

# APPEAL TRANSMITTAL TO CITY COUNCIL

<b>Case No.</b> CPC-2006-6519-ZC-ZV-HD-ZAA- SPR-2A	<b>Planning Staff Name(s) and Contact No.</b> Madhu Kumar, 213-978-1162	<b>C.D. No. 13</b>
<b>Related Case No(s).</b> VTT-66997-2A	<b>Last Day to Appeal</b> February 27, 2008	

<b>Location of Project (Include project titles, if any.)</b>  5663-5647 W. Melrose and 5742-5766 W. Camerford Avenue
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<b>Applicant(s) and Representative(s) Name(s) and Contact Information, if available.</b>  Watt Genton (310)314-2521 Michael Gonzales, (213) 955-5578 (Representative )
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<b>Appellant(s) and Representative(s) Name(s) and Contact Information, including phone numbers, if available.</b>  Doug Haines, 310-281-7626                      Rep: Robert Silverstein, 626-449-4200 P.O. Box 93596, LA 90093-0596              215 N. Marengo Ave, 3 <sup>rd</sup> Flr., Pasadena 91101-1504
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<b>Final Project Description</b> At its meeting on December 13, 2007, the following action was taken by the City Planning Commission:  <b>Approved and Recommended</b> that the City Council adopt a <b>Zone and Height District Change</b> from C4-1D (Commercial Zone with development limitation of a FAR of 1:1) to (T)(Q)RAS3-1 with a height limit of 45 feet (on the Melrose parcels only). <b>Denied a Variance</b> , pursuant to Section 12.27 of the Municipal Code, to permit 54 residential units on the R3-1XL zoned portion of the project fronting Camerford Avenue in lieu of the otherwise permitted 33units; (or one unit per 500 square feet of lot area in lieu of the otherwise permitted one unit per 800 square feet of lot area) in order to provide an equal distribution of all 96 units over the entire site. <b>Denied a Variance</b> , pursuant to Section 12.27 of the Municipal Code to permit the lot area used in calculating residential density on the recommended RAS3-1 zoned portion of the project fronting Melrose Avenue to include the area required for a 15 foot street dedication resulting in 33 units in lieu of 29 units. <b>Approved a Variance</b> , pursuant to Section 12.27 of the Municipal Code to permit a maximum building height of 45 feet in lieu of the maximum permitted height of 30 feet for the R3-1XL zoned portion of the project fronting Camerford Avenue. <b>Approved an Adjustment</b> , pursuant to Section 12.27 of the Municipal Code to permit the R3-1XL zoned portion of the project fronting Camerford Avenue to observe a reduced rear yard of zero feet in lieu of the minimum 15 feet required. <b>Denied an Adjustment</b> pursuant to Section 12.27 of the Municipal Code to permit the R3-1XL zoned portion of the project fronting Camerford Avenue to observe a reduced front yard of 10 feet in lieu of the minimum 15 feet required. <b>Approved an Adjustment</b> , pursuant to Section 12.27 of the Municipal Code, (a) to permit the recommended RAS3-1 zoned portion of the project fronting Melrose Avenue to observe a reduced front yard of zero feet in lieu of the minimum required five feet, and (b) a reduced rear yard of zero feet in lieu of the required minimum five feet. <b>Denied</b> the requested Site Plan Review without prejudice. <b>Adopted</b> Mitigated Negative Declaration No. ENV 2006-6520- MND. <b>Adopted Findings.</b>
<b>Items Appealable to Council: <u>Variances and ENV 2006-6520-MND</u></b>

<b>Fiscal Impact Statement</b> <small>"If determination states administrative costs are recovered through fees, indicate "Yes."</small> <b>Yes</b>	<b>Env. No. 2006-6520-MND</b>	<b>Commission Vote: 7-0</b>
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- In addition to this transmittal sheet, City Clerk needs:
- (1) Appeal package. Original & (1) copy plus; (2) true copies of Commission Determination or Orig & (1) copy of Determ for legislative actions;
  - (2) Staff Recommendation Report (1);
  - (3) Environmental document used to approve the project, if applicable (1);
  - (4) Public hearing notice (1);
  - (5) Commission determination mailing labels (1) note: Condo projects & Appeals only require a copy of the list(s), not the labels.
  - (6) ~~Condo projects only:~~ (1) copy of Commission Determination mailing list (includes project's tenants; and 500 foot radius mailing lists)

Gabriele Williams, Commission Executive Assistant II City Planning Commission	<b>MAR 03 2008</b> Date
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**MAR 04 2008**  
**PLANNING & LAND**  
**USE MANAGEMENT**

Office:

Downtown

Van Nuys

Date 2-26-08

LA Department of Building and Safety  
LA 01 37 211022 02/26/08 07:53AM

273072

PLAN & LAND USE \$74.00  
ONE STOP CITY PL \$1.00  
DEVELOPMT SURCHG \$4.00  
OPERATING SURCHG \$5.00

Total Due: \$84.00  
Check: \$84.00

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NOTICE: The staff of the P  
regardless of whe...

ne full and impartial consideration to your application,

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

Applicant <u>Doug Haines</u>			
Representative <u>Robert Silverstein, Silverstein Law Firm</u>			
Project Address <u>5663-5647 W. Melrose + 5742-5766 W. Camerford</u>			
Telephone Number <u>310-281-7625</u>			
Case Number and Description	Task	SubTask	Ordinance Fee
<u>CPC-2006-6519-ZC-ZV-HD-ZAA-SPR</u>		<u>appeal</u>	\$ <u>74</u> -
<u>ENV-2006-6520-MND</u>			\$
			\$
			\$
			\$
		<b>Sub Total Fees Paid</b>	\$ <u>74</u> -
OSS Surcharge - 2%			\$ <u>1</u>
Development Surcharge - 6%			\$ <u>4</u>
Operating Surcharge - 7%			\$ <u>5</u>
Expediting Fee			\$
Bad Check Fee			\$
Miscellaneous/Photocopy			\$
			\$
			\$
		<b>TOTAL FEES PAID</b>	\$ <u>84</u> -

( ) Cash  
(  ) Check # 3067  
( ) Money Order # \_\_\_\_\_

Council District 13  
Plan Area Hollywood

LA Department of Building and Safety  
LA 01 37 211022 02/26/08 07:53AM

Processed by Dresser  
Print & sign

PLAN & LAND USE \$74.00  
ONE STOP CITY PL \$1.00  
DEVELOPMT SURCHG \$4.00  
OPERATING SURCHG \$5.00

Total Due: \$84.00  
Check: \$84.00



CITY OF LOS ANGELES  
PLANNING DEPARTMENT

MASTER APPEAL FORM

APPEAL TO THE: City Council

REGARDING CASE NO.: CPC 2006-6519-ZC-ZV-HD-ZAA-SPR/ENV-2006-6520-MND

This application is to be used for any authorized appeals of discretionary actions administered by the Planning Department. Appeals must be delivered in person with the following information filled out and be in accordance with the Municipal Code. **A copy of the action being appealed must be included. If the appellant is the original applicant, a copy of the receipt must also be included.**

**APPELLANT INFORMATION: PLEASE PRINT CLEARLY**

Name Doug Haines  
Mailing Address P.O. Box 93596  
Los Angeles, CA Zip: 90093-0596  
Work Phone: (310) 281-7625 Home Phone: (     )                     

- a) Are you or do you represent the original applicant?  
(Circle One) YES  NO
- b) Are you filing to support the original applicant's position?  
(Circle One) YES  NO
- c) Are you filing for yourself or on behalf of other parties, an organization or company?  
(Circle One) SELF  OTHER
- d) If "other" please state the name of the person(s), organization or company (print clearly or type)  
The La Mirada Avenue Neighborhood Association of Hollywood

REPRESENTATIVE

Name Robert Silverstein  
Mailing Address The Silverstein Law Firm  
215 N. Marengo Ave., 3rd Floor  
Pasadena, California Zip 91101-1504  
Work Phone: (626) 449-4200 Home Phone: (     )                     

**APPEAL INFORMATION**

A complete copy of the decision letter is necessary to determine the final date to appeal, under what authorizing legislation, and what, if any, additional materials are needed to file the appeal.

Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the City (Area) Planning Commission must be filed within 10 days of the written determination of the Commission.

Final Date to Appeal: February 27, 2008

**REASONS FOR APPEALING**

Are you appealing the entire decision or parts of it?

Entire       Part

Indicate: 1) How you are aggrieved by the decision; and 2) Why do you believe the decision-maker erred or abused their discretion? If you are not appealing the whole determination, please explain and specifically identify which part of the determination you are appealing.

Attach additional sheets if necessary.

SEE ATTACHED LETTER

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ADDITIONAL INFORMATION**

- Original receipt required to calculate 85% filing fee from original applicants.
- Original applicants must pay mailing fees to BTC and submit copy of receipt.
- Any additional information or materials required for filing an appeal must be provided in accordance with the LAMC regulations as specified in the original determination letter. **A copy of the determination/decision letter is required.**
- Acceptance of a complete and timely appeal is based upon successful completion and examination of all the required information.
- **Seven copies and the original appeal are required.**

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

Appellant *Alyce A. Harris*

OFFICIAL USE ONLY

Receipt No. 273072 Amount \$84 Date 2-26-08

Application Received *Rae Messer*

Application Deemed Complete *Ralph Orvik 2-27-08*

Copies provided: 7

Determination

Receipt (original applicant only)

Determination Authority Notified (if necessary)

February 25, 2008

Doug Haines, La Mirada Avenue Neighborhood Association  
P.O. Box 93596  
Los Angeles, CA 90093-0596

Los Angeles City Council  
c/o City of Los Angeles Planning Department  
Department's Public Offices, Figueroa Plaza  
201 N. Figueroa St., 4<sup>th</sup> Floor  
Los Angeles, CA 90012

**RE: Case No.:** CPC-2006-6519-ZC-ZV-HD-ZAA-SPR;

**CEQA No.:** ENV-2006-6520-MND.

**Project Location:** 5641 – 5663 West Melrose Avenue, 5742 – 5766 West Camerford Avenue, and 704 – 724 North El Centro Avenue

**Appeal of:** City Planning Commission's approval of a Zone variance permitting a building height of 45 feet in lieu of the maximum permitted height of 30 feet for the R3-1XL zoned portion fronting Camerford Avenue of the proposed "Camerford Lofts" condominium project; and adoption of Mitigated Negative Declaration No. ENV 2006-6520-MND.

## **INTRODUCTION**

I am appealing this decision on behalf of the La Mirada Avenue Neighborhood Association of Hollywood, of which I am a member.

In accordance with Public Resources Code §21151(c), the La Mirada Avenue Neighborhood Association appeals all variance/adjustment approvals and certification/adoptions made, including CEQA approval for ENV-2006-6520-MND, by the Los Angeles City Planning Commission at their December 13, 2007 hearing for the proposed "Camerford Lofts" development at the intersection of Melrose and El Centro Avenues in Hollywood (hereinafter the "Project."). The Applicant is Watt Genton Associates.

Our appeal is based on two points: first, that the Applicant has not satisfied the rigorous findings required to grant any variance associated with the development and that any hardship is entirely self-imposed; and second, that the Project's Mitigated Negative Declaration (MND) is completely and utterly inadequate to fully and fairly disclose the environmental impacts associated with the proposed development as required by the California Environmental Quality Act ("CEQA") and CEQA Guidelines, and thus precludes informed decision-making and meaningful public participation.

The purpose of any MND is to disclose potential project impacts to the public and require that those impacts be mitigated or that alternatives to the Project be considered which can reduce or eliminate impacts. The point of an MND is not to be a rubber stamp for a proposed project, but to provide a forum for changing and improving a proposed project, and to obtain the most public benefit with the least environmental harm.

This MND (written by the developer) rubberstamps the proposed Project and is a gross violation of CEQA.

### **I. VARIANCE OBJECTIONS**

The 5700 block of Camerford Avenue, which is zoned R3-1XL, consists exclusively of residential structures one or two stories in height. The City Planning Commission's December 13, 2007 approval of a variance permitting a Project height of 45 feet in lieu of the existing Zone-permitted maximum 30-foot building height is based on a flawed Staff Recommendation Report, which makes a Finding that a height variance is necessary for the preservation of "a right possessed by most other properties in the same zone in the City."



**5700 block of Camerford Avenue is exclusively one and two-story residential structures per its R3-1XL zoning.**

Yet the R3-1XL two-story/30-foot height limitation is specific to the 5700 block of Camerford Ave. To grant a 45-foot height limitation for the Project would provide the developer with a right **not** possessed by any other property on the block, and would therefore be unnecessary for the preservation and enjoyment of a property right enjoyed by others. The purpose of a variance is to make the property in question equal to the surrounding properties and not to grant special privileges or permit a use that is inconsistent with other nearby properties.

In the appellate decision of Stolman v. City of Los Angeles (Dec. 30, 2003), a resident who lived near a gasoline station petitioned for a writ of mandate challenging the City of Los Angeles' granting of a variance that permitted the station owner to expand operations to include an automobile detailing service. The trial court denied the petition, and the resident appealed. The Court of Appeal reversed, holding that:

- 1) Substantial evidence did not support the City's critical required finding that strict application of the zoning ordinance would result in practical difficulties or unnecessary hardship; and
- 2) The Zoning Administrator's finding that the gas station was unique in the immediate area was an abuse of discretion.

The application in Stolman was by the owner of Canyon Service and Detail, a gasoline station located in a residential zone. Stolman, the neighbor, argued that there was no showing of hardship to support the granting of a variance, and further argued that the station owner had not shown that he was deprived of a use afforded to other properties in the same zone and vicinity. The Court of Appeal agreed, concluding that the Zoning Administrator abused her discretion in granting the variance because the above two findings were not justified based on the evidence.

As stated in Stolman at page 926: *"The key question is whether the detailing operation enhances the continued viability of the gasoline station to the extent that Clark would face dire financial hardship without the variance, or whether Clark merely wants the variance in order to increase his existing profits from the sale of gasoline."* (Emphasis added.)

Finally, the Court of Appeal in Stolman reversed the grant of the variance on the basis that there were no properties in the "same zone and vicinity" that were experiencing the benefit that the applicant sought, as required by the Los Angeles Municipal Code. As stated by the Court:

*"Fairly read, a parcel of property in 'same zone and vicinity' as the gasoline station on Entrada Drive cannot mean a parcel of property anywhere in Los Angeles. The City of Los Angeles is well over 400 square miles in size. The gasoline station on Entrada Drive should not be compared to other properties potentially located 20 or more miles away. If, as here, there is no evidence of any comparable properties within reasonably close proximity of Entrada Drive, the third finding cannot be made and the variance should be denied."*  
Stolman at 929 (emphasis added).

The case of the Camerford Lofts is remarkably similar to that of Stolman. Here, the Hearing Officer claims that a 45-foot height limitation is appropriate for development on Camerford Ave. because it is *"a right possessed by most other properties in the same zone in the City."* This ignores the fact that no other property on the 5700 block of Camerford Ave. currently enjoys this right, and in fact all existing properties on Camerford conform to the XL height restriction.

The Hearing Officer further commented on page F-9 in her Findings of Fact in the Staff Recommendation Report and on page F-8 of the City Planning Commission's February 8, 2008 Determination Letter that:

“Most of the multiple family housing in the area is older, and the subject project would benefit the older structures **by triggering an increase in property values** as a result of a new modern structure in the neighborhood.” (emphasis added).

Findings must relate to hardship. The hardship **must** be upon the property and not a financial hardship upon the property owner. **Basing the grant of a variance on the anticipation of financial gain for the property owner and surrounding properties is a clear abuse of discretion.**

The Municipal Code provisions provide in pertinent part that a variance approval must be supported by written findings of **all** of the following:

- 1) That strict application of the zoning ordinance would result in practical difficulties or unnecessary hardships.
- 2) That there are special circumstances applicable to the subject property that do not apply generally to other property in the same zone and vicinity.
- 3) That the variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property owners.
- 4) That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity.
- 5) That the granting of the variance will not adversely affect any element of the General Plan.

In this case, the applications are devoid of any factual support to satisfy the above-referenced showings. The Project proponent has the burden of showing that it has satisfied all of the elements required for the approval of any variance application. Tustin Heights Assoc. v. Orange County (1959) 170 Cal.App.2d 619. Failure to prove any of the matters required by the zoning ordinance **must** result in a denial of the variance application. Minney v Azusa (1958) 164 Cal.App.2d 12.

Here, the applicant has not adequately approached the required showings. Therefore, on this foundational question, the application should be denied. See, e.g., Moss v Board of Zoning Adjustment (1968) 262 Cal.App.2d 1, 3, holding that a determination of the existence of all of the facts essential to making the necessary findings must precede any grant of a variance. Case law and the Los Angeles Municipal Code act as a limitation upon the power to grant variances. Accordingly, the variances sought for the Project must be denied on this ground.

No evidence is presented to support the assertion that any of the Project's requested variances are necessary for the preservation and enjoyment of a substantial property right. In fact, Camerford Loft's Project Manager, Mr. Justin Barth of Watt Commercial Properties/Watt Genton Associates, stated to the public during a December 2, 2006 meeting of the Hollywood Studio District Neighborhood Council that the variances were necessary solely for the development to be profitable (see attached **Exhibit 1**). On this basis alone, the variance must be denied.

## **II. CEQA OBJECTIONS**

The City Planning Commission's adoption/certification of the Project's MND must comply with the California Environmental Quality Act ("CEQA"). There are significant discrepancies and omissions that exist throughout the developer-written MND. A complete and accurate Environmental Impact Report ("EIR") must be prepared to disclose the true impacts associated with the Project. Then the EIR should be circulated to the public so that, consistent with the purpose of CEQA, a truly informed dialogue regarding the benefits, impacts and tradeoffs involved in the Project can occur.

**Our appeal of the CEQA approval/certification for ENV-2006-6520-MND includes but is not limited to the following objections:**

- **An EIR is required. The true scope of the Project is also not entirely revealed in the developer-written MND.**
- **The conclusions of the MND of no impact /less-than-significant impacts resulting from the Project are unsubstantiated by the evidence and therefore preclude informed decision-making and proper public participation. These include but are not limited to impacts resulting from:**
  - Population and Housing;**
  - Traffic/Transportation;**
  - Historic/Cultural Resources;**
  - Growth-inducing impacts;**
  - Land Use and Planning;**

**A. An EIR is required for the Project; the Project cannot be approved based upon the MND.**

**1. Legal Standard requiring an EIR rather than an MND.**

A strong presumption in favor of requiring preparation of an EIR is built into CEQA. This presumption is reflected in what is known as the “fair argument” standard, under which an agency must prepare an EIR whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. Laurel Heights Improvement Association v. Regents of the University of California. (1993) 6 Cal.4<sup>th</sup> 1112, 11123; No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 75.

Under CEQA and the CEQA Guidelines, if a project may cause a significant effect on the environment, the lead agency must prepare an EIR. Pub. Res. Code §21100, §21151. A project may have a significant effect on the environment if there is a “reasonable probability” that it will result in a significant impact. No Oil, Inc. v. City of Los Angeles, *supra*, 13 Cal.3d at 83 n.16. If any aspect of the project may result in a significant impact on the environment, an EIR must be prepared. CEQA Guidelines §15063(b)(1).

This standard sets a low threshold for requiring preparation of an EIR. Citizen Action To Serve All Students v. Thornley (1990) 222 Cal.App3d 748, 754. If substantial evidence supports a “fair argument” that a project may have a significant environmental effect, the lead agency **must** prepare an EIR even if it is also presented with other substantial evidence indicating that the project will have no significant effect. No Oil, Inc. v. City of Los Angeles, *supra*; Brentwood Association for No Drilling, Inc. v. City of Los Angeles (1982) 134 Cal.App.3d 491.

The CEQA Guidelines at 14 California Code of Regulations §15384(a) define “substantial evidence” as:

“...enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached...”

Under Public Resources Code §21080(e), §21082(c), and CEQA Guidelines §15064(f)(5) and §15384, facts, reasonable assumptions predicated on facts, and expert opinions supported by facts can constitute substantial evidence.

“Under the fair argument approach, *any* substantial evidence supporting a fair argument that a project may have a significant environmental effect would trigger the preparation of an EIR.” Communities for a Better Environment v. California Resources Agency (2002) 103 Cal. App.4<sup>th</sup> 98, 113 (*italics in original*). A significant impact may occur even if the particular impact does not trigger or exceed an agency’s arbitrarily set threshold of significance. *Id.* At 114.

An agency must prepare an EIR whenever it can be fairly argued that a project may have a significant environmental impact. If there is substantial evidence both for and against preparing an EIR, the agency must prepare the EIR.

“The EIR has been aptly described as the heart of CEQA. Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR protects not only the environment but also informed self-government. [T]he ultimate decision of whether to approve a project, be that decision right or wrong, is a nullity if based upon an EIR that does not provide the decision-makers, and the public, with the information about the project that is required by CEQA. The error is prejudicial if the failure to include relevant information precludes informed decision making and informed public participation, thereby thwarting the statutory goals of the EIR process.”

Napa Citizens for Honest Government v. Napa County Board of Supervisors (2001) 91 Cal.App.4<sup>th</sup> 342, 355-356.

**B. Substantial evidence supports a fair argument that the Project may have a significant environmental effect**

**1. Population and Housing: Population Displacement**

The developer-written MND grossly misrepresents the Project’s impact on the displacement of former and current low-income tenants of the site, claiming “No Impact” to displacing substantial numbers of people.

Until early in 2007, the Project site was the location of 48 historic, affordable bungalow units dating to 1916. In February, Watt Genton Associates bulldozed 40 units it had title to on the site following the forced eviction of all tenants the previous summer. Watt Genton closed escrow on a portion of this property in late May of 2006. Within weeks, the developer’s representative began issuing letters to tenants to vacate the site within 60 days.

Last year, the Hollywood Studio District Neighborhood Council held a series of hearings on the proposed Camerford Lofts development. At one of those hearings, a 29-year resident of the site described the intimidation methods used to force out long-term tenants. According to this former resident, this included threatening to reveal the immigration status of non-citizens who for years had lived on this property, and giving three-day eviction notices to tenants who refused to sign vacancy agreements (see attached **Exhibit 2**).

Watt Genton proceeded last year with the eviction and demolition of the Camerford site **even though they did not even own the entire project area**. The fact that Watt Genton sought entitlements for property they didn’t own wasn’t revealed until last April, when an

attorney for the real owner of the corner parcel at Melrose and El Centro appeared at a city hearing. Litigation over the sale of that property was supposedly resolved only in late November of 2007. In the meantime, approximately 150 low-income, long-term residents were evicted from their homes an entire year before Watt Genton Associates could secure ownership of the complete project site. None of this is acknowledged in the developer-written MND.

“When the information requirements of CEQA are not complied with, an agency has failed to proceed in a manner required by law.” Bakersfield Citizens for Local Control v. City of Bakersfield (App. 5 Dist. 2004) 22 Cal.Rptr.3d 203, 124 Cal.App.4<sup>th</sup> 1184.

Project impacts to population displacement have been significant. **The analysis in support of the MND’s Finding for “No Impact” to Population Displacement is therefore grossly incorrect.**

**3. The developer has used piecemealing to mask the cumulative impacts of another project adjacent to Camerford Lofts; a traffic study is necessary.**

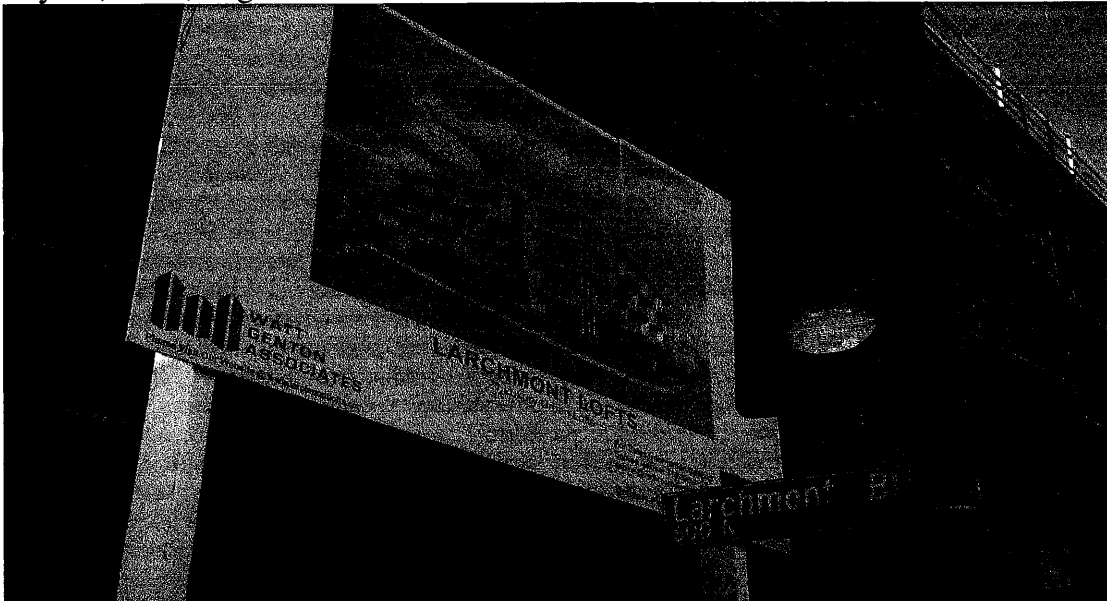
No traffic study was conducted for the Project. Instead, the developer-written MND concluded that the developer’s proposed 96-unit luxury condominium project would actually reduce the number of trips generated at the site – an absurd conclusion since the site previously held 48 affordable housing units occupied by low-income residents with no on-site parking.

The Los Angeles Department of Transportation (LADOT) initially required that the Project complete a traffic study, but reversed that decision after consultation with the developer’s representative, stating that the Project didn’t meet the threshold of units required for a study.

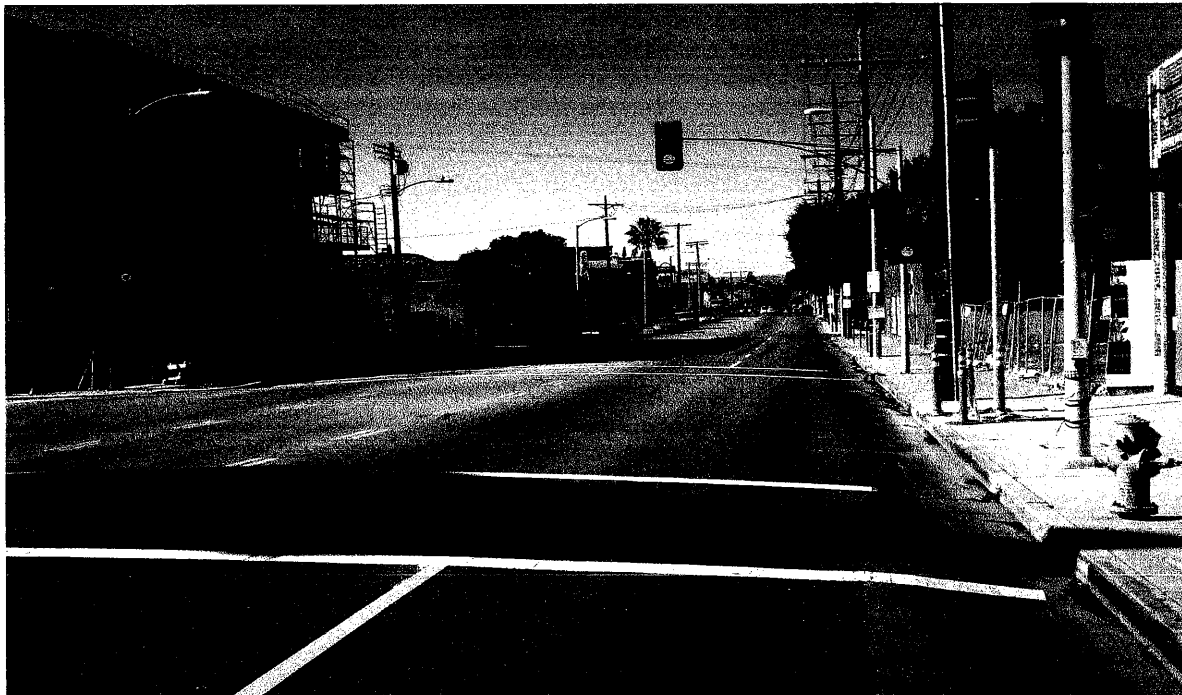
Yet LADOT completely ignored the developer’s concurrent project located immediately across Melrose Ave. from the proposed “Camerford Lofts”. That 21-unit condominium, known as the “Larchmont Lofts,” must be factored in when determining whether there is the need for a traffic study, as it significantly raises the number of total units being added by the developer to the intersection of Melrose Avenue and Larchmont Boulevard.

“The negative declaration is inappropriate where the agency has failed either to provide an accurate project description or to gather information and undertake an adequate environmental analysis.” Sundstrom v. County of Mendocino (1988) 202 Cal.App.3d 296, 311.

The environmental review’s “purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’” [Citation.]” Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 564,



Advertisement for "Larchmont Lofts" condominiums also developed by Watt Genton Assc.



View of Melrose Ave. at Larchmont Blvd.: "Camerford Lofts" site is on right; "Larchmont Lofts" development on left. Both projects are by Watt Genton Associates.

Identifying the environmental risks inherent to a project is the most basic premise of an environmental review. Ignoring or postponing this responsibility precludes any semblance of informed decisionmaking and informed public participation. *"Environmental review which comes too late runs the risk of being simply a burdensome reconsideration of decisions already made..."* Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners (2001) 91 Cal.App.4<sup>th</sup> 1344, 1359.

“Piecemealing” refers to the prohibited act of cutting a large project into pieces in an effort to mask the cumulative environmental impacts of the total project as a means of avoiding the preparation of an EIR.

Piecemealing is a violation of CEQA, which the California Supreme Court has condemned. Bozung v. Local Agency Formation Commission (1975) 13 Cal.3d 263, 283-284. This has been the law for many years, and was recently reaffirmed by the Court of Appeal in Arviv Enterprises, Inc. v. City of Los Angeles South Valley Area Planning Commission (2002) 101 Cal.App.4<sup>th</sup> 1333, 1346.

The MND’s failure to reveal the true scope of the developer’s two projects is a violation of CEQA. The Project requires an EIR to properly identify the cumulative impacts associated with the entire development. “Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal’s benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal...and weigh other alternatives in the balance.” Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners (2001) 91 Cal.App.4<sup>th</sup> 1344, 1358.

“*The EIR is the heart of CEQA*” and the integrity of the process is dependent on the adequacy of the environmental review. County of Inyo v. Yorty (1973) 32 Cal.App3d 795, 810. The Courts look for “*adequacy, completeness and a good-faith effort at full disclosure.*” Guidelines §15151

A traffic study is crucial. The MND’s Transportation and Traffic’s Facts in Support of Findings is grossly misleading in its analysis of impacts this neighborhood may experience as a result of the developer’s two projects. Without a traffic analysis, potential impacts are not being disclosed or adequately mitigated, precluding informed decisionmaking.

#### **4. Cultural Resources.**

The destruction of the site’s craftsman bungalows (dating from 1916) is a significant, unmitigable environmental impact that the MND brushes over. The bungalow village previously occupying the site -- demolished by the developer in February of 2007 – was a unique and virtually intact collection of beautiful clapboard craftsman homes (see attached **Exhibit 3**).

The MND omits such information, instead basing its conclusion that the site “does not contain known historic resources” and that demolition will have “no impact” on a historic analysis prepared by the Applicant that shows no photos of the bungalows and misrepresents their potential historical classification. Such misinformation characterizes this developer-prepared MND.

### **III. CONCLUSION**

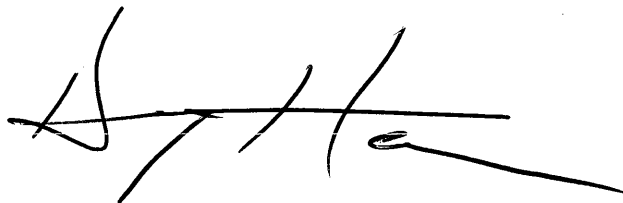
As documented in our appeal, the Applicant has provided no justification for any variance request, and the Project's MND does not represent a "good faith effort at full disclosure," in violation of CEQA. The MND omits key analyses that should have been performed, and it is stilted to avoid findings of obvious significant environmental impacts. The failure to include relevant information in the MND precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the CEQA process.

*"Before one brings about a potentially significant and irreversible change to the environment, an EIR must be prepared that sufficiently explores the significant environmental effects created by the project."* Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners (2001) 91 Cal.App.4<sup>th</sup> 1344, 1371. "Because the EIR must be certified or rejected by public officials, it is a document of accountability. If CEQA is scrupulously followed, the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees." Cadiz Land Co., Inc. v. Rail Cycle, L.P. (2000) 83 Cal.App.4<sup>th</sup> 74, 84.

An EIR should be prepared whenever the approval of a proposed project may cause "significant [adverse] effects on the environment." See Public Resources Code §§ 21002.1, 21061, 21100, 21151. Here that is clearly the case.

We ask that the City Council uphold our appeal of the City Planning Commission's approval of a height variance for the proposed Camerford Lofts project, and also require that a full and honest environmental review of the proposed development's impacts be undertaken. Doing so would allow our community the opportunity to work with both the City and the developer to identify and resolve the harmful cumulative impacts associated with this large-scale project.

Thank you for your time and consideration of this matter.



Doug Haines  
for the  
La Mirada Avenue Neighborhood Association

# **Exhibit 1**

**THE SILVERSTEIN LAW FIRM**

*A Professional Corporation*

215 NORTH MARENGO AVENUE, 3RD FLOOR  
PASADENA, CALIFORNIA 91101-1504

PHONE: (626) 449-4200 FAX: (626) 449-4205

ROBERT@ROBERTSILVERSTEINLAW.COM  
WWW.ROBERTSILVERSTEINLAW.COM

December 10, 2007

**VIA FACSIMILE (213) 978-8090**  
**AND U.S. MAIL**

Terry Kaufmann Macias, Esq.  
Office of the City Attorney  
700 City Hall East  
200 North Main Street, 7th Floor  
Los Angeles, CA 90012

**VIA FACSIMILE (213) 978-1029**  
**AND U.S. MAIL**

Commission Secretary Gabriele Williams  
Los Angeles City Planning Commissioners  
200 N. Spring Street, Room 532  
Los Angeles, CA 90012

Re: Camerford Loft Projects, 5663 W. Melrose Ave.  
Case No. ENV-2006-6520-EAF.CPC-2006-6519-ZC-ZV-HD-ZAA-SPR

Dear Ms. Kaufman Macias and Planning Commissioners:

This firm and the undersigned represent Mr. Robert Blue, an appellant regarding the above-referenced case. Mr. Blue is the Chair of the Hollywood Studio District Neighborhood Council (HSDNC) and attended the December 2, 2006 public meeting of the HSDNC Planning and Land Use Management (PLUM) Committee. Mr. Blue makes these objections in his personal, not HSDNC, capacity.

During the December 2, 2006 meeting of the HSDNC's PLUM Committee, Mr. Justin Barth and his team from Watt Commercial Properties/Watt Genton Associates made a follow-up presentation of their proposed Camerford Lofts mixed use development in Hollywood.

At this meeting, Mr. Doug Haines of the La Mirada Avenue Neighborhood Association of Hollywood asked Mr. Barth during the public comment period why his development required so many variances. Mr. Barth replied that, based upon the cost of the land, the entitlements were necessary for the project to be profitable.

In response, Mr. Haines pointed out that Mr. Barth was publicly admitting that the alleged hardship used to attempt to justify the variance requests was strictly financial; that Mr. Barth and his associates knew the zoning restrictions of the land when they bought the property; and that legally, the City could not grant any variances for the Camerford Lofts project because the law requires that only special physical circumstances or limitations relating to the land allow them.

Terry Kaufmann Macias, Esq.  
Los Angeles City Planning Commission  
December 10, 2007  
Page 2

As has been previously stated in this matter, the granting of variances in this case violates the Los Angeles City Charter and Municipal Code, the Government Code, and case law, including Stolman v. City of Los Angeles (2003) 114 Cal.App.4th 916. We renew those objections.

The legal principles underlying the strict limitations on the grant of variances are fundamental and clear. As recently stated in Neighbors in Support of Appropriate Land Use v. County of Tuolumne (December 7, 2007) \_\_\_ Cal.Rptr.3d \_\_\_, 2007 WL 4277998:

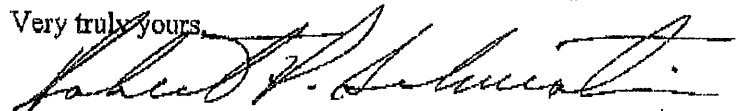
“A variance may be granted ‘only when, because of the special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.’ ([Govt. Code] § 65906.) ‘The essential requirement of a variance is a showing that a strict enforcement of the zoning limitation would cause unnecessary hardship. . . .’ (PMI Mortgage Ins. Co. v. City of Pacific Grove (1981) 128 Cal.App.3d 724, 731.)” Id.

Such circumstances do not exist here. In fact, the developer has admitted that the “need” for the variances is driven by financial considerations. Those considerations do not and cannot constitute a valid basis for the grant of variances as sought in this matter.

Based on this information, is the Planning Commission willing to allow these variances to be approved? If the variances are approved, is the City Attorney’s Office willing to defend in Court any variance approvals for the Camerford Lofts?

Please provide notice of all actions and decisions taken in this matter. Thank you.

Very truly yours,

  
ROBERT P. SILVERSTEIN  
FOR  
THE SILVERSTEIN LAW FIRM

RPS:tz  
cc: Client (via email)

# **Exhibit 2**

LAB MANAGEMENT,  
318 S WETHERLY DRIVE, # 3,  
LOS ANGELES, CA 90048.  
310 402 0192: FAX 310 402 0194.

August 10, 2006

Chenanie Lockwood,  
5760 Camerford,  
Los Angeles, CA 90038.

Dear Chenanie,

I am writing to you as it appears obvious that you are choosing to avoid me.

I am very concerned that you appear not to want to deal with the fact that you are going to have to move.

I understand that you have lived there for a long time and that it is painful for you but the unfortunate fact is that you are going to have to relocate.

Every other tenant who lives on the Camerford Property - people who are seriously ill or have children or are seniors- have accepted that they are going to have to relocate-now tell me what is different with you?

You were offered \$5000.00 plus 2 months free rent-a very generous offer that I may be able to improve on a little however I cannot help you if you do not contact me.

Please, I urge you to call me so we can come to an agreement-this is very important that we resolve this now.

Thanks,  
Catherine

## HARASSMENT BEGINNING JULY 19,2006 – TO PRESENT

1. Owner's agent ( Catherine Castillo) showing up on a daily basis trying to catch me at home-morning, noon, and night to sign an illegal eviction paper received July 24. Continuing harassment till put new paper received August 3 into my mailbox.
2. Friday, August 4-stuck business card in door, written on back asking me to call her.
3. Saturday-left me alone because I left a message on her phone machine saying that I would meet with her on Monday, August 7,2006.
4. Sunday, August 6,2006 put Three Day Notice to Pay Rent or Quit- found stuck in door-I had paid my rent via money order on the First of August. Important note-this owner and the last two have never given us rent receipts-they have us put our rent checks or money orders into a specified manager's mailbox at 5754 ½ Camerford Ave. I had already called and left her a message that I would meet with her on Monday. Sunday, when I got home and found the notice I immediately called her and said my rent was already paid on the first. She said she had just picked up the rent from the box that day and hadn't looked through them yet.
5. Monday, August 7, 2006 she arrived 45 minutes late for our appointment (it was for 6PM). She said she refused to accept my money order. I said that it's illegal not to accept the rent. Then she said she would write me a check for the rent. I refused. I tried to go over all the points of this illegal paper and what it actually said –but she would chime in and tell me what she said it meant and would not let me talk or be patient and listen to what I was trying to even discuss. She threatened that if I didn't sign this illegal paper they would do an Unlawful Detainer eviction on me. Then when I kept trying to say anything and tried to get her to listen to what I had to say-she would interrupt me and say Chenani, are you on drugs? Over and over. She kept saying over and over that if I didn't sign I would end up with 0 money-even holding up her thumb and first finger to form a zero. She said think about this and I will meet with you tomorrow.
6. Tuesday, August 8,2006 I had set the appointment for 7pm. She never showed. I taped a note on my door informing her that I had waited for her till 7:20pm. When I came back home I found her business card with call me again written on the back.
7. Wednesday, August 9, 2006 – after arriving home again her business card stuck in door with someone else's name on it, not mine.
8. Thursday, August 10, 2006 – she left a full page letter that my roommate said was placed in mailbox.
9. Thursday evening I left a message on her machine that I would meet with her on Tuesday at 7pm.

# THREE DAY NOTICE TO PAY RENT OR QUIT.

Residential Premises Form

TO CHENANIE LOCKWOOD

received  
Sunday  
August 6,  
2006

and all others in possession of the premises described as  
5760 CAMERFORD AVE, LOS ANGELES, CA 90038.

PLEASE TAKE NOTICE that within THREE DAYS of the service upon you of this notice, you must pay to your landlord the sum of \$533.75 which is due to be paid in order for you to maintain your tenancy, or quit possession of the premises described above.

If you fail to do one of the following things, either (1) pay the amount stated above, or (2) quit possession of the above described premises within the time specified, landlord will then have the right to bring an action against you for possession of the property, for unpaid rent or other obligations or both, for damages, and for court cost, which may include attorney's fees. If you fail to comply with this notice, the landlord hereby elect to terminate your tenancy and to forfeit your lease, and this notice constitutes a notice of the forfeiture.

You may pay the rent demanded in this notice by delivering it to:

LAB MANAGEMENT-ATTENTION CATHERINE CASTILLO,


5754 1/2 CAMERFORD AVE, LOS ANGELES, CA 90038.

MANAGERS WALL BOX.

TEL; 323 229 2260:OFFICE:310 402 0192.

Dated: 8/6/06

LANDLORD / LESSOR / OR AGENT

BY 

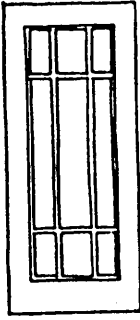
(sign and print name of landlord or agent signing)

Section 594 of the Penal Code of California

'Every person who maliciously injures, or destroys any real property not his own...is guilty of vandalism.' (A Felony or Misdemeanor)

THREE DAY NOTICE TO PAY RENT OR QUIT

# Exhibit 3



# HISTORIC RESOURCES GROUP

February 1, 2007

Mary Martin  
Chairman  
City of Los Angeles  
Cultural Heritage Commission  
City Hall  
200 N. Spring Street  
Los Angeles, CA 90013

RE: Camerford Residences Application for Historic Cultural Monument Status

Dear Ms. Martin:

Historic Resources Group would like to encourage the Commission to accept the application for designation of the Camerford Residences in Hollywood. Historic Resources Group is one of the leading historic preservation planning, architecture and development services firms in California. The firm is located in Hollywood, has spent the last two decades studying its various types of resources, and believes that certain property types associated with the growth of Hollywood are becoming very rare. The firm's principals have a distinguished record of leadership in preservation issues and projects throughout Southern California.

The buildings on Camerford are a very rare residential property type that is representative of the development of Hollywood prior to the 1920s. This period from 1910-1920 were the formative years of the motion picture industry in Hollywood. Its facilities pre-date the studio factories and other more glamorous property types that we have come to associate with the industry. Without this foundation, i.e., the introduction of vernacular buildings in Hollywood for studio use and their accompanying vernacular worker housing, the Hollywood we know today would not exist.

These residences, as demonstrated by Marc Wanamaker's research in the accompanying letter, are perhaps the only remaining example of clustered worker housing associated with the early studios. Admittedly, they are vernacular in concept, but they definitely portray the lifestyle and the environment of the early studio system. The list of Historic Cultural Monuments does contain vernacular examples of other types of architecture and associations, and therefore, it would be proper to include the Camerford complex among the things recognized for its historic and cultural value, and as a physical representation of its time.

I encourage your support for this rare example of Hollywood history.

Sincerely,

Christy J. McAvoy  
Managing Principal







# Los Angeles City Planning Commission

200 North Spring Street, Room 532, City Hall, Los Angeles, CA 90012

[www.cityofla.org/PLN/index.htm](http://www.cityofla.org/PLN/index.htm)

Determination Mailing Date: FEB 08 2008

CITY COUNCIL  
Room 395, City Hall  
Los Angeles, California

CASE NO. CPC 2006-6519-ZC-ZV-HD-ZAA-SPR  
(Related Case: VTT-66997-1A)

Location: 5663-5647 W. Melrose and 5742-5766  
W. Camerford Avenue

Council District: No. 13  
Plan Area: Hollywood

Applicant: Watt Genton Associates  
Representative: Allen Matkins; Michael Gonzales

Request(s): Zone Change, Zone Variance, Height  
District Change, Adjustment, Site Plan Review.


At its meeting on December 13, 2007, the following action was taken by the City Planning Commission:

1. **Denied** the Zone Change request as filed.
2. **Approved and Recommended** that the City Council adopt a Zone and Height District Change from C4-1D (Commercial Zone with development limitation of a FAR of 1:1) to (T)(Q)RAS3-1 with a height limit of 45 feet (on the Melrose parcels only), subject to the attached Conditions of Approval.
3. **Denied a Variance**, pursuant to Section 12.27 of the Municipal Code, to permit 54 residential units on the R3-1XL zoned portion of the project fronting Camerford Avenue in lieu of the otherwise permitted 33 units; (or one unit per 500 square feet of lot area in lieu of the otherwise permitted one unit per 800 square feet of lot area) in order to provide an equal distribution of all 96 units over the entire site.
4. **Denied a Variance**, pursuant to Section 12.27 of the Municipal Code to permit the lot area used in calculating residential density on the recommended RAS3-1 zoned portion of the project fronting Melrose Avenue to include the area required for a 15 foot street dedication resulting in 33 units in lieu of 29 units.
5. **Approved a Variance**, pursuant to Section 12.27 of the Municipal Code to permit a maximum building height of 45 feet in lieu of the maximum permitted height of 30 feet for the R3-1XL zoned portion of the project fronting Camerford Avenue.
6. **Approved an Adjustment**, pursuant to Section 12.27 of the Municipal Code to permit the R3-1XL zoned portion of the project fronting Camerford Avenue to observe a reduced rear yard of zero feet in lieu of the minimum 15 feet required.
7. **Denied an Adjustment** pursuant to Section 12.27 of the Municipal Code to permit the R3-1XL zoned portion of the project fronting Camerford Avenue to observe a reduced front yard of 10 feet in lieu of the minimum 15 feet required.
8. **Approved an Adjustment**, pursuant to Section 12.27 of the Municipal Code, (a) to permit the recommended RAS3-1 zoned portion of the project fronting Melrose Avenue to observe a reduced front yard of zero feet in lieu of the minimum required five feet, and (b) a reduced rear yard of zero feet in lieu of the required minimum five feet.
9. **Denied** the requested Site Plan Review without prejudice.
10. **Adopted** Mitigated Negative Declaration No. ENV 2006-6520- MND.
11. **Adopted** the attached Findings.

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

This action was taken by the following vote:

Moved: Kezios  
Seconded: Hughes  
Ayes: Cardoso, Freer, Roschen, Usher, Woo  
Absent: Kay, Montanez  
Vote: 7-0

  
\_\_\_\_\_  
Gabriele Williams, Commission Executive Assistant II  
City Planning Commission

**Appeals:** If the Commission has disapproved the zone change request, in whole or in part, only the applicant may appeal that disapproval to the Council within 20 days after the mailing date of this determination. Any aggrieved party may appeal the Commission's grant of the Variance and its action on the Adjustment to the Council within 20 days after the mailing date of this determination. Any appeal not filed within the 20-day period shall not be considered by the Council. All appeals shall be filed on forms provided at the Planning Department's Public Counters at 201 N. Figueroa Street, Fourth Floor, Los Angeles, or at 6262 Van Nuys Boulevard, Suite 251, Van Nuys.

FINAL APPEAL DATE: FEB 27 2008

The time in which a party may seek judicial review of this determination is governed by California Code of Civil Procedure Section 1094.6. Under that provision, a petitioner may seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, only if the petition for writ of mandate pursuant to that section is filed no later than the 90th day following the date on which the City's decision becomes final.

Attachments: Findings, Ordinance w/ Map, Conditions

cc: Notification  
Madhu Kumar, Planning

## FINDINGS

### **1. General Plan Land Use Designation**

The subject property is located within the Hollywood Community Plan area, which was adopted by the City Council on December 13, 1988 (pursuant to Council File 86-0695-S1). The Plan Map designates the portion of the subject property, southerly of an alley, fronting on Melrose Avenue for Neighborhood Commercial land use with corresponding zones of C1, C4, C2, RAS3, RAS4 and P, and a "D" limitation of 1:1 FAR. Portion of the property, north of an alley with frontage on Camerford Avenue is designated for Medium Residential with a corresponding zone of R3 within Height District 1XL, a height limit of 30 feet.

### **2. General Plan Text**

The Framework Element of the General Plan contains a number of policies relating to the promotion of housing in the City's centers and along the transit corridors. The Land Use Chapter of the Framework Element also presents policies relating to the promotion of housing in the City.

*Objective 3.2 Provide for the spatial distribution of development that promotes an improved quality of life by facilitating a reduction of vehicular trips, vehicle miles traveled, and air pollution.*

*Objective 3.4: Encourage new multi-family residential, retail commercial, and office development in the City's neighborhood districts, community, regional, and downtown centers as well as along primary transit corridors/boulevards, while at the same time conserving existing neighborhoods and related districts.*

*Policy 3.4.1 Conserve existing stable residential neighborhoods and lower-intensity commercial districts and encourage the majority of new commercial and mixed-use (integrated commercial and residential) development to be located (a) in a network of neighborhood districts, community, regional, and downtown centers, (b) in proximity to rail and bus transit stations and corridors, and (c) along the City's major boulevards, referred to as districts, centers, and mixed-use boulevards.*

*Objective 3.7: Provide for the stability and enhancement of multi-family residential neighborhoods and allow for growth in areas where there is sufficient public infrastructure and services and the residents' quality of life can be maintained or improved.*

At its meeting on December 14, 2007, the City Planning Commission made the following changes to the staff recommendation report, and directed staff to revise the Findings and Conditions accordingly.

Approved a height of 45 feet on the RAS3-1 zoned portion of the site.

Denied a Variance to permit the lot area used in calculating density on the RAS3-1 zoned portion of the site to include the area required for a 15-foot street dedication.

Denied an Adjustment to permit the R3-1XL zoned portion of the site to observe a 10-foot front yard in lieu of the required 15 feet.

Required that (T) Condition 2 be revised to include a 15-foot sidewalk instead of 10 feet.

- 3. Zone and Height District Change, L.A.M.C. Sec. 12.32.F:** Pursuant to Section 12.32C7 of the Municipal Code, and based on these findings, the recommended action is deemed consistent with public necessity, convenience, general welfare and good zoning practice.

The requested zone change from C4-1D (Commercial Zone with development limitations) to RAS4-1 (minimum area per dwelling unit of 400 square feet) is inconsistent with public necessity, convenience, general welfare and good zoning practice in that it would permit a development inconsistent with the existing pattern and level of development, densities and intensities of surrounding properties.

The project site is comprised of eight parcels that are separated by a 10-foot alley extending east/west from El Centro Avenue to Gower Street. The alley divides the site into two almost equal parts. Four parcels identified as the 'Camerford Parcels", approximately 27,041 gross square feet in area are located north of the alley, designated Medium Residential and zoned R3-1XL with a height limit of 30 feet. The "Melrose parcels", south of the alley, are approximately 26,693 gross square feet in area, designated Neighborhood Commercial and zoned C4-1D with a FAR limit of 1:1. The total gross site area is approximately 53,734 square feet or 1.23 acres.

The Melrose parcels were developed with seven, two story structures that totaled approximately 20,673 square feet. Only a 4,560 square foot nightclub/restaurant and three multi-family residential structures that contain eight dwelling units remain on the site. The other commercial/retail structures and 40 bungalow units on both the parcels have been demolished.

The proposed project includes the development of approximately 3,350 square feet of restaurant/retail space fronting on Melrose Avenue and 96 dwelling units within five residential levels above a subterranean parking garage containing 237 parking spaces. The site plan proposes to maintain the existing alley which will serve as both a loading area and access for the Melrose parcels, although the alley will be completely covered by the project's structure. The first above-ground level will be developed with a pedestrian bridge and private recreational areas. The remaining three levels will be developed with residential units.

On the Camerford parcels, the project proposes residential uses only. The ground floor includes a residential lobby, an entry driveway accessed via a driveway from El Centro Avenue, 42 residential parking spaces, and six townhouse units, three stories and approximately 45 feet in height that face Camerford Avenue. South of the townhouse units, single-story condominium units on the second through fifth floors are proposed. The fourth and fifth floor units would step back from the townhouse units and be approximately 61'-1" in height. Similar to the Melrose parcels, the second through fifth floors of the Camerford parcels include a centrally located podium deck/courtyard.

To create this unified development across two separate zones, different Height Districts and FARs, the subject request includes a Zone and Height district change from C4-1D to RAS4-1 on the Melrose parcels, and several Variances and Adjustment requests which will be discussed separately.

Melrose Avenue separates two community plan areas with the Wilshire Community Plan area on the south and Hollywood Community Plan area on the north. All the commercial properties within the Wilshire Plan area are within Height District 1VL limited to three stories and 45 feet. Meanwhile, the commercial properties in Hollywood are within Height District 1 with an unlimited height. It is this lack of coordination and cohesiveness between two community plans that affect the planning of complementary commercial frontages along the same street and create problems of scale and symmetry of buildings across from each other on similar size lots. Hence, a height limit of 45 feet is recommended for the Melrose parcels of the subject property.

This part of Melrose Avenue is gradually seeing a steadily increasing level of commercial and residential activity. Over the past few years, several upscale restaurants have opened in the

general vicinity that have attracted a number of boutiques, antique shops, furniture stores, and specialty shops to the street, as an extension of the nearby Larchmont Village shopping area to the south. With its location in proximity to upscale neighborhoods of Hancock Park and Windsor Square, and employment centers of Hollywood, Wilshire and downtown Los Angeles, Melrose Avenue, primarily improved with one and two story commercial buildings, except for two large studio properties on industrial land, is clearly ripe for development at higher density and intensity than that exists.

This is the first request for an RAS4 zone on the street. The purpose of the RAS zones is to provide a mechanism to increase housing opportunities, enhance neighborhoods and revitalize older commercial corridors. Clearly, Melrose Avenue is in need of more upscale housing and revitalized commercial areas. However, not every development, every block or street needs to be developed at the highest density without context to its surroundings to create more housing in the city. Balanced growth requires that housing be placed at densities that are supported by the existing infrastructure. Otherwise, the quality of life is diminished for everyone. The RAS4 zone brings a density and intensity of use not supported by the street. Melrose Avenue is a designated Secondary Highway, dedicated to a varied width of 60 to 73 feet with mostly narrow sidewalks. The most appropriate zone in a mixed use configuration would be the RAS3 zone for the street and the subject property. The subject project which spans two blocks including an alley with almost 62 feet in height could well set the precedent for the type of development that occurs in the future on the street. The street consists of shallow commercial lots separated from residential uses by alleys. The requested zone change would result in a project of a greater scale, density and height than that exists on the street and surrounding area without the supporting infrastructure.

The recommended Zone and Height District Change from C4-1-D to RAS3-1 with a height limit of 45 feet, and a FAR of 3:1 IS CONSISTENT with the existing land use designation of Neighborhood Commercial, and IS in substantial conformance with the purposes, intent and provisions of the General Plan as reflected in the adopted community plan.

The recommended zone change to RAS3-1 will provide for a transition development between the commercial properties on the south fronting Melrose Avenue and the R3 zoned properties on the north. The project will provide the Hollywood community with new housing of the types, sizes, and densities required for the varying needs of all segments of the population, while preserving the existing character and scale of the street and the neighborhood.

- a. The action, as recommended, has been made contingent upon compliance with the "(T)" and "(Q)" conditions imposed herein. Such limitations are necessary to protect the best interests of and to assure a development more compatible with surrounding properties, to secure an appropriate development in harmony with the General Plan, and to prevent or mitigate the potential adverse environmental effects of the subject recommended action.
- b. In addition, the recommended zone change to (T)(Q) RAS3-1, is within the range of zones allowed by the General Plan Land Use designation of Neighborhood Commercial land use with corresponding zones of C1, C4, C2, RAS3, RAS4 and P. It will also permit a development which supports the General Plan Goals, Objectives and Policies to provide a safe, secure, and high quality residential environment for all economic, age, and ethnic segments of the community, and to provide for the development of new housing to meet the diverse economic and physical needs of the existing residents and projected population of the Plan area.

**4. Zone Variance Findings.** Pursuant to Section 12.27 of the LAMC, the applicant has requested the following zone variances:

- a. Section 12.10 C to permit 54 residential units on the R3-1XL zoned portion of the project fronting Camerford Avenue in lieu of the otherwise permitted 33 units; (or one unit per 500 square feet of lot area in lieu of the otherwise permitted one unit per 800 square feet of lot area) in order to provide an equal distribution of all 96 units over the entire site.
  - b. Section 12.11.5 C to permit the lot area used in calculating residential density on the proposed RAS4-1 zoned portion of the project fronting Melrose Avenue to include the area required for a 15 foot street dedication resulting in 62 units in lieu of 58 of units (or one unit per 376 square feet of lot area in lieu of the otherwise permitted one unit per 400 square feet of lot area).
- a. ***That the strict application of the provisions of the zoning ordinance would NOT result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.***

To permit 54 residential units on the R3-1XL zoned portion of the project fronting Camerford Avenue in lieu of the otherwise permitted 33 units

The applicant is requesting this variance to distribute the proposed 96 units evenly over the property including the 21 units that straddle over the alley since the split zoning on the property does not address the combination of residential densities for a unified residential development. According to the applicant, strict enforcement of the R3 residential density requirements would result in an unbalanced structure with nearly double the amount of density on one side versus the other. Without the requested lot area variance in the R3 zone, the development of the proposed 96 units would be distributed with 63 residential units on the Melrose Parcels and 33 units on the Camerford Parcels. With the requested lot area variance of one unit per 500 square feet of lot area in lieu of the required 800 square feet of lot area per dwelling unit in the R3 zone, the project would provide an even distribution of units over the entire Property.

This request is based on the premise that the RAS4 zone would be granted and 96 units would be allowed on the site. Instead an RAS3 zone has been recommended which would result in an even distribution of 33 units at 800 square feet of lot area per dwelling unit on each parcel. The two parcels are bifurcated by an alley, so that the R3 zoned parcels with 30-foot height limit could be buffered from the commercial developments on Melrose Avenue with unlimited height. A common ownership of two separate non-contiguous parcels with different zones does not confer any additional development rights. Each parcel should be developed based on the permitted uses. Therefore, the strict application of the provisions of the zoning ordinance would not result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations, since this is a self imposed hardship.

Lot Area in RAS4 zone

Land use entitlements for condominium subdivisions are determined on the basis of the area of a lot subsequent to highway dedication. LAMC Section 17.05G requires that the total number of units allowed in subdividing land and air to be calculated after the area for streets has been deducted from the total lot area. Thus, the resulting area is considered the net square footage of the condominium subdivision.

The Melrose parcels' existing gross lot area is 26,693 square feet. The required dedication of 15 feet on Melrose Avenue reduces the lot size by 3,115 square feet. The

Applicant requests to utilize the 3,115 square feet of lot area lost to street dedications when calculating the property's lot area for residential density purposes. The requested variance for calculating density based on the pre-dedication or gross square footage of the parcel would permit 33 units instead of 29 units based on 800 square foot per dwelling unit.

Since these regulations apply to all condominium subdivisions, the strict application of the zoning ordinance of not allowing the lot area to be calculated exclusive of dedications would not result in an unnecessary hardship inconsistent with the general purpose and intent of the zoning regulations.

- b. There are NO special circumstances applicable to the subject property such as size, topography, location or surroundings that do not apply to other properties in the same zone and vicinity.***

To permit 54 residential units on the R3-1XL zoned portion of the project fronting Camerford Avenue in lieu of the otherwise permitted 33 units

The two parcels are within two separate zones, although the density at 800 square feet of lot area per dwelling unit is the same based on the recommended RAS3 zone. The major difference is in the allowable FAR and height. The R3 zoned parcel allows a FAR of 3:1 while the C4 zoned parcel is restricted to a 1:1 FAR. Meanwhile, the C4 parcel allows unlimited height and the R3 parcel is limited to a 30 foot height. Further, an alley separates the two parcels. The applicant's request is based on an attempt to unify a development with dissimilar height, density and no common boundary. Since the RAS4 zone is not recommended, both parcels can be developed separately with an even number of units within the allowable density. Further, the proposed unified development would span two blocks with a depth of nearly 258 feet along El Centro Avenue, a Local Street, which would overwhelm the street and be out of character with other residential development in the area.

#### Lot Area in the RAS4 zone

There are no special circumstances applicable to the subject property such as size, topography, location or surroundings that do not apply to other properties in the same zone and vicinity. Any subdivision for condominium purposes would be required to dedicate land which cannot be included in the density calculation. The project is located in the flatlands and there is nothing unique about the site or location.

- c. The variance is NOT necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity, but which, because of such special circumstances and practical difficulties or unnecessary hardships, is denied to the property in question.***

To permit 54 residential units on the R3-1XL zoned portion of the project fronting Camerford Avenue in lieu of the otherwise permitted 33 units

There is no other property in the vicinity that seeks to develop or is developed in two different zones separated by an alley as a unified development at different allowable densities, height and FAR. The more appropriate procedure for such a request should have been accomplished through a General Plan Amendment and Zone Change rather than a Variance. The recommendation of an RAS3 zone allows both parcels to be developed as separate buildings at the same density without overwhelming the street.

Granting the requested residential density variance would allow the applicant to enjoy a substantial property right not possessed by other properties, based on hardships which are self imposed. As such, there are no special circumstances or practical difficulties which would prevent these two parcels from being developed at the allowable and recommended density of 800 square feet of lot area per dwelling unit which would be more in character with the surrounding neighborhood.

Lot Area in the RAS4 zone

Variance from the calculation of the lot area to include the required street dedication area is not necessary for the preservation and enjoyment of a substantial property right generally possessed by other properties in the vicinity. Other lots in the vicinity that propose to build condominiums will also be subject to the corner cut required with the dedication, as is required for the subject property. Thus, those other properties will also be subject to the same dedication requirements and would not be allowed to calculate the area for residential density. Therefore, there is no unnecessary hardship which is primarily self imposed.

- d. ***That the granting of such variance WILL be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.***

To permit 54 residential units on the R3-1XL zoned portion of the project fronting Camerford Avenue in lieu of the otherwise permitted 33 units

The request for an RAS4 zone and construction of 96 residential units straddling an alley across two zones would be materially detrimental to the immediate neighborhood and set a bad precedent for such out-of-scale developments. Melrose Avenue is a secondary highway with generally narrow sidewalks and small scale commercial uses developed on shallow lots similar to the subject property. Alleys divide the residential uses from the commercial uses on the street. If granted this variance, large-scale projects straddling public alleys may become the trend on the street and affect the visual character of the surrounding neighborhoods.

Lot Area in the RAS4 zone

Variance from the calculation of the lot area to include street dedications will be materially detrimental to the public welfare or injurious to the property in the vicinity. The general welfare of the community is not served by giving special privileges to this property when all other properties based on the Subdivision Map Act are required to provide this dedication and density calculated on the net square footage. The applicant could provide apartments instead of for-sale condominium units which would benefit only a handful of people.

- e. ***The granting of the variance WILL adversely affect the General Plan***

The Hollywood Community Plan is currently under revision with the Draft EIR due to be circulated in 2008. A preliminary recommendation is to upgrade the alleys. Planning Department staff is developing policy language to discourage alley vacation, so that the existing alleys are maintained and enhanced and used either for circulation purposes (vehicle access and/or bicycle and pedestrian mobility) or public space. The residentially zoned area between Gower, Vine, Melrose and Santa Monica which includes the subject alley is one of the design focus areas which were chosen because of this area's intact alley system. The intent is to encourage projects which feature

pedestrian-friendly design by providing vehicle access from the back alleys, thereby reducing the conflict between cars and pedestrians along the street frontages in this neighborhood.

While, the subject project is providing access for the Melrose parcels and public easement via the alley which will be widened to 20 feet, the vacation below a depth of 10 feet below the surface of the alley, as granted by related Vesting Tentative Tract Map No. 66997 is recommended for denial. Regardless of the Community Plan recommendations, having four stories straddling the alley for a depth of 200 feet is visually unappealing and creates a tunnel effect which is uncomfortable for use by both motorists and pedestrians, and should not be allowed.

While the Community Plan does not address the calculation of density based on net square footage, the Subdivision Map Act requirements have to be consistent with the General Plan. Allowing the dedicated area to be included in the calculation of density would be inconsistent with the subdivision requirements and by extension the General Plan.

Pursuant to Section 12.27 of the LAMC, the applicant has requested the following zone variances:

- c. Section 12.21.1 A1 to permit a maximum building height of 61'-1" in lieu of the maximum permitted height of 30 feet for the R3-1XL zoned portion of the project fronting Camerford Avenue.
- a. ***That the strict application of the provisions of the zoning ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.***

#### Height in the R3-1XL zone

The R3-1XL zone limits the height of all structures to two stories and 30 feet. The Hollywood Community Plan Update has preliminary recommendations for the Camerford parcels as part of the block for High Medium Residential with a corresponding zone of R4, and a Height District Change to 1VL with a height of 45 feet.

The recommendation in this instance is for no change to the R3 zone density. However, a height limit of 30 feet across an alley from commercial developments which have unlimited height maybe too restrictive, especially when there is no single family zones in the vicinity. A more appropriate transitional height for this block, south of Camerford Avenue would be 45 feet. With an allowable FAR of 3:1, a height limit of 30 feet and two stories in an R3 zone, unnecessarily restricts adequate housing to be built.

Approval of a height of 45 feet instead of the requested 61"-1" is consistent with the residential density permitted under the existing zoning R3 zone, and allows the property to be developed to a higher use while providing a more aesthetically proportional development. Thus, the project's recommended height variance rectifies the existing incompatibility between the permitted residential density and the LAMC height limitation.

- b. ***That there are special circumstances applicable to the subject property such as size, topography, location or surroundings that do not apply to other properties in the same zone and vicinity.***

Height in the R3-1XL zone

The Property's location is in a unique position at the northern terminus of Larchmont Boulevard at Melrose Avenue that provides the applicant an opportunity to create a symbolic development to signify the southern entry into the multi-family residential neighborhood to the north and the departure from the Larchmont Village area to the south. In order for the R3 zoned parcel to be a bridge between commercial and residential zones, the difference in height limitations must be balanced in order to create a more compatible development. A height of 45 feet instead of the existing 30 feet would be more compatible with the 45-foot high recommendation for the building on Melrose Avenue.

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

Height in the R3-1XL zone

The height variance is necessary for the preservation and enjoyment of a property right to develop the permitted number of residential units in the R3 zone at a 45-foot height which is a right possessed by most other properties in the same zone in the City. The property is located in an urban community adjacent to commercial uses on Melrose Avenue. A 30-foot height limit which allows only two stories in an area designated for multiple-family residential at the R3 density unnecessarily restricts the design of a building. The allowable 3:1 FAR in the R3 zone with such a height restriction prevents adequate housing to be produced. A 45-foot height would enable the project to utilize the land in the most efficient manner and to address the housing needs of the community.

- d. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.***

Height in the R3-1XL zone

Granting the requested height variance for the Project will not be materially detrimental to the public welfare and would benefit property and improvements in the vicinity, since it does not affect the density. Most of the multiple family housing in the area is older, and the subject project would benefit the older structures by triggering an increase in property values as a result of a new modern structure in the neighborhood.

As stated previously, the entire area is characterized by R3 residential or commercially zoned properties with unlimited height. Most R3 zoned properties within the city are allowed a 45-foot height. There are no single family dwellings or other sensitive uses that would be affected by a 15-foot height increase. In fact, single family dwellings are allowed a 33-foot height, and restricting an R3 zone to less than single family height is not meaningful for either buffering or creation of adequate housing. Therefore, allowing a 45-foot high building would allow the property to utilize a 3:1 FAR, and produce a better quality residential building.

- e. That the granting of the variance will not adversely affect any element of the General Plan.***

The General Plan will not be adversely affected by the granting of the variances. The Project promotes many of the goals and policies of the General Plan. The Framework Element of the General Plan contains a number of policies relating to the promotion of housing in the City's centers and along the transit corridors. The Land Use Chapter of the Framework Element also presents policies relating to the promotion of housing in the City.

*Objective 3.2 Provide for the spatial distribution of development that promotes an improved quality of life by facilitating a reduction of vehicular trips, vehicle miles traveled, and air pollution.*

*Objective 3.4: Encourage new multi-family residential, retail commercial, and office development in the City's neighborhood districts, community, regional, and downtown centers as well as along primary transit corridors/boulevards, while at the same time conserving existing neighborhoods and related districts.*

*Policy 3.4.1 Conserve existing stable residential neighborhoods and lower-intensity commercial districts and encourage the majority of new commercial and mixed-use (integrated commercial and residential) development to be located (a) in a network of neighborhood districts, community, regional, and downtown centers, (b) in proximity to rail and bus transit stations and corridors, and (c) along the City's major boulevards, referred to as districts, centers, and mixed-use boulevards.*

*Objective 3.7: Provide for the stability and enhancement of multi-family residential neighborhoods and allow for growth in areas where there is sufficient public infrastructure and services and the residents' quality of life can be maintained or improved.*

*Policy 3.7.4 Improve the quality of new multi-family dwelling units*

This Project promotes all of the above policies by providing a mixed-use multi-family residential and commercial retail development adjacent to the Melrose Avenue transit corridor. The Project promotes pedestrian activity to enhance neighborhood security with townhome entries on Camerford Avenue and promotes the commercial uses fronting on Melrose Avenue with commercial retail on the ground floor.

## **5. ADJUSTMENT FINDINGS**

LAMC Section 12.28 requires all of the following mandated findings to support the granting of an adjustment. The applicant has made the following requests:

a reduced rear yard of zero feet in lieu of the required 15 feet.

(a) to permit proposed RAS4-1 zoned portion of the project fronting Melrose Avenue to observe a reduced front yard of zero feet in lieu of the minimum required five feet, and (b) a reduced rear yard of zero feet in lieu of the required minimum 5 feet.

At its meeting on December 14, 2007, the City Planning Commission denied the R3-1XL zoned portion of the project fronting Camerford Avenue to observe a reduced front yard of 10 feet in lieu of the required 15 feet.

- a. That the granting of an adjustment will result in development compatible and consistent with the surrounding uses.**

The granting of the requested front and rear yard adjustments on the Melrose parcel and the rear yard adjustment on the Camerford Parcels will result in development compatible

and consistent with the surrounding uses in which the property is located. Even though the requested adjustment to the required setbacks was based on the requested unified project, they are still applicable to the recommended split project between the Melrose and Camerford sides of the property.

The RAS4 and RAS3 zones have similar required setbacks: 5-foot front and rear yards and 0-foot side yards. The R3 zone requires 15-foot front and rear yards and 5-foot side yards, except for buildings with more than two stories in height where one foot is added to the width of such side yard for each additional story.

As stated, the property is located in a community consisting of commercial uses and higher density multi-family housing. Consistent with the street, the project provides multi-family development with ground-floor retail space located on the commercial street-front of Melrose Avenue. The property lines of both the parcels abut open and dedicated public streets along three of its four sides, directly abutting another use only on the eastern side. The eight-foot side yard setbacks required by the LAMC in the R3 zone will be maintained along the eastern property line.

Commercial properties do not require front yard setbacks, and maintaining 15-foot rear yards along the alley serves no purpose either for buffering other uses or landscaping. The request respects the intent of the setback requirements set forth in the LAMC and thus, the granting of the yard adjustments will result in a development compatible and consistent with the surrounding uses

***b. That the granting of an adjustment will be in conformance with the intent and purpose of the General Plan of the City.***

The granting of the requested yard adjustments conform to the intent and purpose of the City's General Plan. Although the property is located in two zones with different yard requirements, the parcels will be developed as distinct projects based on the recommended denial of the variance to allow a unified development. The parcels will be developed based on the allowable Plan designations, except as modified herein. The Medium Residential designation on the Camerford Parcels permits R3 zone uses, and the Neighborhood Commercial designation of the Melrose Parcels permits RAS zone uses. The granting of the yard setback adjustments will not adversely affect the General Plan because the request would not change the bulk, density or intensity of the proposed structure in a manner inconsistent with the land use designations or goals set forth under the General Plan.

More specifically, granting the yard adjustments will conform to the intent and purpose of the General Plan as it pertains to the transportation and circulation needs of the City. The Applicant intends to fully comply with the Transportation Element of the General Plan by completing the required 15-foot right-of-way dedication along Melrose Avenue, which will allow for widening of the street and a turnout in front of the Project.

***c. That the granting of an adjustment is in conformance with the spirit and intent of the Planning and Zoning Code of the City.***

The granting of the requested yard adjustments is in conformance with the spirit and intent of the City's planning and zoning code in that the Zoning Code seeks to ensure adequate setbacks between uses for light, air and buffering. Yard setbacks are not required for projects in commercial zones, however, residential projects must comply with the RAS zones standards. The proposed mixed use project maintains a commercial ground floor on the Melrose Parcels and the requested setback would be

consistent with the existing Melrose Avenue ground floor street-fronts. Neither are front yard setbacks desirable on a commercial street since they break the continuity of the street walls which should be located close to the sidewalk to attract pedestrian activity. The project's residential floors will meet LAMC setback requirements.

The requested 0-foot rear yard setbacks along the abutting alley of the Camerford and Melrose Parcels are unnecessary. The existing 10-foot alley will be widened to 20 feet, and would provide an adequate buffer between the commercial and residential uses on the two parcels.

***d. That there are no adverse impacts from the proposed adjustment or any adverse impacts have been mitigated.***

There are no adverse impacts from the proposed yard adjustments. Parking for the project will be hidden from view inside the subterranean and ground levels of the structure, and driveway access for the Project is located along the western property line, where setbacks meet LAMC requirements. Elimination of the rear setbacks on the Camerford and Melrose Parcels will not adversely affect the surrounding properties or on the subject property where a 20-foot wide alley would separate and buffer residential uses from commercial uses.

Melrose Avenue, a four-lane public street, sufficiently separates the property from properties to the south. Other neighboring commercial uses along Melrose Avenue also do not observe front yard setbacks. The requested elimination of a front yard setback allows the Project to continue the pedestrian-friendly street frontage along Melrose Avenue that has become a popular shopping and entertainment destination. Thus, there will be no adverse impact from the proposed adjustment.

***e. That the site and/or existing improvements make strict adherence to zoning regulations impractical or infeasible.***

Strict application of the yard regulations is impractical and results in unnecessary hardships because the Project is a mixed-use development which is located on a commercial street. A street dedication of 15-feet reduces the size of the property. An additional 5-foot setback would break the continuity of commercial uses on the street and reduce the size of the lot to provide housing. The surrounding Melrose properties are commercially zoned which generally do not require front yard setbacks, and the project would retain that feature on the Melrose Parcels, despite the zone change to RAS. Rear yard setbacks abutting an alley also do not serve any meaningful purpose other than reducing the lot size which can be used for the provision of additional housing without affecting the allowable density.

***a. That the granting of an adjustment will NOT result in development compatible and consistent with the surrounding uses.***

The applicant has requested to allow the R3-1XL zoned portion of the project fronting Camerford Avenue to observe a reduced front yard of 10 feet in lieu of the minimum 15 feet required. The R3 zone requires 15-foot front and rear yard setbacks. The applicant has been granted a 0-foot rear yard, since it abuts an alley. However, granting of a 10-foot front yard would result in a development incompatible with other R3 zoned properties on the street and the neighborhood. The proposed project which consists of

33 residential condominium units is a residential use and setbacks are necessary to buffer the resident(s) from pedestrian and automobile traffic. In addition, without the setback, there is no room on-site for adequate landscape buffer, and the resulting 45-foot in height residential building may be out of character with other existing and future residential projects in maintaining an open space landscaped perimeter around the structure.

***b. That the granting of an adjustment will NOT be in conformance with the intent and purpose of the General Plan of the City.***

The General Plan designates the property for Medium density Residential with a corresponding zone of R3. The Hollywood Community Plan encourages the preservation and enhancement of well defined residential neighborhoods and standards which are in accord with the neighborhood character. Allowing the subject property a deviation from the front yard setback would be out of character with other properties in the neighborhood.

***c. That the granting of an adjustment is NOT in conformance with the spirit and intent of the Planning and Zoning Code of the City.***

The Zoning Code requires setbacks to ensure adequacy between uses for purposes of light, air and buffering. Setbacks for residential projects are also needed in order to offer separation between the dwelling unit(s) and the public right-of-way. A 15-foot front yard is required of all R3 zoned properties. The adjustment request is a result of self imposed project design and site layout and not a result of the setback regulations. The project site is flat and there are no constraints on-site which would not allow a project design to meet the R3 front yard setback regulations. The neighborhood is zoned with R3 properties and allowing this property to observe a reduced front yard setback would set an undesirable precedent.

***d. That there ARE adverse impacts from the proposed adjustment or any adverse impacts have NOT been mitigated.***

The subject property is located within a dense urban area which does not have adequate parks or open space. Within the subject Neighborhood Council District area consisting of approximately 40,000 residents there are only about 4 acres of parkland rather than the 150 acres based on a park standard of 4 acres per 1,000 residents. In most instances the front yard is the only space available for the residents' children to play. Granting an adjustment to allow a residential project with less setbacks along public streets can adversely impact the residents of the units, especially those on the ground level where there would be no buffer from the street and/or sidewalk traffic. A setback allows enough room for landscape buffering or a short wall that can serve to shield the residential occupants from public view (for privacy), buffer from noise, dirt and debris, and building vandalism (graffiti).

***e. That the site and/or existing improvements DO NOT make strict adherence to zoning regulations impractical or infeasible.***

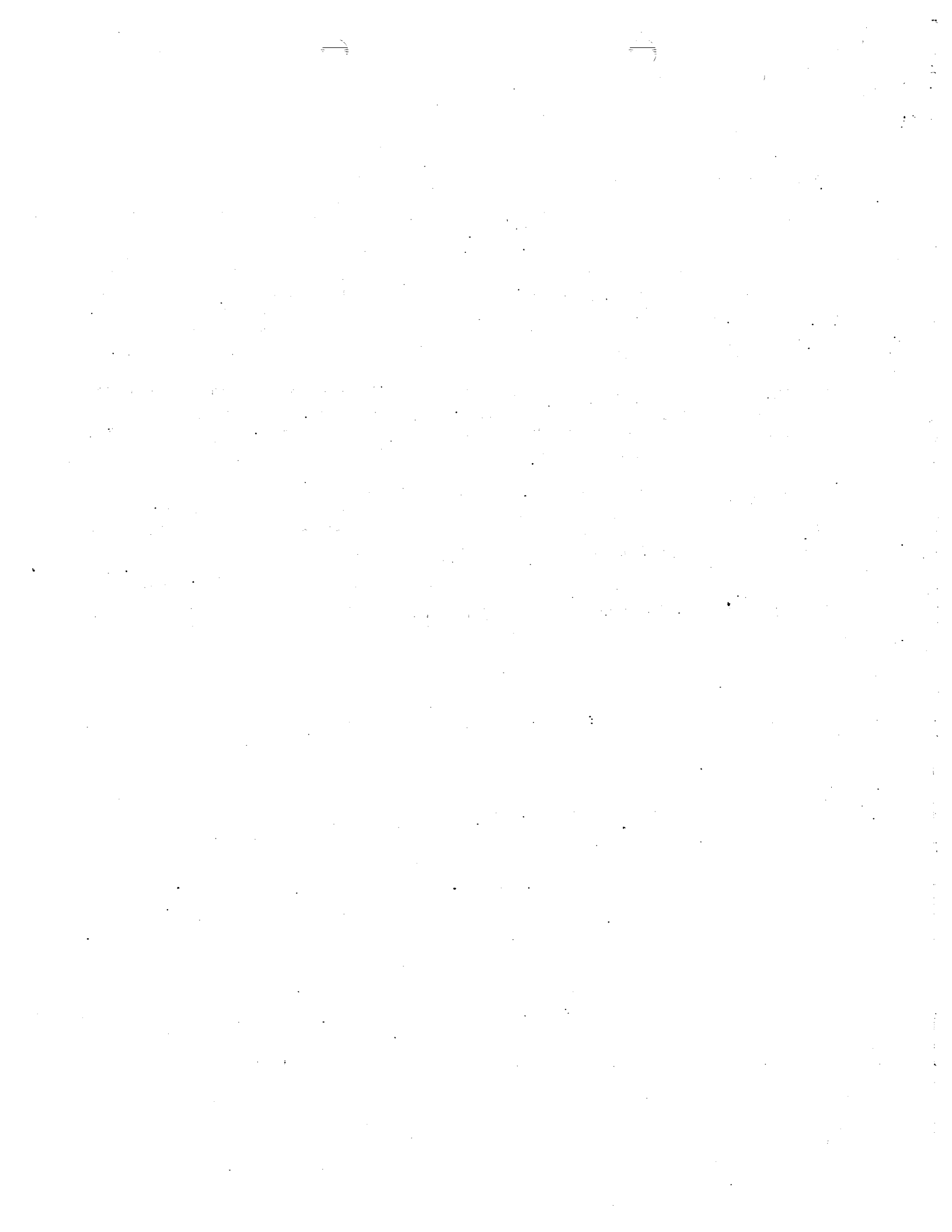
The subject site is a flat, rectangular shaped parcel where the proposed residential building is not the re-use of an existing building and can easily provide the 15-foot setback of the R3 Zone. All properties within the area are required to provide the front yard setback, and exempting this property from the zoning regulations would not result in a project which is impractical or infeasible to build.

## **6. Site Plan Review Determination.**

Pursuant to L.A.M.C. Section 16.05.G, the applicant requests Site Plan Review of the subject property.

The existing Site Plan is based on the requested RAS4 zone change request. A RAS3 zone is recommended with modifications which will require a revised site plan. Hence, a site plan review determination cannot be made, and it is recommended that the site plan be denied without prejudice. The applicant has to come back to the City Planning Commission with a revised Site Plan for approval.

7. The Transportation Element of the General Plan will be affected by the recommended action herein. However, any necessary dedication and/or improvement of adjoining streets will assure compliance with this Element of the General Plan and with the City's street improvement standards pursuant to Municipal Code Section 17.05.
8. The Sewerage Facilities Element of the General Plan will be affected by the recommended action. However, requirements for construction of sewer facilities to serve the subject project and complete the City sewer system for the health and safety of City inhabitants will assure compliance with the goals of this General Plan Element.
9. Environmental. For the reasons set forth in Proposed Mitigated Negative Declaration No. ENV 2006-6520-MND, the project will not have a significant effect on the environment.



## **CONDITIONS FOR EFFECTUATING (T) TENTATIVE CLASSIFICATION REMOVAL**

Pursuant to Section 12.32 G of the Municipal Code, the (T) or [T] Tentative Classification shall be removed by the recordation of a final parcel or tract map or by posting of guarantees through the B-permit process of the City Engineer to secure the following without expense to the City of Los Angeles, with copies of any approval or guarantees provided to the Department of City Planning for attachment to the subject planning case file.

Dedication(s) and Improvements. Prior to the issuance of any building permits, public improvements and dedications for streets and other rights-of-way adjoining the subject property shall be guaranteed to the satisfaction of the Bureau of Engineering, Department of Transportation, Fire Department (and other responsible City, regional, and Federal government agencies, as may be necessary).

### **1. Responsibilities/Guarantees.**

a. As part of early consultation, plan review, and/or project permit review, the applicant/developer shall contact the responsible agencies to ensure that any necessary dedications and improvements are specifically acknowledged by the applicant/developer.

b. Prior to issuance of sign-offs for final site plan approval and/or project permits by the Department of City Planning, the applicant/developer shall provide written verification to the Department of City Planning from the responsible agency acknowledging the agency's consultation with the applicant/developer. The required dedications and improvements may necessitate redesign of the project. Any changes to the project design required by a public agency shall be documented in writing and submitted for review by the Department of City Planning.

### **2. Transportation Dedications.** The applicant shall consult with the Bureau of Engineering and the Department of Transportation (DOT) for any dedications. These requirements must be guaranteed before the issuance of any building permit through the B-permit process of the Bureau of Engineering, department of Public Works. Any dedication must be completed prior to issuance of any Certificate of Occupancy to the satisfaction of the Bureau of Engineering.

At its meeting on December 13, 2007, the City Planning Commission recommended that the dedication area be improved with a 15-foot sidewalk.

The dedications and improvements shall include, but not be limited to, the following:

a. Melrose Avenue – Dedicate a 15-foot strip of land along Melrose Avenue adjoining the property to complete a 45-foot wide half right-of-way dedication in accordance with Secondary Highway Standards, including a 20-foot radius property line return at the intersection with El Centro Avenue. Improve Melrose Avenue being dedicated by a concrete curb, gutter and a 15-foot full-width concrete sidewalk with tree wells to the satisfaction of the City Engineer.

b. Alley – Dedicate a 5-foot wide strip of land above a depth of 10-feet below the finished elevation of the alley to complete a 20-foot wide alley.

3. **Street Lighting.** To the satisfaction of the Bureau of Street Lighting, if new street light(s) are required, the property within the boundary of the development shall be formed or annexed into a Street Lighting Maintenance Assessment District prior to final recordation or issuance of the Certificate of Occupancy.
4. **Street Trees.** If determined necessary, construct tree wells and plant street trees satisfactory to the City Engineer and the Urban Forestry (213) 847-0833 of the Bureau of Street Services.
5. **Sewers.** If determined necessary, construct sewers to the satisfaction of the City Engineer.
6. **Parking/Driveway Plan.** Submit a parking and driveway plan to the Bureau of Engineering and the Department of Transportation, Construction Services Counter (Station 23 at 201 North Figueroa Street, third floor), prior to the issuance of a building permit. A parking area and driveway plan may be submitted to the Department of Transportation for approval prior to submittal of building permit plans for plan check by the Department of Building and Safety. Final DOT approval should be accomplished by submitting detailed site/driveway plans at a scale of 1"=40' and proper documentation verifying the existing or previous use, square footage
  - a. A minimum of 40-foot reservoir space be provided between any security gates and the property line.
  - b. Parking stalls shall be designed so that a vehicle is not required to back out onto any public street or sidewalk.
7. **Cable Television.** The applicant shall make necessary arrangements with the appropriate cable television franchise holder to assure that cable television facilities will be installed in City rights-of-way in the same manner as is required of other facilities, pursuant to Municipal Code Section 17.05 N, to the satisfaction of the Department of Telecommunications.
8. **Prior to issuance of a clearance letter, all engineering fees pertaining to Ordinance 171,502 adopted by the City Council must be paid in full.**
9. **Fire Safety.** The requirements of the Fire Department relative to fire safety shall be incorporated into the building plans, which includes the submittal of a plot plan for approval by the Fire Department either prior to the issuance of any building permit. The plot plan shall include the following minimum design features:
  - a. Fire lanes, where required, shall be a minimum of 20-feet in width;
  - b. All structures shall be within 300-feet of an approved fire hydrant;
  - c. Entrances to any dwelling unit or guest room shall not be more than 150-feet in distance in horizontal travel from the edge of the roadway of an improved street or approved fire lane.
10. **Police.** The requirements of the Police Department relative to public safety and crime prevention shall be incorporated into the building plans, which includes the submittal of a plot plan for approval by the Police Department either prior to the issuance of any building permit.

11. **Recreation and Parks.** Per Section 12.33 of the Municipal Code, the applicant shall dedicate land for park or recreational purposes and/or pay the applicable Quimby fees for the construction of condominiums, or Recreation and Park fees for construction of apartment buildings.
12. **School District Fees.** The Project Applicant shall pay all applicable school fees to the Los Angeles Unified School District to offset the impact of additional student enrollment at schools serving the Project area.
13. **Covenant:** Prior to the issuance of any permits relative to this matter, an agreement concerning off the information contained in these conditions shall be recorded by the property owner in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent owners, heir, or assigns. Further, the agreement must be submitted to the Planning Department for approval before being recorded. After recordation, a Certified Copy bearing the Recorder's number and date must be given to the City Planning Department for attachment to the subject file.

**Notice:** Certificates of Occupancies for the subject property will not be issued by the City until the construction of all the public improvements (streets, sewers, storm drains, etc.), as required herein, are completed to the satisfaction of the City Engineer.

## (Q) QUALIFIED CONDITIONS OF APPROVAL

Pursuant to Section 12.32 G of the Municipal Code, the following limitations are hereby imposed upon the use of the subject property, subject to the "Q" Qualified classification.

### A. Entitlement Conditions

1. **Use.** The use and area regulations of the subject property, fronting on the north side of Melrose Avenue, southerly of the alley, shall be limited to the provisions of the RAS3-1 Zone, as defined in Section 12.11.5 of the LAMC, except at least 3,350 square feet of commercial uses shall be provided on the ground floor, and as varied herein, by the Variance, and the Adjustment pursuant to CPC 2006-6519-ZC-HD-ZV-ZAA-SPR.
2. **Height.** The height on the RAS3-1 zoned portion of the subject property shall be limited to 45 feet, as defined by Municipal Code Sections 12.03 and 12.21.1B 3. Any structures on the roof, such as air condition units and other equipment, shall be fully screened from view of any abutting properties.
3. **Floor Area Ratio (F.A.R.).** The total floor area of a structure or structures on the property shall not exceed three (3) times the buildable area of the lot.
4. **Density.** Not more than 29 dwelling units shall be constructed on the RAS3-1 portion of the subject property. A minimum of three dwelling units shall be designated as "Very low-income" residential units.
5. The project shall comply with the Guidelines for the Affordable Housing Incentives Program adopted by the City Planning Commission and with any monitoring requirements established by the LAHD. (HD) Covenant and Agreement (Affordable Housing). Prior to the issuance of any building permits, in accordance with the Section 12.22 A 25 (b) of the Municipal Code, the owner shall record a Covenant and Agreement satisfactory to the City of Los Angeles Housing Department or successor agency, to preserve the affordability of the three designated "**Very low-income**" residential units for a minimum of 30 years from issuance of a Certificate of Occupancy. A copy of the Covenant and Agreement shall be submitted to the Planning Department for inclusion into the subject file.
6. **Site Plan.** Prior to the issuance of building permits, revised, detailed development plans that show compliance with all conditions of approval, including complete landscape and irrigation plans, shall be submitted to the satisfaction of the Planning Department.
7. **Parking.** All project related parking shall be provided in compliance with Section 12.21.A.4 of the Municipal Code.
8. **Landscape Plan.** All open areas not used for buildings, driveways, parking areas, recreational facilities or walks shall be attractively landscaped and maintained in accordance with a landscape plan, including an automatic irrigation plan, prepared by a licensed landscape architect to the satisfaction of the Planning Department.
9. **Graffiti.** The owners shall maintain the subject property clean and free of debris and rubbish and to promptly remove any graffiti from the walls, pursuant to Municipal Code Sections 91.8101-F, 91.8904-1 and 91.1707-E. Exterior walls of new commercial and residential buildings of other than glass may be covered with clinging vines, screened by

oleander trees or similar vegetation capable of covering or screening entire walls up to heights of at least 9-feet, excluding windows and signs.

10. **Lighting.** Outdoor lighting shall be designed and installed with shielding, so that the light source cannot be seen from adjacent residential properties.
11. **Tree Removal (Protected Trees).** Prior to the issuance of a grading permit, the applicant shall submit a tree report and landscape plan prepared by a Municipal Code-designated oak tree expert as designated by LAMC Ordinance No. 153,478, for approval by the Department of City Planning and the Street Tree Division of the Bureau of Street Services. A minimum of two oak trees (a minimum of 48 inch box in size) shall be planted for each one that is removed. The canopy of the oak trees planted shall be in proportion to the canopies of the oak trees removed per Ordinance No. 153,478, and to the satisfaction of the Street Tree Division of the Bureau of Street Services and the Advisory Agency. (Note: All oak tree removals shall be approved by the Board of Public Works on sites more than one acre in size. Contact the Street Tree Division at 213-485-5675).
12. **Tree Removal (Non-Protected Trees).** Prior to the issuance of a grading permit or building permit, a plot plan prepared by a reputable tree expert, indicating the location, size, type, and condition of all existing trees on the site as well as measures to preserve as many trees as possible. The plot plan shall be submitted for approval by the Department of City Planning and Urban Forestry Division of the Bureau of Street Services. Mitigation measures such as replacement by a minimum of 24-inch box trees in a parkway and on the site on a 1:1 basis shall be required for the unavoidable loss of desirable trees. All trees in the public right-of-way shall be provided per the Urban Forestry Division standards. (Note: Removal of trees in the public right-of-way shall require approval of the Board of Public Works. Contact Urban Forestry Division at: 213-485-5675).
13. **Air Pollution (Stationary).** The applicant shall install air filters capable of achieving a Minimum Efficiency Rating Value (MERV) of at least 8 or better on all residential units and a Minimum Efficiency Rating Value (MERV) of at least 11 or better on all commercial/institutional uses in order to reduce the diminished air quality effects on occupants of the project.
14. **Construction (Air Quality).**
  - a. All unpaved demolition and construction areas shall be wetted at least twice daily during excavation and construction, and temporary dust covers shall be used to reduce dust emissions and meet SCAQMD District Rule 403.
  - b. The owner or contractor shall maintain the construction area sufficiently dampened to control dust caused by grading, construction and hauling, and at all times provide reasonable control of dust caused by wind.
  - c. All loads shall be secured by trimming, watering or other appropriate means to prevent spillage and dust.
  - d. All materials transported off-site shall be either sufficiently watered or securely covered to prevent the generation of excessive amounts of dust.
  - e. All clearing, grading, earth moving, or excavation activities shall be discontinued during periods of high winds (i.e., greater than 15 mph), so as to prevent the generation of excessive amounts of dust.

- f. General contractors shall maintain and operate construction equipment so as to minimize exhaust emissions.
15. Construction (Noise). The project shall comply with the City of Los Angeles Noise Ordinance Nos. 144,331 and 161,574, and any subsequent ordinances, which prohibit the emission or creation of noise beyond certain levels at adjacent uses unless technically infeasible.
- a. Construction shall be restricted to the hours of 7:00 AM to 6:00 PM Monday through Friday, and 8:00 AM to 6:00 PM on Saturday.
  - b. Construction activities shall be scheduled so as to avoid operating several pieces of equipment simultaneously that causes high noise levels.
  - c. The project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices.
  - d. The project sponsor shall comply with the Noise Insulation Standards of Title 24 of the California Code Regulations, to insure an acceptable interior noise environment.
16. Construction (Grading). Grading, excavations and fills shall comply with Chapter IX, Division 70 of the Municipal Code. All grading activities required shall receive grading permits from the Department of Building and Safety. Additional provisions are required for grading activities within a hillside area. The application of Best Management Practices shall include but not be limited to the following measures:
- a. Excavation and grading activities shall be scheduled during dry weather periods. If grading occurs during the rainy season (October 15 through April 1), construct diversion dikes to channel runoff around the site. Line channels with grass or roughened pavement to reduce runoff velocity.
  - b. Appropriate erosion control and drainage devices shall be incorporated to the satisfaction of the Building and Safety Department, such as interceptor terraces, berms, vee-channels, and inlet and outlet structures, as specified by Section 91.7013 of the Building Code, including planting fast-growing annual and perennial grasses in areas where construction is not immediately planned. Install roof runoff systems where site is suitable for installation. Runoff from rooftops is relatively clean, and can provide groundwater recharge and reduce excess runoff into storm drains.
  - c. Stockpiles and excavated soil shall be covered with secured tarps or plastic sheeting.
17. General Construction.
- a. All waste shall be disposed of properly. Use appropriately labeled recycling bins to recycle construction materials, including solvents, water-based paints, vehicle fluids, broken asphalt and concrete, wood, and vegetation. Non recyclable materials and wastes shall be removed to an appropriate landfill. Toxic wastes shall be discarded at a licensed regulated disposal site.

- b. Clean up leaks, drips and spills immediately to prevent contaminated soil on paved surfaces that can be washed away into the storm drains.
- c. Do not hose down pavement at material spills. Use dry cleanup methods whenever possible.
- d. Cover and maintain dumpsters. Place uncovered dumpsters under a roof or cover with tarps or plastic sheeting.
- e. Use gravel approaches where truck traffic is frequent to reduce soil compaction and limit the tracking of sediment into streets.
- f. Conduct all vehicle/equipment maintenance, repair, and washing away from storm drains. All major repairs are to be conducted off-site. Use drip pans or drop clothes to catch drips and spills.

#### 18. Methane Gas Explosion/Release

- a. All commercial, industrial, and institutional buildings shall be provided with an approved Methane Control System, which shall include a vent system and gas-detection system installed in the basements or the lowest floor level on grade, and within underfloor space of buildings with raised foundations. The gas-detection system shall be designed to automatically activate the vent system when an action level equal to 25% of the Lower Explosive Limit (LEL) methane concentration is detected within those areas.
- b. All commercial, industrial, institutional and multiple residential buildings covering over 50,000 square feet of lot area or with more than one level of basement shall be independently analyzed by a qualified engineer, as defined in Section 91.7102 of the Municipal Code. The engineer shall investigate and recommend mitigation measures which will prevent or retard potential methane gas seepage into the building. In addition to the other items listed in this section, the owner shall implement the engineer's design recommendations subject to approval by the Department of Building and Safety and Fire Department.
- c. All multiple unit residential buildings shall have adequate ventilation, as defined in Section 91.7102 of the Municipal Code, of a gas-detection system installed in the basement or on the lowest floor level on grade, and within the underfloor space in buildings with raised foundations.

19. **Asbestos Containing Materials.** Prior to the issuance of the demolition permit, the applicant shall provide a letter to the Department of Building and Safety from a qualified asbestos abatement consultant that no asbestos containing materials are present in the building. If asbestos containing materials are found to be present, it will need to be abated in compliance with the South Coast Air Quality Management District's Rule 1403 as well as all other state and federal rules and regulations.

20. **Hazards and Hazardous Materials (Lead).** Prior to the issuance of the demolition permit, the applicant shall perform a lead-based paint survey to the satisfaction of the Department of Building and Safety. Should lead based paint materials be identified, standard handling and disposal practices shall be implemented pursuant to OSHA regulations.

Liquefaction. A geotechnical report shall be prepared by a registered civil engineer or certified engineering geologist in compliance with the Uniform Building Code Chapter 18. Division 1 Section 1804.5 Liquefaction Potential and Soil Strength Loss. The geotechnical report shall assess potential consequences of any liquefaction and soil strength loss, estimation of settlement, lateral movement or reduction in foundation soil-bearing capacity, and discuss mitigation measures that consider building design. Building design mitigation measures should consider, but not be limited to: ground stabilization, foundation type and depths, and structural systems to accommodate anticipated displacements.

21. Stormwater and Urban Runoff Pollution Control. The project shall comply with the following:
- a. Ordinance Nos. 172,176 and 173,494 (Stormwater and Urban Runoff Pollution Control), which require the application of Best Management Practices (BMPs).
  - b. Chapter IX, Division 70 of the Municipal Code, which addresses grading, excavations, and fills.
  - c. The Standard Urban Stormwater Mitigation Plan (SUSMP) approved by the Los Angeles Regional Water Quality Control Board (A copy of the SUSMP can be downloaded at <http://www.swrcb.ca.gov/rwqcb4/>).
  - d. Applicable requirements associated with the National Pollutant Discharge Elimination System Permit regulations. The developer shall file a Notice of Intent (NOI) with the State Water Resources Control Board prior to the issuance of any building or grading permits. A General Permit for Stormwater Discharge shall be obtained from the Southern California Regional Water Quality Board in accordance with NOI instructions.
  - e. Stormwater BMPs shall be incorporated to retain or treat the runoff from a storm event producing 3/4 inch of rainfall in a 24 hour period. The design of structural BMPs shall be in accordance with the Development Best Management Practices Handbook Part B Planning Activities. A signed certificate shall be required from a California licensed civil engineer or licensed architect that the proposed BMPs comply with this numerical threshold standard.
  - f. A Stormwater Pollution Prevention Plan shall be prepared by a California licensed civil engineer or licensed architect, to the satisfaction of the Stormwater Management Division of the Bureau of Sanitation that shall include the following:
    - 1) Identifies the sources of sediments and other pollutants that affect the quality of storm water discharge;
    - 2) A monitoring program and reporting plan for the construction period.The Stormwater Pollution Prevention Plan shall be retained at the construction site.
  - g. Appropriate erosion control and drainage devices shall be incorporated, such as interceptor terraces, berms, vee-channels, and inlet and outlet structures, as specified by Section 91.7013 of the Building Code.

- h. Any connection to the sanitary sewer shall be required to receive authorization by the Bureau of Sanitation.
- i. All storm drain inlets and catch basins within the project area shall be stenciled with prohibitive language (such as ANO DUMPING - DRAINS TO OCEAN) and/or graphical icons to discourage illegal dumping.
- j. The owner shall record a covenant and agreement satisfactory to the Planning Department binding the owners to post construction maintenance on the structural BMPs in accordance with the Standard Urban Stormwater Mitigation Plan and/or per manufacturer=s instructions.
- k. Design an efficient irrigation system to minimize runoff including: (1) drip irrigation for shrubs to limit excessive spray; (2) shutoff devices to prevent irrigation after significant precipitation; and (3) flow reducers.

22. **Parking Structure Ramps.** Concrete, not metal, shall be used for construction of parking ramps. The interior ramps shall be textured to prevent tire squeal at turning areas. Parking lots located adjacent to residential buildings shall have a solid decorative wall adjacent to the residential.

23. **Noise (Residential).**

- a. All exterior windows shall be constructed with double-pane glass and use exterior wall construction which provides a Sound Transmission Class of 50 or greater as defined in UBC No. 35-1, 1979 edition or any amendment thereto.
- b. The applicant, as an alternative, may retain an acoustical engineer to submit evidence, along with the application for a building permit, any alternative means of sound insulation sufficient to mitigate interior noise levels below a CNEL of 45 dBA in any habitable room.

24. **Solid Waste.** The developer shall institute a recycling program to the satisfaction of the Planning Department to reduce the volume of solid waste going to landfills. Recycling bins shall be provided at appropriate locations to promote recycling of paper, metal, glass, and other recyclable material. These bins shall be picked up no less than once a week as a part of the project's regular trash pick-up program.

25. **Haul Routes.** Project shall get approval of a haul route from the Department of Building and Safety. The applicant shall install appropriate traffic signs around the site to ensure pedestrian and vehicle safety. Fences shall be constructed around the site to minimize trespassing, vandalism, short-cut attractions and attractive nuisances.

**C. Other Conditions**

26. **Posting of Construction Activities.** The adjacent residents shall be given regular notification of major construction activities and their duration. A visible and readable sign (at a distance of 50 feet) shall be posted on the construction site identifying a telephone number for inquiring about the construction process and to register complaints.

27. **Construction-related Parking.** Off-street parking shall be provided for all construction-related parking generated by employees of the proposed project. No employees or subcontractor shall be allowed to park on the surrounding residential streets for the

duration of all construction activities. There shall be no staging or parking of construction vehicles, including vehicles to transport workers on any residential street in the immediate area. All construction vehicles shall be stored on site unless returned to their owner's base of operations.

28. **Truck Traffic Restricted Hours.** Truck traffic directed to the project site for the purpose of delivering materials or construction-machinery shall be limited to the hours beginning at 9:00 AM and ending at 3:00 PM, Monday through Friday. No truck deliveries shall occur outside of that time period.
29. **Maintenance.** The subject property (including any trash storage areas, associated parking facilities, sidewalks, driveways, yard areas, parkways and exterior walls along the property lines) shall be maintained in an attractive condition and shall be kept free of trash and debris.
30. **Dust Walls.** Temporary dust walls (e.g., Visqueen plastic screening or other suitable product) not less than 8 feet in height shall be installed and maintained along the property line as necessary to preclude dust dispersion from the project site to adjacent properties. The walls shall be in place during any time period when grading is being conducted within 100 feet of any occupied residence on adjoining lots.

#### **D. Administrative Conditions**

31. **Approval, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, review or approval, plans, etc., as may be required by the subject conditions, shall be provided to the Department of City Planning for placement in the subject file.
32. **Code Compliance.** Area, height and use regulations of the zone classification of the subject property shall be complied with, except where herein conditions may vary.
33. **Covenant.** Prior to the issuance of any permits relative to this matter, an agreement concerning all the information contained in these conditions shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent property owners, heirs or assigns. The agreement shall be submitted to the Department of City Planning for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Department of City Planning for attachment to the file.
34. **Definition.** Any agencies, public officials or legislation referenced in these conditions shall mean those agencies, public offices, legislation or their successors, designees or amendment to any legislation.
35. **Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning and any designated agency, or the agency's successor and in accordance with any stated laws or regulations, or any amendments thereto.
36. **Building Plans.** Page 1 of the grant and all the conditions of approval shall be printed on the building plans submitted to the Department of City Planning and the Department of Building and Safety.
37. **Utilization of Concurrent Entitlement.** The subject Zone Change, Zone Variance, Adjustment and Site Plan Review require completion of all applicable conditions of

approval herein to the satisfaction of the Department of City Planning. The applicant/owner shall have a period of six years from the effective date of the subject Zone Change approval to effectuate the terms of the Zone Change; a period of two years from the effective date of the subject approvals to effectuate the terms of the Zone Variance and Adjustment entitlements by either securing a building permit or a Certificate of Occupancy for the authorized use, or unless prior to the expiration of the time period to utilize the grant, the applicant files a written request, and is granted an extension to the termination period for up to one additional year pursuant to applicable provisions of the Municipal Code.

Thereafter, these enumerated entitlements shall be deemed terminated and the property owner shall be required to secure a new authorization for the use. If a building permit is obtained during this period, but subsequently expires, this determination shall expire with the building permit.

38. **Corrective Conditions.** The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the City Planning Commission, or the Director of Planning, pursuant to Section 12.27.1 of the Municipal Code, to impose additional corrective conditions, if in the decision makers opinion, such actions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
39. **Idemnification.** The applicant shall defend, idemnify and hold harmless the City, its agents, officers, or employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this approval which action is brought within the applicable limitation period. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim, action, or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, idemnify, or hold harmless the City.

### **ZONE VARIANCE AND ADJUSTMENT CONDITIONS OF APPROVAL**

1. **Entitlement:** The use and development of the property shall be in substantial conformance with the plot plan which shall be submitted, stamped and dated by Planning Department staff, and attached to the subject Case file, CPC 2006-6519-ZC-HD-ZV-ZAA-SPR. The Site Plan shall be presented and approved by the City Planning Commission.
2. The R3-1XL zoned portion of the site fronting Camerford Avenue shall be allowed to observe a reduced rear yard of zero feet in lieu of the minimum 15 feet required.
3. The RAS3-1 zoned portion of the project fronting Melrose Avenue shall be allowed to observe (a) a reduced front yard of zero feet in lieu of the minimum required five feet, and (b) a reduced rear yard of zero feet in lieu of the required minimum five feet.