUSTIFICATION AND LEGAL BASIS FOR APPEAL**

### **Appellants**

Edgewater Towers Condominium Homeowners Association (Edgewater).  
Pacific Palisades Residents Association, Inc. and its individual members (PPRA).

### **Project**

CPC-2018-504-DB-DRB-SPP-CDP-MEL  
ENV-2018-505-MND  
17346 West Sunset Boulevard, Los Angeles, CA.

The Project is on a 14,963 sf. lot. It will demolish a vacant fast-food restaurant and construct a 5-story, 60-foot, 9-inch mixed-use development containing 39 dwelling units and approximately 2,900 sf. of ground floor commercial space with one subterranean parking level. (“Project”)

### **Reasons for Appeal**

The Los Angeles City Planning Commission (CPC) acted to approve the Project without compliance with the California Environmental Quality Act (“CEQA”), the California Coastal Act, the Los Angeles Municipal Code, the Brentwood-Pacific Palisades Community Plan and the Pacific Palisades Commercial Village and Neighborhoods Specific Plan.

The Project has been opposed by essentially every single community association in the Pacific Palisades.

### **How Appellants are Aggrieved**

Edgewater a condominium association and its premises are located immediately adjacent to the Project site. It is aggrieved due to geologic concerns, noise issues, landscaping issues, the precedential and cumulative effect of the Project, violations of the Coastal Act Regional Interpretive Guidelines, the California Environmental Quality Act (“CEQA”), the California Coastal Act, the Los Angeles Municipal Code, the Brentwood-Pacific Palisades Community Plan, the Pacific Palisades Commercial Village and Neighborhoods Specific Plan, the Density Bonus Off-Menu approvals and for other reasons as expressed herein.

PPRA is a non-profit corporation comprised of members who live immediately adjacent to the Project site. Other members have beneficial interests in real properties situated adjacent to and in the immediate neighborhood surrounding the Project site. PPRA and its members have a substantial interest in ensuring that the decisions of the City are in conformity with the requirements of law, including CEQA, and in having those requirements properly executed and the public duties of the City enforced. It is aggrieved due to geologic concerns, noise issues, landscaping issues, the precedential and cumulative effect of the Project, violations of the Coastal Act Regional Interpretive Guidelines, the California Environmental Quality Act (“CEQA”), the California Coastal Act, the Los Angeles Municipal Code, the Brentwood-Pacific Palisades Community Plan, the Pacific Palisades Commercial Village and Neighborhoods Specific Plan, the Density Bonus Off-Menu approvals and for other reasons as expressed herein.

## **Why the Decision-Maker Erred or Abused its Discretion and Points at Issue**

The CPC erred or abused its discretion as follows.

### **THE PROJECT DOES NOT COMPLY WITH THE COMMUNITY AND SPECIFIC PLANS FOR THE PROJECT SITE AREA**

The Project site is governed by the Brentwood-Pacific Palisades Community Plan (“Community Plan”) and the Pacific Palisades Commercial Village and Neighborhoods Specific Plan (“Specific Plan”).

The MND inappropriately disparaged the Community Plan, indicating that it is “over 19 years old and such policies are out dated and not in keeping with many of the changes occurring in today's trends in the land use patterns and population growth of the community plan.” But regardless of its age, this Community Plan is still in effect. The Planning Dept. is still required to follow it, unless and until it is amended by process of law, including public participation. The U.S. Constitution is even older, yet adherence to it is still required. This sentence should be stricken from the MND. The City cannot choose to ignore a community plan simply because it is over 19 years old. This is especially true as it is the City’s responsibility to update the Community Plan. After failing to update it, the City cannot then disregard the Community Plan because it has not been updated.

After stating that the Community Plan is outdated, the MND then goes forward to inaccurately state that the Project would not conflict with any of the Community Plan's goals, objectives and policies. Then, it ignores the obvious conflicts.

Objective 2-1.3 in the Community Plan is to require that projects be designed to achieve a high level of compatibility with existing uses. Yet, the Project seeks a height of five-stories when other nearby commercial properties are only one or two-stories. The MND failed to acknowledge this conflict, instead pointing to Edgewater’s buildings, which were approved and constructed in 1963, long before the Community Plan and Coastal Act were adopted to place limits on development.

Objective 2-4.2 in the Community Plan is to preserve community character and scale. Again, the Project seeks a height of five-stories when other nearby commercial properties are only one or two-stories. The MND again failed to even acknowledge this conflict.

The Specific Plan was adopted in 2016, so it cannot be dismissed as outdated and then ignored. But the MND inaccurately stated that the Project is fully consistent with the Specific Plan's goals and objectives. The MND acknowledges that the Specific Plan states that “No Project . . . shall exceed two stories or 30 feet in height.” (Section 7. Height) Yet the MND does not attempt to reconcile or "harmonize" this restriction when allowing the Project to reach five-stories. Similarly, the MND acknowledges that the Specific Plan limits the Floor Area Ratio (FAR) to 1:1 (Section 8. Floor Area Ratio). But the MND fails to harmonize this restriction when allowing a FAR of 2.15:1.

The CPC refused to apply the limits prescribed by the Community Plan and the Specific Plan, referring to them as “exclusionary.” Essentially, the CPC decided it didn’t like the limitations in these lawful plans and refused to follow them.

## **THE PROJECT DOES NOT COMPLY WITH THE COASTAL ACT**

California Government Code §65015 (m) provides that any project in the Coastal Zone utilizing density bonus incentives or concessions – including waivers, parking ratios, or reductions of development standards – shall be permitted in a manner that is consistent with the Coastal Act.

Kalnel Gardens, LLC v. City of Los Angeles (2016) 3 Cal.App.5<sup>th</sup> 927 interpreted the California Density Bonus Act (Government Code §65915) and concluded that the Density Bonus Act is subordinate to the Coastal Act.

Government Code §65015 was thereafter amended. The Findings underlying this amendment indicate that it was the Legislature’s intent to address the holdings under Kalnel regarding the relationship between the Coastal Act and the Density Bonus Act. It was the Legislature’s intent that the Density Bonus Act and the Coastal Act be harmonized to achieve the goal of increasing the supply of affordable housing in the coastal zone while also protecting coastal resources.

However, this amendment did not change the state of the law. The Density Bonus Act is subordinate to the Coastal Act. As stated by the Legislative Unit and Legal Division of the California Coastal Commission in its 2/6/19 memorandum (attached), the amended statute “does not change the Commission’s current standard of review.” The Coastal Act and the Density Bonus Act must be “harmonized . . . in a manner that is consistent with Coastal Act resource protection policies.” “Harmonized” cannot be defined as “ignoring” or “conflicting” with the Coastal Act.

## **The Project does not comply with Public Resources Code (PRC) §30250 and §30251**

Public Resources Code §30250 (a) provides in part:

“New residential, commercial . . . development . . . shall be located . . . where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.”

Public Resources Code §30251 (a) provides in part:

“The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance.

Permitted development shall be sited and designed . . . to be visually compatible with the character of surrounding areas . . .”

There are other nearby parcels, including the Vons store adjacent to the Project site, which may soon be redeveloped. The adjacent commercial properties on Sunset Blvd. are only 1-2-stories. As such, the Project cannot be found compatible with the character of the area. Further, allowing this Project to go forward at a height of five-stories (60 feet, 9 inches) in lieu of the two-story, 30-foot height Specific Plan restriction, will have an adverse cumulative and precedential effect on neighboring sites on Sunset Blvd. and Pacific Coast Highway.

This Project will further have a precedential effect given that residential development on existing commercially zoned parcels within one-quarter mile of the beach is not allowed and the density of new residential development is limited to a maximum of 24 units per acre gross under the Coastal

Act Regional Interpretive Guidelines.

If this Project is approved as applied for, other properties will clamor for permission to allow the same density and type of development and the City will be unable to say “no” without inviting “equal protection” litigation from these properties.

**The Project does not comply with Public Resources Code (PRC) §30253**

Public Resources Code §30253 (a) and (b) provides:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The site plan calls for “protective devices” to shore up the hillside behind the Project. Moreover, as indicated above, there is insufficient evidence to maintain that the Project will not have an adverse geological effect on the bluff where Edgewater sits and the Edgewater premises itself.

**The Project is not in conformity with the Coastal Act Regional Interpretive Guidelines**

California Public Resources Code §30620 provides that California Coastal Act Regional Interpretive Guidelines (RIG) shall be applied to the Coastal Zone until a Local Coastal Program (LCP) for the area is prepared.

The City has failed for decades to approve a LCP, thus requiring adherence to the Interpretive Guidelines. However, the Interpretive Guidelines have not been adequately applied, reviewed, analyzed and considered, as follows:

**RIG §A.1., 2. (c) RESIDENTIAL**

**Development should be visually compatible with local topography and vegetation and should maintain natural land forms.**

The Project is a mixed-use project, with 39 dwelling units and 2,900 sf. of commercial space at a height of five-stories. The adjacent properties on Sunset Blvd. are only one-stories. As such, the Project cannot be defined as visually compatible with the surrounding uses. Allowing five-story projects to be built where only one-story projects exist can hardly be viewed as consistent with the Coastal Act.

Citing the Edgewater structures (built in 1963) is completely contrary to the goals and purposes of the Coastal Act (enacted in 1976), which was passed by the voters to halt oversized buildings in Coastal Zones.

**RIG §A.1., 2. (c) Residential development on the existing commercially zoned parcels within one-quarter mile of the beach will not be allowed.**

The Project site is located only approximately 750 ft. from the beach. The Project site is commercially zoned (C2-1VL) and previously was used only commercially. Therefore, no residential development should be allowed. Allowing residential development where none is allowed cannot be described as “harmonizing” the Coast Act with the Density Bonus Act. It cannot be described (as indicated in the MND) as using the Guidelines “in a flexible manner.”

This can only be described as entirely disregarding the Guidelines in favor of the Density Bonus Act. It cannot be seen as consistent in any way with the Coastal Act.

**RIG §A (1) (i) The density of new residential development should be limited to a maximum of 24 units per acre gross.**

The Project contemplates 39 dwelling units on only 14,963 sf. of lot area, approximately 1/3 of an acre, making it far in excess of the maximum of 24 units per acre. Allowing 39 dwelling units on 1/3 of an acre translates to 117 units per acre, rather than 24 units per acre. This can hardly be described as “harmonizing” the Coast Act with the Density Bonus Act. It cannot be seen as consistent in any way with the Coastal Act.

The MND and the CPC completely ignored these Guidelines and makes no attempt whatsoever to harmonize the Project with these Guidelines. In fact, the Project completely violates them.

**THE MND IS DEFICIENT IN FAILING TO IDENTIFY AND MITIGATE THE ADVERSE IMPACTS ON LAND USE**

The MND is deficient in the following areas:

1. The geological reports and evidence supporting the Project are inadequate and incomplete. The Project site in relation to the Edgewater premises has not been adequately geotechnically evaluated.
2. The findings adopted by the MND were not supported by sufficient evidence.
3. The Project as approved is not in conformity with the Coastal Act. The Coastal Commission Interpretive Guidelines were not adequately applied, reviewed, analyzed and considered.

The MND notes that the Project exceeds the 1:1 FAR limit and the two-story height limit in the Specific Plan for the area. Aside from the failure to abide by the Coastal Act as noted above, it merely announces that waivers are sought for bonuses. It ignores the fact that these inconsistencies have adverse impacts, reciting instead that there are no impacts.

The categories regarding Aesthetics, Geology and Soils, Land Use and Planning, Population and Housing all indicate “Less Than Significant Impact” or “No Impact,” so no mitigations are proposed. In the Noise and Transportation and Traffic categories, the only mitigation measures relate to the construction of the Project, not the Project operation thereafter. Failing to cite

inconsistencies with adopted land use policies as adverse impacts (including adverse precedential effects) and failing to identify or propose any mitigations, is a failure to proceed in the manner required by CEQA. No justifications or findings are presented for this deficiency other than to recite and suppose that waivers will be granted for “off-menu” bonuses. Granting waivers does not eliminate CEQA’s requirement to identify and mitigate adverse impacts or else proceed by way of a full EIR to identify alternatives.

Similarly, the MND recites that the project will comply with LAMC open space requirements by using the roof-top as “open space.” This will be a recreational area for the residents of the building. The MND fails to note that this supposed open space recreation area will create parties and late-night noise activities directly under residential units at the adjacent Edgewater buildings, thereby requiring the MND to identify and mitigate the adverse impacts (noise, lights, glare, nuisance) of such activities.

Due to these deficiencies, the MND cannot be approved and must be redrafted to clearly and forthrightly identify and mitigate, if possible, the adverse impacts resulting from the excessive height, excessive density (FAR), and jerry-rigged “open-space-on-the-rooftop.”

### **APPLICANT'S GEOLOGICAL STUDIES/REPORTS ARE INADEQUATE**

The Applicant's geological reports were reviewed and analyzed by Edgewater's consulting geotechnical experts, ENGEO. Attached to Edgewater’s submissions to the CPC were ENGEO’s emailed report, dated 7/9/19 and also ENGEO’s 7/13/20 report.

In ENGEO’s expert opinion, the 1/24/17 AES Geotechnical Investigation Report does not provide enough information to show the Project will not adversely affect the slope beneath the Edgewater premises.

The geotechnical design parameters for the retaining wall withholding approximately 30 feet of soil are based on borings within the existing parking lot at the base of the slope, test pits dug into the base of the slope, and geotechnical reports that are over 50 years old.

In addition to violating the Coastal Act, as noted above, there is little to no site-specific information about the soil conditions behind the proposed wall directly adjacent to Edgewater Towers structures. In addition, it is unclear if a slope stability analysis was completed to confirm the conclusion that the project would have no adverse effects on Edgewater structures. Additional geotechnical investigation and evaluation of the project’s potential impact on the shared slope and existing structures is needed. Necessary additional geotechnical investigation and analysis should include:

- Geotechnical investigation at the top of the slope, or mid-slope, to confirm the conditions behind the wall and to better estimate the wall design parameters.
- Slope stability analysis of the slope is needed, including confirmation that the allowable shoring movement will have negligible impact on the adjacent existing structures.

The grading, shoring, and structural plans were not fully evaluated regarding the potential impact to the slope between the proposed project and the Edgewater premises, as well as the impact to the

existing Edgewater structural foundation elements, in accordance with Condition 5 of the City's Geology and Soils Report Approval Letter dated 4/19/18. Planning failed to attach ENGEO's report as an exhibit in Planning's Recommendation Report. In fact, in listing a summary of comments made at the 7/6/20 public hearing, Planning did not even list Edgewater's geologic objections. Planning totally failed to address Edgewater's geologic objections.

Therefore, the finding in the MND that the Project will not have a significant effect on the environment is premature and not supported by sufficient evidence.

### **THE TRAFFIC AND PARKING FINDINGS ARE INSUFFICIENT**

The MND estimates a net increase of 514 daily vehicle trips resulting from the Project and analyzes 8 nearby intersections, including the intersection at Sunset Blvd. and Pacific Coast Highway adjacent to the Project. However, this was done over two years ago (May 2018) and no analysis was made regarding the cumulative effect at the analyzed intersections from new or potential projects.

Additionally, the Project provides only one parking space for the Project residential units (39) and no guest parking will be provided. The MND fails to consider the effect on nearby street parking resulting from Project guests and residents with more than one vehicle.

### **THE ROOFTOP "OPEN SPACE" WILL ADVERSELY AFFECT THE EDGEWATER RESIDENTS**

The project is attempting to comply with LAMC open space requirements by using the roof-top as "open space." This will be a recreational area for the residents of the building.

This open space recreation area will be utilized for parties and late-night noise activities directly under residential units at the adjacent Edgewater buildings, thereby requiring a mitigation of potential adverse impacts (noise, lights, glare, nuisance) relating to such activities, if that is even possible. No one will know if it is possible until it is spelled out properly in the MND and thereafter open to public comment by affected parties.

Landscaping alone will not mitigate the noise. If the Project was limited to less than five stories, then the noise, lights glare and potential nuisance might at least be somewhat minimized. Otherwise, the elimination of the rooftop open space may be the only way to mitigate this issue. If the rooftop open space is allowed, then other sound mitigation efforts are needed and must be subjected to public scrutiny. Regardless, substantial landscaping between the Project and Edgewater should be required.

### **THE CITY PLANNING RECOMMENDATION REPORT IS INSUFFICIENT AND FAILS TO ADDRESS SIGNIFICANT POINTS OF OPPOSITION TO THE PROJECT**

Planning failed to attach submitted opposition letters and reports and failed to address legitimate concerns and issues contained therein. This amounts to a failure of due process.

### **Planning failed to address submissions from Edgewater in its Recommendations to the CPC.**

Edgewater submitted a letter of opposition dated 7/2/20 by email, prior to the public hearing on 7/6/20. Receipt was acknowledged by Planning prior to the hearing. Yet, Edgewater's 7/2/20 opposition was not attached as an exhibit to Planning's Recommendation Report.

Further, Planning's Recommendation Report failed to directly address it and its contents.

On 7/17/20, Edgewater also submitted a 7/13/20 report from Edgewater's consulting geotechnical experts, ENGENEO. Yet this report was not attached as an exhibit to Planning's Recommendation Report and the Recommendation Report failed to directly address it and its contents.

As a result, Edgewater has not been accorded due process.

### **Planning failed to address the geologic concerns and risks relating to the Project.**

In Edgewater's 7/2/20 opposition letter, Edgewater asserted that the applicant's geological studies and reports were inadequate. In a 7/17/20 email, Edgewater submitted a 7/13/20 report from Edgewater's consulting geotechnical experts, ENGENEO. Planning acknowledged receipt on 7/20/20.

In ENGENEO's expert opinion, applicant's geotechnical investigation reports do not provide enough information to show the Project will not adversely affect the slope beneath the Edgewater premises.

Yet, nowhere in Planning's report does it discuss Edgewater's asserted issues with the Applicant's geological evaluation. Only at A-10 does Planning refer to an unnamed "comment letter" to the MND which listed "concerns include inadequate geotechnical investigation." Planning then dismissed these concerns without comment except to say that the Applicant provided a response "demonstrating adequate mitigation measures." But there was no response to ENGENEO's reports.

Planning failed to attach ENGENEO's report as an exhibit in Planning's Recommendation Report. In fact, in listing a summary of comments made at the 7/6/20 public hearing, Planning did not even list Edgewater's geologic objections. Planning totally failed to address Edgewater's geologic objections.

### **Planning failed to address violations of the Coastal Act Regional Interpretive Guidelines.**

California Public Resources Code §30620 et. seq. provides that California Coastal Act Regional Interpretive Guidelines (RIGS) shall be applied, reviewed, analyzed and considered.

However, Planning did not even mention the RIGS specified by Edgewater in its 7/2/20 opposition letter, making only the conclusory statements that the RIGS were reviewed and considered. (F-7)

### **Planning failed to address the noise concerns relating to the Project.**

Planning acknowledged receipt of concerns regarding roof-top noise from the Project (P-1), yet refused to address this issue or condition it appropriately. The Project attempts to comply with open space requirements by using the roof-top as "open space" and as a recreational area for

Project residents. This open space recreation area may be utilized for parties and late-night noise activities directly under residential units at Edgewater, thereby requiring a mitigation of potential adverse impacts. The MND acknowledged that Edgewater's residences are only 60' from the Project. Edgewater's pool and deck are far closer. But the MND completely failed to mention the noise issue relating specifically to the roof-top recreation area.

Applicant noted this issue in its 5/18/20 letter and only indicated that use of the roof-top deck for parties and late-night noise activities is "speculation." Yet, applicant has not disavowed this use and Planning has placed no mitigating conditions to restrict this use and prevent potential noise effects. The City is presently plagued by noise issues from large parties in neighborhoods throughout Los Angeles. Commonly used conditions could ban parties, the use of amplified music, sound wall mitigations and other conditions to limit noise from the rooftop deck.

The roof-top decks should be eliminated or at least the portions closest to Edgewater should be eliminated or moved. Conditions for the use of the roof-top decks should be imposed.

### **Planning failed to address the precedential effect of the Project.**

Despite receiving notice of the precedential effect of the Project, Planning simply dismissed this issue, noting only that the Project site is 800' from the beach and 1,100' from the ocean and that Edgewater's structure is upslope from the Project and dominates the viewshed from the ocean.

First, Planning does not at all address the precedential effect of the Project. Second, the distance of the Project from the beach/ocean is irrelevant to the precedential effect on properties located on Pacific Coast Highway (PCH) and Sunset Blvd. Third, even if it was relevant, Planning has provided no data to substantiate its distance measurements.

Planning erroneously states that Edgewater's building was constructed in 1983. (A-3) This is false. The Edgewater buildings were constructed in 1963. This is demonstrated by a 1964 photograph attached by Planning at P. 650, which depicts Edgewater's buildings. So Edgewater's buildings were built long before the Coastal Act was enacted and can hardly be described as setting precedent under the Coastal Act. The existence of Edgewater's buildings cannot justify the new construction of 5 to 8 story buildings along PCH and Sunset Blvd. The citizens of California adopted the Coastal Act, long after the Edgewater buildings were built, explicitly to limit oversized development in the Coastal Zone.

If the present Project is permitted as is, it will serve to set precedent and justify future 5-story buildings on PCH and Sunset Blvd. It could also be used as precedent to justify overly dense residential development in commercial zones in violation of the Regional Interpretive Guidelines.

The adjacent properties on Sunset Blvd. are only 2-stories. There are other nearby parcels, including the Vons store adjacent to the Project site, which may soon be redeveloped. Allowing this Project to go forward at a height of five-stories (60 feet, 9 inches) in lieu of the two-story, 30-foot height Specific Plan restriction, will have an adverse cumulative and precedential effect on nearby sites on Sunset Blvd. and PCH.

The Project is 91% residential. Out of 32,225 sf., only 2,900 sf. is for commercial use. Approval of this Project would send a clear signal to all developers that residential projects can be built in

commercial zones near the beach by simply setting aside a very small area for commercial use.

**Planning failed to address the landscaping issues as relates to Edgewater's adjacent property.**

Planning mandates that the rear yard of the Project be landscaped with plant materials at a minimum six ft. in height. (C-2.16) However, the Project contemplates a 38 ft. high retaining wall just two ft. from Edgewater's property line. As such, it would be impossible for any substantial landscaping to be placed on the Project side of this retaining wall. With only two ft. available, it will also be impossible to plant 6' minimum landscaping between the wall and the property line. The alternative indicated by Planning is a decorative block wall, but there is no indication where or how it would be placed. And a decorative block wall is hardly aesthetically pleasing.

It should be noted that the photo rendering in the exhibits to Planning's Recommendation Report at P. 350 is misleading as the trees shown there will not exist when the retaining wall is built.

The Project needs more landscaping at the rear of the site to mitigate the intrusion of the Project as relates to Edgewater. This could be accomplished if the retaining wall was moved a few feet toward Sunset Blvd. so as to leave sufficient room for planting an adequate landscape buffer.

**Planning ignored the conclusions by the Design Review Board and instead, sought recommendations from an internal design program outside the public view.**

The Pacific Palisades Commercial Village and Neighborhoods Specific Plan Design Review Board (DRB) unanimously rejected the design of the Project. But instead of requesting that Applicant redesign the Project and bring it back to the DRB, Planning instead sought recommendations from Planning's Professional Volunteer Program (PVI). These "volunteers" are unidentified and the process of "review" is a secret, not open to public scrutiny for conflicts, bias or other corruptive influences.

Planning's Report refers to recommendations from unidentified persons in the PVI, but fails to:

1. Attach a copy of the recommendations;
2. Attach a copy of the applicant's response (referred to at A-7).

Apparently, Planning allowed the applicant access to the PVI, but not the Project's neighbors. This is a clear violation of due process, an example of Planning actively pushing for and supporting a project against a community's wishes, while preventing the Project neighbors from access to those involved in vetting the Project, or even knowing who they are.

**Planning's bias or the appearance of bias and/or conflict of interest.**

As indicated above, there are no less than seven major issues that Planning "failed to address" or ignored without explanation when reporting the project to the decision maker. But perhaps there was an explanation hidden from review, which is another example of subtle corruption or bias in the city's land-use regulatory environment. On 8/26/20, Appellants were informed by a resident of an issue regarding one of Planning's employees.

Nick Vasuthasawat was the Planning Assistant that signed off on Planning's Recommendation Report. During the preparation of Planning's Recommendation Report, Mr. Vasuthasawat had his own, private, land use company while employed by the City of L.A. Dept. of Planning. His online website indicated that he was the President of NPS & Associates, a company that represents developers. According to their website, NPS & Associates performed Permit & Entitlement Securement, Site Assessment Surveys, Radius & Land Use Maps, Design, Drafting & Engineering Services. The website further indicated that their business strategy was to continually sustain growth through referrals. On 8/26/20, the City Attorney's office was informed of this. On 8/27/20 (the date of the CPC hearing), the website was taken down, likely because this outside endeavor had been exposed.

This is evidence of bias and a conflict of interest on the part of Planning, especially given Planning's failure to mention or address seven major issues in Appellant's opposition in Planning's Recommendation Report.

### **THE FINDINGS TO APPROVE A DENSITY BONUS ARE INSUFFICIENT.**

The CPC (on Planning's recommendation) approved the doubling of the permitted height and FAR because without this, "...increased construction costs, maintenance costs and debt, combined with the severely reduced rents from the Very Low Income units, could preclude the Project from obtaining conventional financing."

However, there is no evidence, substantial or otherwise, to substantiate this. What are the increased construction, maintenance and debt costs? How would "conventional financing be precluded without a density bonus? Why couldn't a smaller structure (instead of 5-stories) be built with affordable units?

No specific evidence is provided to support a finding that the request for a density bonus is necessary to make the construction of affordable units feasible.

Further, the CPC accepted the Applicant's representation that there currently are no affordable units in the Pacific Palisades, without any evidence whatsoever upon which to base this assertion. It is patently untrue and there are scores of affordable housing in the Pacific Palisades.

### **SUFFICIENT MITIGATING CONDITIONS WERE NOT IMPOSED.**

The CPC approved the Project, but failed to impose sufficient mitigating conditions as follows:

1. The roof-top decks should be eliminated or at least the portions closest to Edgewater should be eliminated or moved to the Sunset Blvd. side of the building.
2. If the roof-top decks are allowed, then the following conditions should be imposed:
  - a. No live or amplified music on the roof-top decks is allowed.
  - b. No large parties or events (10 or more persons) are allowed.
  - c. The hours of use should be limited to 8 a.m. to 10 p.m.
  - d. All utility equipment should be moved as far as possible from the rear of the Project structure with sound screening surrounding this equipment.
  - e. Any parapet wall on the roof-top decks should be coated with sound reduction material.
  - f. All lighting on the roof-top decks should be shielded and down-cast to prevent light

- pollution on the adjacent properties.
- g. Permanent planters should be placed on the rear portion of all the roof-top decks and mature trees planted therein.
3. Landscaping:
- a. The rear retaining wall should be moved away from the rear property line (toward Sunset Blvd.) to allow for the planting of mature trees of at least 8' in height between the retaining wall and the property line.
  - b. Mature trees of at least 8' in height should be planted next to the driveway on the southeast portion of the Project site.

## **CONCLUSION**

Planning violated the due process rights of those opposing the Project by failing to address submissions made and issues set forth in opposition to the Project.

The Project as proposed is not in conformity with the Coastal Act, the Community Plan and the Specific Plan. The Coastal Commission Regional Interpretive Guidelines were not adequately applied, reviewed, analyzed and considered. The MND and its findings are not supported by substantial evidence. Geologic issues remain.

Appellants have provided substantial evidence to make a fair argument under CEQA that the Project may have a significant effect on the environment. The mitigation measures and conditions imposed under the MND are insufficient. The MND should be recirculated to clearly and forthrightly identify and mitigate, if possible, the adverse impacts.

The Project should not be approved as proposed. If it is to be allowed to go forward, it should be scaled down and further conditions imposed.

The Project's height should be reduced and specific mitigation measures implemented regarding any roof-top deck, including prohibitions against amplified music and parties. The number of units proposed for the Project should be reduced. Additional parking spaces should be provided.

Additional geotechnical investigation and analysis must be conducted. The upper levels of the Project should be set back to provide more compatibility with the neighboring properties.