

Fix The City

Via Email: Herb.Wesson@lacity.org

Via Email: Holly.Wolcott@lacity.org

May 12, 2015

The Honorable Herb Wesson, President
Los Angeles City Council
200 N. Spring Street
Los Angeles, CA 90012

RE: **Case No. CPC-2006-8689-GPA-ZC-HD-CU-ZAA-SPR, ENV-2006-7211-MND (Catalina Apartments, Koreatown), Colony Holdings, LLC, Applicant.**

Dear Councilmember Wesson and Members of the Los Angeles City Council:

Fix the City is a nonprofit organization that focuses on citywide infrastructure issues, environmental compliance, ethics enforcement and governmental accountability. Fix The City provided the analysis that uncovered substandard LAFD response times in 2012 and was successful in its opposition to the flawed Hollywood Community Plan Update.

The proposed 27 story building would include 269 residential units and incidental retail.

Based on the record, it appears that the actions of the Mayor, PLUM Committee and the City Council lack legal authority to approve a project that was unanimously denied by the City Planning Commission in the absence of a Charter Section 245 action within ten days or an appeal by the applicant by February 5, 2015. Neither has occurred, as evidenced by the checked box "No Appeal" on the Planning Department Transmittal to Council form dated March 16, 2015. This is a different project from CF 09-3072, which was also rejected by the Planning Commission.

Neither a 245 by the Council nor a timely appeal for CF 15-0405 by the applicant is included in the Council File. In this instance, the Council has no jurisdiction given the passage of time from the Commission's vote on December 11, 2014 and the Determination Letter of January 16, 2015.

The Mayor's transmittal to Council recommending the project overstepped his authority which is limited to recommending a General Plan Amendment to the Council. He lacks authority to recommend a Zone Change or Height District Change or MND approval. The Mayor conflated a General Plan approval with certification of an MND.

The record on the Council website shows a 2015 PLUM hearing based on a 2009 appeal of the earlier Planning Commission's rejection (Mayor Villaraigosa concurred with the Planning Commission's denial of all requests). There is no 2015 appeal on which the City Council can act.

The City Council will violate the City Charter if it approves this project as well as violate CEQA based on a mere MND for a massive project that violates both the Wilshire Community Plan and the General Plan

Framework. If the City Council fails to follow the City Charter and CEQA, it will face yet another challenge in court.

Chronology

- A revised MND was issued on October 10, 2014. There is no evidence that data were updated to include a relevant baseline at least with regard to fire and water.
- The project, its MND, and Site Plan Review were all denied by the City Planning Commission 8-0 on December 11, 2014.
- The Planning Commission Determination Letter was mailed January 16, 2015.
- The appeal period closed on February 5, 2015.
- No appeal was filed by the applicant according to the Transmittal to Council form dated March 16, 2015. An appeal is required for the Zone Change and Height District Change.
- In the absence of a timely appeal, the Council has no authority to approve the requests.
- The Mayor may act in a manner consistent with LAMC 11.5.6 with regard to the General Plan Amendment, but not with regard to the other discretionary approvals.
- The City Council could have overruled the Planning Commission if it exercised Charter Section 245 within ten days of the Planning Commission's vote. It did not.

A Full EIR is required for this Project.

A project of this scale, rejected unanimously by the City Planning Commission, and reviewed only by an MND, has significant, unanalyzed environmental impacts on the area and violates the Wilshire Community Plan and the General Plan Framework. A full EIR is required. The MND fails to address public safety and major environmental impacts and is materially deficient and inadequate for at least the following reasons:

- The MND fails to address LAFD Fire/EMS response times. Specifically, the MND references the now discredited Deployment Plan. The acknowledged metric is NFPA 1710 (arrival within 5 minutes 90% of the time). Each of the stations serving the project fall well below this metric. [Audio Link: http://www.fixthecity.org/Audio/12-4-12_COUNCIL_MEETING_ON_LAFD_RESPONSE_TIMES.mp3] (“averaging has a tendency to hide outliers which is why the LAFD uses the 90% figure”)
- The MND relies on discredited and disclaimed LAFD data. (See page 33 of the Initial Study/Checklist) Raw data: <https://data.lacity.org/A-Safe-City/fire/vhav-64ag>
- The MND uses outdated crime/policing data that does not take into account violent crime increases in the project area. See <http://www.latimes.com/local/lanow/la-me-ln-violent-crime-los-angeles-20150324-story.html>
- The MND relies on outdated water availability data from the Metropolitan Water District – the 2010 UWMP. (see page 37 of the Initial Study/Checklist) Specifically, the MND fails to include updated and material changes to the water supply including proclamations by the Governor and the State Water Board. Note that the Initial Study indicates water usage of 76,455 additional gallons per day. See links:

- http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/emergency_regulations_waterconservation.shtml
 - <http://www.latimes.com/local/lanow/la-me-ln-water-regulations-20150504-story.html#page=1>
 - http://www.waterboards.ca.gov/board_info/agendas/2015/may/050515_agenda_links.pdf
- Water assumptions made by the MND are in doubt and cannot be relied upon due to the finding by the 4th District Court of Appeals Circuit concerning tiered water rates [Capistrano Taxpayers Association, Inc., plaintiff and respondent, v. City of San Juan Capistrano] <http://www.courts.ca.gov/opinions/documents/G048969.PDF>
 - The MND is inconsistent with General Plan Framework Policy 3.3.2 as interpreted by the court in *Fix the City, et. al. v. City of Los Angeles* (Hollywood Community Plan, 2014) (Defining the Framework Element Policy of “limiting development when capacity becomes threatened.”) and by the City in its GPF MND and subsequent litigation (“*The policy requires that type, amount, and location of development be correlated with the provision of adequate supporting infrastructure and services.*”) As evidenced by the cited response time data and drought data, capacity is threatened.
 - In *Burton Way Foundation v. City of Los Angeles* (2007, Case BS 104256 related to BS 104217), the court ordered a full EIR for the Beverly Connection project that had been approved by the Planning Commission and City Council: “A public agency must prepare an EIR whenever substantial evidence supports a “fair argument” that a proposed project “may have a significant effect on the environment. Pub. Res. Code §§ 21100, 21151, 14 CCR §§ 15002(f)(1), (f)(2); *No Oil Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68, 75. The fair argument test is a “low threshold” test for requiring the preparation of an EIR.” We are providing substantial evidence of significant project impacts and significant public service and public utility infrastructure inadequacies requiring a full EIR. Likewise, *Pocket Protectors v. City of Sacramento* (2004), Cal Ap. 3 Div. [C046247], rejected an MND for a project that had been rejected by the City Planning Commission. Finally, *Mejia v. City of Los Angeles* (2005) [B174453], the court ordered a full EIR.
 - Policy 3.3.2 and the General Plan Framework cannot simply be ignored or dismissed. To the contrary, the court has ruled on the Policy’s meaning as has the City in *Federation of Hillside and Canyons v. City of Los Angeles* [B126659]. <http://resources.ca.gov/ceqa/cases/2000/Hillside-2000.html> The City cannot certify the MND using findings or analysis that have been rejected by the court and/or are inconsistent with arguments made by the City in its arguments to the court.
 - The MND incorrectly indicates no aesthetic impacts despite no other building in the area being over five stories.
 - The MND inadequately analyzes air quality. Given the project will be across the street from a school, the impact needs to be thoroughly studied.
 - The MND indicates the project will generate 3,757 metric tons of CO₂E per year. Given the project’s proximity to a school, the impact needs to be thoroughly studied in a full EIR.

- The MND indicates less than significant impact on land use and planning. As the project is inconsistent with the General Plan Framework and Wilshire Community Plan(see above), this conclusion cannot be supported.
- The MND does not study the cumulative impacts of the proposed General Plan Amendment and zone/height changes including growth inducing impacts which would result.

We include by reference the documents listed on the websites listed above and linked in the documents provided above. We request that each linked document be included in the administrative record for this project.

We encourage the City to reject the MND as presented for at least the reasons provided above, correct the deficiencies and recirculate a full EIR.

Sincerely,

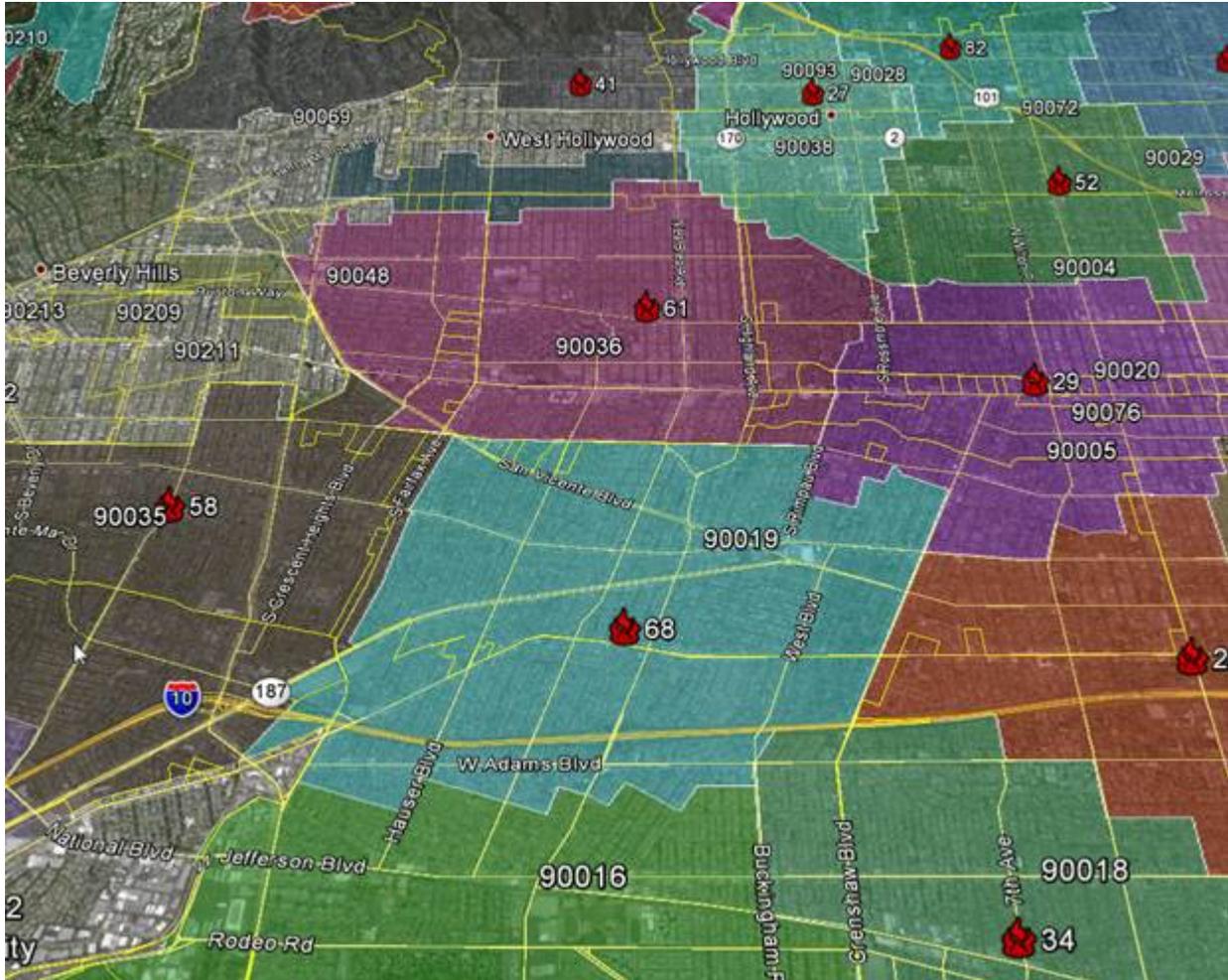
James O'Sullivan

Board Member

LAFD Stations/First In Data

<https://data.lacity.org/A-Safe-City/Fire-Stations/sfzi-8n8k>

<https://data.lacity.org/A-Safe-City/Fire-Station-with-First-In-Districts/jkay-42jd>



LAFD NFPA Response Metrics

FTC analysis of raw data through Q1/2014 from the City of LA control panel.

Raw data: <https://data.lacity.org/A-Safe-City/fire/vhav-64ag>

All Stations

<u>First In</u>	<u>NFPA 1710</u>
1	51.80%
2	67.02%
3	66.39%
4	60.99%
5	39.34%
6	73.73%
7	58.57%
8	39.26%
9	78.75%
10	69.56%
11	83.23%
12	70.26%
13	73.04%
14	81.32%
15	72.21%
16	41.03%
17	66.36%
18	47.13%
19	37.49%
20	66.67%
21	68.55%
23	45.01%
24	47.23%
25	54.64%
26	66.24%
27	62.58%
28	49.05%
29	66.76%
33	61.64%
34	53.29%
35	73.82%
36	57.72%
37	53.50%
38	67.34%
39	60.14%
40	38.11%
41	53.01%
42	67.67%
43	66.67%
44	51.53%
46	59.36%

47	55.96%
48	71.52%
49	42.89%
50	53.64%
51	36.50%
52	67.64%
55	64.34%
56	46.49%
57	56.90%
58	49.91%
59	56.04%
60	62.10%
61	52.37%
62	48.58%
63	49.28%
64	60.47%
65	50.91%
66	50.67%
67	41.13%
68	57.80%
69	37.71%
70	53.79%
71	45.35%
72	60.54%
73	66.36%
74	53.62%
75	56.40%
76	41.26%
77	38.54%
78	51.53%
79	29.74%
81	48.16%
82	69.86%
83	45.41%
84	47.39%
85	56.51%
86	70.65%
87	63.94%
88	55.56%
89	46.86%
90	41.44%
91	40.23%
92	49.48%
93	64.14%
94	59.35%
95	61.17%
96	43.36%
97	35.02%
98	50.42%
99	40.67%

100	60.34%
101	61.04%
102	57.58%
103	61.99%
104	72.88%
105	49.66%
106	58.69%
107	73.98%
108	17.46%
109	15.81%
112	81.28%
Grand Total	58.69%