SUPPLEMENTAL & REVISED UPDATED PAPERS INCLUDING REFERENCES TO THE AUDIO OF HEARING:
RE APPEAL BY MANNERS FROM: (1) CPC2013 2551 MCUP DB SPR & (2) VTT72370CN 1A 22

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=1. City Council Los Angeles (Governing Body of the City of Los Angeles) empowered to hear appeals

=2. Hn. Jose Huisar Chair
City Council Planning and Land Use Committee (PLUM) as
RECOMMENDATION ONLY

RE: APPEAL TO CITY COUNCIL OF LOS ANGELES RE 8150 Sunset Blvd. (short term "8150") Hearing 7-28-16 Planning Commission RE VTT72370CN 1A

Vesting Tract MapNo: VTT 72370-CN 1a;
Related: CPC-2013-2551-MCUP-DB-SPR;
CEQA: ENV-2013-2552-EIR, SCH No. 2013091044
ADDRESSES:
8148-8182 West Sunset Blvd., Los Angeles
1438-1486 N. Havenhurst Drive, Los Angeles
1435-1443 N. Crescent Heights Blvd., Los Angeles

APPELLANT: SUSANNE MANNERS OWNER OF 1477-79 HAVENHURST DRIVE LOS ANGELES AN 8 UNIT APARTMENT BUILDING SITUATED DIRECTLY ACROSS THE STREET FROM THE 8150 MONSTROSITY PROJECT AND MOST NEGATIVELY AFFECTED PROPERTY

=APPEAL FROM THE VTT AND CPC2013-2551-MCUP DB SPR COMMENCES.

=SECTION 1 OF THESE PAPERS DEAL WITH THE VTT AND SECTION 2 TO THE EXTENT APPLICABLE

=SECTION 2 OF THESE PAPERS DEAL WITH THE CPC OF THE CPC APPEAL

The approval of the VTT is illegal for many reasons and the approval of the FAR 3-1 Density is also illegal. The following papers supersede the points and arguments in support of the appeal, and restate them and add and supplement them and are filed in support of the Appeal to the VTT and the Density FAR 3-1. . Appellant relies on same exhibits attached to the Appeal plus three new exhibits 8B-8C and 16.

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SECTION 1 RE VTT AND TO THE EXTENT APPLICABLE THE CPC

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PART 1A:

OBJECTION TO PLUM COMMITTEE HEARING APPEAL WITHOUT CITY COUNCIL H EARING SAME APPEAL. THE PLUM COMMITTEE LACKS POWER TO HEAR ANYTHING. THE CITY COUNCIL MUST HEAR THE SAME APPEAL WITH THE PLUM. IF NOT THE CITY PROCESS IS ILLEGAL AS AN IMPROPER DELEGATION OF DUTY TO NON COUNCIL MEMBERS.

Apparently, the City LA has established a Planned and Land Use Management Committee called PLUM which hears matters. The appeals are now set for 10-25 before the PLUM (**Exhibit 8B**) NOT BEFORE THE CITY COUNCIL== WHICH **IS ILLEGAL**. The appeal filed to the City Council from the recommenddation by the Planning Commission ("LAPC") IS TO THE CITY COUNCIL. It can be also heard by the PLUM at the same time as the City Council, but the City Council must also hear the same appeal. The City LA can have any Committee it wants to make recommendations but it may not delegate appeal power to a PLUM Committee and it may not avoid its appeal duty to hear the appeals. The PLUM Committee may be present and hear the appeal at the same time as the City Council, but it may not hear the appeal without the City Council present as the appeal body. (**Kleist v. City of Glendale** (1976) 56 Cal. App. 3d 770, 778-779); CEQA 15025, 15090 (EIR)). It can hear the matter and make recommendation just like the mickey mouse LAPC but the City

Council must hold its own appeal public hearing. If the City wants to do it twice, it can do so, or it can have a joint hearing, but the PLUM cannot hear it without the City Council.

Section 15090 provides:

"After completing the Final EIR, and before approving the project, the lead agency must make the following three certifications, as required by Section 15090 of the CEQA Guidelines:
1. The Final EIR has been completed in compliance with CEQA;
2. The Final EIR was presented to the **decision-making body of the lead agency,** and that the **decision-making body reviewed and considered** the information in the Final EIR prior to approving the project; and
3. The Final EIR reflects **the lead agency's independent judgment and analysis**."
(Emp. Added)

Here, the City Council must hold a hearing and consider the appeals, with or without the PLUM Committee in attendance, but must exercise independent judgment and review. The PLUM can make a recommendation to the City Council with a separate hearing or a joint hearing, but the City Council cannot vote without a hearing by the City Council on appeals.

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PART 1B:

REQUEST FOR CONTINUANCE OF HEARING UNTIL AFTER APPROVAL OF LYTTON AS HISTORICAL MONUMENT

On September 15, the Los Angeles Historical Cultural Heritage Commission Voted to recommend the Lytton Building as a historical monument. (Exhibit 1F & 1G2) on 9-15-16. The Planning Commission knew that this was going to happen since it is a no brainer decision and instead of taking other action, as part of the conspiracy, the LAPC rushed the

approval of the Project to take place before the hearing by the Historical Commission. The PLUM hearing is set for 10-25. As one can see from **Exhibit 1F &1G2**, the Lytton Building (Chase) takes up a big portion of the area (See white building to left side).

As such, the vesting of historical monument status on the Lytton kills the currently approved project **as a matter of law.** As discussed infra, the Alternative 5 /6 did discuss keeping the Lytton Building but reducing the size of the Monstrosity from 65,000 to 62,500. The PC was so biased that they refused to do so even though they were required by CEQA alternatives law to do so. See discussion infra x.

The City of WEHO and other appellants asked the PC to hold off action until after the Cultural Heritage Commission voted. The PC, in conformity with the symbol of the Finger on the 15 story building , refused.

The City of WEHO and all other appellants ask that any hearing on the appeals apparently set for 10-25-16 before the PLUM (see discussion supra) be held off until after the mandatory hearing by the City Council on the recommendation approving the Lytton as a Historical Monument.

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PART 2: CONFLICT

=A. CONFLICT BY THE CITY OF LA DUE TO ITS BREACH OF DUTIES AS LEAD AGENCY, AND CONFLICT BY THE CITY ATTORNEY OFFICE

As set forth herein in detail (Part 4, p. 22-26) , it is Appellant's position that the City of LA has abdicated its duty as a fair and impartial entity and instead has engaged in a conspiracy to approve the Monstrosity Project. It has abdicated its duties as the lead agency under the ELDP and approved ELDP status even though as a matter of law, the changes that took place as

part of a fraudulent bait and switch transformation into Alternative 9 on May 26, 2016 (Exhibit 8) does not fall under the ELDP and it is the duty of the City of LA to negate ELDP status. The approval by the Planning Commission ("PC" and/or "LAPC") is illegal for a plethora of reasons and the City of LA has put dark glasses and is oblivious to the illegality **and ultra vires approvals granted. This Conflict issue by the City is discussed in PART 4 infra but is briefly raised first to make sure that the City does not claim it was not advised of the assertion.**

In addition, the City Attorney is in a blatant conflict and cannot represent the City of LA after representing the hearing office, and/or LAPC.

Objection is raised to the City Council hearing this appeal and the City Attorney acting as counsel for the City Council.

See Part 4, pages 22-26 which ad nauseum explain why the City of LA is acting illegally and violating the law, and breaching its duty as Lead Agency in this matter.

=B. ISSUE OF VIOLATION OF THE BROWN ACT BY THE PLANNING COMMISSION SET FORTH BELOW

This is discussed infra, Part 7, p. 28.

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PART 3: STANDING

APPELLANT STANDING: THE APARTMENT BUILDING IS DIRECTLY ADJACENT TO THE MONSTROSITY PROJECT.

Appellant Susanne Manners ("Appellant") has standing as: (1) the owner of the Apartment Building located at 1477-79 Havenhurst Drive which is located in the City of Los Angeles (LA) directly across the street from the Monstrosity Project, and as a holder of a private easement under the 1905 Crescent Heights Tract Map, and (2) as the owner of property in the City of Los Angeles, and (3) a member of the public to appeal the: (i) Certification of the EIR, (ii) approval of Master CUP permitting use of alcohol, (iii) approval of a 3-1 FAR density bonus, (iv) approval of Site plan Review, (v) adoption of conditions for approval, (vi) adoption of findings (LD-CPC-2013-2551 ("LD"), and separately affirmed the VTT 72370CN-1A ("VTT") 8-17-16. **FN 1**

The Apartment Building is directly across the street from the Project near the top of Havenhurst about 200 feet below Sunset. It is approximately 58 feet away. (See **Exhibit 1A1-1A2, 1B** for photos). Havenhurst is 38 feet across (not 60' as represented in the Decision) and it is about 10 feet on either side of sidewalk. **(Exhibit 1A1-1A2).** If the ownership is to the middle of the street then the distance is about 30 feet. Manners is the sole trustee and beneficiary of the Manners Trust that owns the 8 unit apartment building ("Appellant's Property" or "Apartment Building") (**Exhibit 1A1-1B**). It is adjacent to the Monstrosity Project. See definition attached to Appeal also attached hereto.

The Monstrosity Project is massive with 5 structure composed of 249 residential units, 65,000 of commercial space, two towers up to 15 stories one of them with a 7 story decorative architectural design on top which rises

FN 1: All References are to the Letter Determination (Decision) regarding the CPC 2013-2551-MCUP-DB. The VTT is referred to as VTT or VTTL

to 234 feet or 21.6 stories (called the FINGER by Appellant), 820 parking spots with a expanded illegal FAR of 3-1 in a site zoned for 1-1 (because of D limitation).

The Massive Project seeks to do away with the dedicated right hand turn lane south onto Crescent Heights from Sunset, and the traffic island in the middle of Crescent Heights which is part of the street.

The Appellant's Property at 1477-79 on west side of Havenhurst along with the Andalusia and the Senior Home of WEHO will be referred to collectively as the "Abused Properties". They are directly and severely impacted. The BDR Apartments on the east side of Havenhurst directly across the street from the Andalusia and the next property to the south of the Project is also greatly impacted. The Colonial House is also on east side of Havenhurst and is located next to the BDR. (**Exhibit 1D4)** The La Ronda is a few doors to the South on Havenhurst. The Andalusia and the Colonial House and the La Ronda are all designated historical buildings. This is a historical district. Appellant's Property was designed by the same architect Jack Charney who designed the Sierra Towers. In addition, it is likely that the Lytton Building now the Chase Bank located near Sunset and Haven-hurst will be designated a historical monument. **(See Section {not exhibit} 1B supra)**

Havenhurst is a **historic street or zone with 3 or 4 existing historic buildings** including the Andalusia next door to Appellant, as well as the Colonial House and the La Ronda down the block about 300 feet on the east side of Havenhurst. It is a special street, and there is little in Los Angeles that compares to it and the City of LA could care less.

The Appellant and the tenants of the Apartment are materially impacted for the reasons set forth below.

=A. Location of Appellant's Property Within the 1905 Crescent Heights Tract Map

One of key facts is that Apartment Building is located at 1477-1479 Havenhurst and falls within the 1905 Crescent Heights Tract Map Book 6, pages 92-93 ("1905 Tract Map" or "Tract Map" or Map") (**See Exhibit 3A**).

As such, Appellant holds private easement rights by reason of the 1905 Tract Map and California law. See discussion infra Part 8, pages 29-32. The private easement inter alia is over: (a) the dedicated right hand turn lane which is being eliminated (all vehicular traffic, and other traffic is being eliminated except for pedestrian traffic), and (b) portion of the traffic island sitting in the middle of Crescent Heights which is being changed and/or eliminated. Although the traffic island was not in existence in 1905, it came into existence apparently in 1966 when the Pandora's Box was forced to close due to harassment by the City of LA.

Appellant's property which is about 58 feet from the Project straight across (30' if the ownership is to the middle of the street Havenhurst) will be the most negatively affected by the MONSTROSITY Project, along with: (i) the Andalusia a world famous historical property next door 1471-1475 (**Exhibit 1C1-1C2**), (ii) the Senior Citizens Home of West Hollywood located to the south of the Andalusia and literally across the street from the proposed exits to be located on Havenhurst (**Exhibit 1D3**). A photo of the right turn from the exits onto Havenhurst to Sunset is attached as **Exhibit 1C1-1D1**.

Havenhurst one of the most beautiful streets in Los Angeles is about to ruined. The demarcation line between Los Angeles and West Hollywood is at the Senior Citizens Home of WEHO (**Exhibit 1E, 1D3-1D4)**) which is directly across the street on Havenhurst from the proposed exits for the Monstrosity Project, and the remainder from that point south is located within City of West Hollywood (WEHO). (**Exhibit 1E**). The street is pinched at this location just south of the proposed exits at the demarcation lines between the City of LA and the City of WEHO and one lane is removed approx. (**Exhibit 1C1, 1E, and 1D3; and 1D4 photo of Fire Department Truck and the narrow area).**

=2. Bait and Switch Inclusion of Alternative 9 in May 26, 2016 Notice (Exhibit 8):

The Notice of the hearing datd May 26, 2016 is fraudulent. (See Part 11, pages 38-43) City intends under the Bait and Switch Alternative 9 that permeates the fraudulent Notice to permit a 234 story building on the Havenhurst side of the property, and the hauling of 136,000 cubic yards of dirt by 13,600 truck loads large semi haulers carrying 2 cy each going out the two exits on Havenhurst, past Appellant's Property and the Andalusia, and then make right turn on Sunset.

In effect, Havenhurst will be closed south during the construction and as a practical basis in the future after construction due to the fact that the business invitee cars will have to turn right from the exits and go north on Havenhurst and then right on Sunset. Since the street is pinched at the exits (just north of the exits) it will be almost impossible to utilize Havenhurst south. **The City of WEHO is an appellant and objects to this insane Monstrosity Project. (See Exhibit 4A and 4B** the appeal by WEHO)

Once built, the business invitees will exit the same way north to Sunset, as well as the delivery truck. In addition, the business invitees, and residents, who will include drunk drivers especially at night, erratic and non responsible drivers who will shine their lights, play loud music, smoke marijuana, and honk their horns, have sex, will be exiting at all hours into the night. Frustration will build up and when you throw in Uber drivers who think they own the road the problem will increase geometrically. When traffic builds up, the cars will be lined up back up to the exits since it will be almost impossible to make a right turn on Sunset due to the fact that the City intends to remove the dedicated right hand turn lane, and install an insane hard right turn lane on a curve.

Once built, the noise, sounds, from the restaurants will also materially also interfere with the quiet enjoyment of the residents.

Once built, the shade from a 234 foot thing on top of one of the 15 story buildings sticking up in the air like a finger (the MONSTROSITY) will also impact the Appellant's Property and the Andalusia.

In conclusion we are talking about the **de facto condemnation** of the Appellant's Property and the others as well.

The Monstrosity is the royal finger to the residents of Los Angeles and West Hollywood. The 234 foot portion of the project will be on Havenhurst directly across from Appellant and the Andalusia and the Senior Home in WEHO. It sticks up 234 feet and looks like a wig stuck on top of a building.

The approval is illegal and/or invalid for at least 8 different reasons each of which is sufficient to kill the entire project. These are discussed infra.

At the outset, the historical designation recommendation by the City of Los Angeles Cultural Heritage Commission today on 9-15-16 of the Lytton Building which takes up a key part of the property recommendation will certainly kill the project as approved and mandate reversal. See also **Exhibit 1F and 1G2).** (See discussion infra Part 7, page 28).

=B. SPECIFIC GROUNDS FOR STANDING BY APPELLANT RE NEGATIVE IMPACT AND DESTRUCTION OF QUIET ENJOYMENT ARISING FROM GRANT OF VTT AND CPC. THE DE FACTO CONDEMNATION OF APPELLANT'S PROPERTY. APPELLANT HAS TWO GROUNDS FOR STANDING. THE FIRST IS THE HOLDER OF A PRIVATE EASEMENT. THE SECOND IS AS AN ADJACENT LANDOWNER.

ADVERSE IMPACT ON APPELLANT'S PROPERTY AND TENANTS OF THE APARTMENT BUILDING AND THE ANDALUSIA, AND THE SENIOR HOME OF WEHO. THE PROJECT WILL SUBSTAN-TIALLY INTERFERE WITH THE QUIET ENJOYMENT OF THE APPELLANT'S PROPERTY AND DE FACTO CONDEMN THE PROPERTY

The areas of negative impact will be discussed separately in more detail infra. The following is a list to support the standing claim since the City will do anything to undermine any appeal by anyone who stands in the way of the City. Each of these issues is discussed at length infra, but is listed here for standing purposes.

=(i) As the Holder of a Private Easement Right: Illegal Taking and or Interference of Property (Dedicated Right Hand Turn Lane and the

Traffic Island) that is Subject to a PRIVATE EASEMENT, and Its Elimination Which is Illegal. See discussion infra Part 8, pages 29-32.

Appellant has a private easement right under the 1905 Crescent Heights Tract for passage over the curved right hand turned lane and Sunset east as the feeder lane and all other streets in the area under the 1905 Crescent Heights Tract. (**Exhibit 3A);** See discussion infra Part 8, pages 29-32). The elimination of the dedicated right hand turn lane from Sunset south onto Crescent Heights (**See Exhibit 1G, and 3B** for diagrams of area) is illegal and violates the Private Easement owned by Appellant and other owners of property that are in 1905 Crescent Heights Tract. **(Exhibit 3A).**

In addition the attempted vacation of the traffic island in the middle of Crescent Heights in conjunction with the dedicated right hand turn lane (total of 9134 feet) is illegal as well and violates the Private Easement. **(Exhibit 3B-3C, 1G1-1G2-1G3).**

=(ii) As an ADJACENT LANDOWNER: Illegal Vacation of the Dedicated Right Hand Turn Lane and (iii) the Traffic Island in violation of the CSHC Section 8308-09, 8324, 8352-53 et. seq).

Separate and apart from interference with the Private Easement, there is wrongful and illegal vacation of the 9134 (VTTLD114) feet of the dedicated right hand turn lane and the island in the middle of Crescent Heights in violation of the California Streets and Highways Code Section 8308-8309, 8324, and 8352 and 8353 et. al. (See discussion infra, Part 14, pages 47-53).The traffic island is a bizaare piece of property and has its own address 8181 and zoned for affordable housing although it has been a traffic island since 1966 when the Pandora's box was torn down. It has become part of the street to wit Crescent Heights after 50 years.

=(iii) Illegal and wrongful removal of the traffic island and area 9134 feet (VTTLDF114) apprx from street use to off site open public space for pedestrian use for the exclusive benefit of the Developer. This also constitutes a violation of California Streets and Highways Code noted since it is also a vacation of a street which is illegal.

=(iv) **As a PRIVATE EASEMENT holder and as LANDOWNER: Hauling of Dirt on Saturday Also. It is Not Enough for the Capitalists to Interfere on M-F but now Also Saturday.**

Hauling dirt on Saturday as well as M-F. (LD9)

=(v) As an ADJACENT LANDOWNER and as PRIVATE EASEMENT holder CONSTRUCTION AND DIRT HAULING: Blockage of Havenhurst North with 13,600 Trucks Semi Trailers Hauling 136,000 cy of dirt, and de facto closure of Havenhurst north as trucks try to use Havenhurst which is a small street, and residents and invitees exiting on Havenhurst try to go North and then east on Sunset in the dedicated feeder lane on Sunset without a dedicated curved right turn land which now exists.

Wrongful and illegal blockage of Havenhurst north for removal of 136,000cy of dirt (which is enough to fill the Los Angeles Coliseum) by 13,600 trucks (LD9) by way of Havenhurst and east on Sunset. The 2 trucks exits part of the bait and switch campaign promulgated the Developer in conjunction with the City of LA proposed on Havenhurst will substantially and de facto block use of Havenhurst. (**Exhibits 1B, 1C1, and 1D1and 1D4)** This will force traffic of 13,600 semi trucks. All of the above will go by Appellant's Property and the other Abused Properties north on Havenhurst and east on Sunset and will result in the defacto closure of Havenhurst at times 6 days a week during the 13,600 trucks hauling, and during most of the time when the project is opened. This is a de facto closing of Havenhurst and is illegal closing of a public street.

A review of Photo **Exhibit 1D4** reflects that narrow area south from the demarcation and the exits and the Fire Department Truck. **Exhibit 1E** reflects the area which is pinched.

=(vi) As an ADJACENT LANDOWNER and as PRIVATE EASEMENT holder CONSTRUCTION AND DIRT HAULING: Truck Usage and Noise, Horns, Fumes, Lights, Vibration from Trucks 13,600 Trips.

Can you imagine 13,600 semi trucks hauling 136,000 cy of dirt past your house. Perhaps we should do this and schedule a haul past each of your houses to demonstrate the noise, the vibration, and negative impact of one truck, let alone 13,600 truck loads, and then deliveries. The trucks will stand idle and there will be toxic fumes, and noise, and vibration and the lights at night. It is a nightmare scene.

=(vii) The noise level generated by the construction and the trucks as mitigated to 58 (VTTLDF61) will be about 85-90 is which the equivalent of a motorcycle charging by (**Exhibit 11**), and continued use by drunk and alcoholic patrons including amplification noise of 86 which is again in motorcycle range. (See discussion infra, Part 17, page 65).

=(viii). The vibration from the digging and hauling with 13,500 truck loads of dirt and fumes, odors, noise, horns, and stench is far greater than under considered in the fraudulent EIR.

(ix) As an ADJACENT LANDOWNER and as PRIVATE EASEMENT holder CONSTRUCTION AND DIRT HAULING. Traffic Jams, Fire and Police Response, and Total Chaos.

There are 10 F intersections in the area with absolute worst right there at Crescent Heights (Laurel Canyon) and Sunset.

=(9a) Sunset Blvd at Laurel Canyon/Crescent Heights is an **F intersection** (as are 10 other intersections in the area). The worst of the worst. It currently is completely jammed most mornings for several hours west on Sunset as cars empty from Laurel Canyon which is the main pass route from the Valley where it joins in with Sunset and becomes Crescent Heigths with a name change, and east every day M-F for several hours in the morning; and both east and west especially in the afternoon from 230pm onward til 730pm at least; and east and west late on Friday (Saturday and some days on Sunday) past Havenhurst and some days to Fairfax to the east.

=(9b) There is also traffic on Sunset on Saturday east and west mainly from 11:00 am and during light hours and then virtual massive traffic nearly total blockage Friday night and Saturday night, and at times on Sunday as well.
=(9c) There is massive traffic south over Laurel Canyon which becomes Crescent Heights M-F in the morning for hours (noted above)
=(9d) There is also massive traffic north on Crescent Heights, and Sunset over Laurel Canyon from about 230pm to 8:00pm M-F. Traffic backs up on days all the way back to Melrose as cars try to make it over Laurel Canyon.
=(9e) There is also morning Laurel Canyon traffic on Saturday morning south, and heavy traffic from 3:00pm thru the night depending on what is going on with heavy traffic usually at night as cars pour into the Sunset Strip.

=(9f) There is also traffic north on Laurel Canyon Saturday during the afternoon and into the evening. It becomes heavier in the afternoon and heavy into the evening as vehicles pour into the Sunset Strip.
=(9g) The same is true as to Sunday.

=(9h) Traffic on Fountain is also heavy most of the time in the afternoon all the time. (**Exhibit 15** taken from Santa Monica and Crescent Heights intersection as there is traffic backed up to Melrose in afternoon). A photo taken from the turn right on La Cienega with back up all the way to Crescent Heights is attached as **Exhibit 15B.**

=(9i) Traffic on Havenhurst will become unpassable at most times. A review of Photo **Exhibit 1D4** reflects that narrow pinched area south from the demarcation and the exits and the Fire Department Truck.

The traffic in this area is gridlock before this project and before the other 38 projects.

In view of the fact that TR1 failed the cumulative impact of the failure of TR1 must be reviewed. (See discussion infra Part 15, page 57-59)

The issuance of the Statement of Overriding Considerations at LD 196 et seq **IMPEACHES THE FRAUDULENT ANALYSIS IN THE DECISION** and clearly shows that there is a significant adverse impact from this Project (traffic (LD198-199; VTTF8, F154-155, F96) and emergency response time(LD198; VTTF95) and noise and vibration. (LD197;F8, F154, F107), let alone during construction.(LD198F8).

For impact on Fire and Police Response see infra Part 15D pages 58-59; and Part 19, pages 63-64.

=(x) As an ADJACENT LANDOWNER and as a PRIVATE EASEMENT holder: The Cumulative Effects the Gridlock and 38 Other Projects Negatively Impacts Violates the General Plan and HCP, and Were Never Reviewed and Were Ignored

Throw in 38 other projects and you have the 405 freeway and gridlock. The cumulative effect of these 38 projects impacts all properties in the area and all owners and tenants and residents, and also the Private Easement rights by

inundating the streets with excess vehicles and traffic. (See discussion infra, Part 18, p. 62).

And this insane project wants to dump 13,600 truck loads onto Sunset Blvd., east, and business invitees, and remove the dedicated right hand turn lane etc. that will create a standstill on Sunset and Crescent Heights and a sig alert in the area.

=(x) As a Holder of a PRIVATE EASEMENT and as An ADJACENT LAND OWNER: POST Construction and Hauling: Noise, Horns, Fumes, Lights, Sounds, from Tenants, and Business Invitees Using Havenhurst, North to Sunset, Let Alone at Night from the Bars and Drunken Hell Holes

Post Hauling of 136000 cy and 13,500 semi trucks of dirt, the vehicles exiting the project on Havenhurst by residents of the multi million dollar condos, and the mass business invitees visitors to the commercial project with the restaurants. It appears that the vehicles will be required to turn right north on Havenhurst etc. and then east on Sunset. **(Exhibits 1B and 1C1).** Most drivers at night will be drunken fools especially after sleeping hours while the alcholics drink and could care less about the residents.

=(xi) The drunken invitees will have to wait in line along Havenhurst to get to Sunset. They will honk their horns, yell, and there will be fumes and loud music playing, and at night the lights will flash all over the place. Alcohol, horns, lights==a formula for disaster. It will materially interfere with the sleep of the residents as late nights drunks will exit and create havoc.

It is clear from the past that new liquor licenses will attract alcoholics, drunkers, drug addicts, bums, and others especially after closing hours and late at night who urinate, try to have sex, and or sleep in the area.

It will act as an attractive nuisance like a bee to honey for drunken drivers and limousine and Uber drivers who are insensitive and will have lights on and honk their horns because they could care less, and play loud music, and wake people up, especially while waiting in line to exit on Havenhurst to traverse to Sunset to make a right turn..

(xii) The trucks with the vehicles mixed at times with vehicles will all go north past the Apartment Building, and then east on Sunset. The City of

WEHO has refused to permit any access exit or otherwise by trucks on Havenhurst. **(Exhibit 4 and 4B). The City of WEHO is an Appellant. The City of WEHO also rejects the key mitigation factor for traffic alleged by the City of LA (which is a joke itself) TR1 which invalidates the entire Project.**

=(xiii) The noise level generated by the trucks and vehicles as mitigated will be about 85-90 (**Exhibit 11**) is which the equivalent of a motorcycle charging by, and continued use by drunk and alcoholic patrons including amplification noise of 86 which is again in motorcycle range. This is like having a hells angel gang living in the area. They should be directed to the areas where you live. (See discussion infra Part 17, p. 65)

(xiv) The trucks deliveries will have substantial problems making a right turn on Havenhurst and will block the street, and create traffic, and noise, and vibration and fumes and will substantially impact everyone along Havenhurst north and a degree south as well. A review of Photo **Exhibit 1D4** reflects that narrow area south from the demarcation and the exits and the Fire Department Truck. It is going to be almost impossible to traverse the turn.

=(xiv) As a Holder of a PRIVATE EASEMENT and an ADJACENT LANDOWNER: POST Construction. Lies about the Height of the Project Which is 234 feet or 22 Stories NOT 16. This will create shadows, and blockage of sunlight let alone business invitees who will pollute the area.

The proposed project **falsely states that it will be 15 stories** when a key part of it is 234 feet (LD38 and VTTC1) or 21.6 stories which will interfere with the light, heat, shadow, on her property which will be directly across the street (when they try to tear down the Lytton building which is a historical building). See **Exhibit 2a-2d** for photos of the proposed building. The Building is gigantic and overwhelms anything except buildings in Hollywood, Century City (and the Sierra Towers on Doheny north of Sunset at 31 stories). It will create shadows and blockage of sunlight in the area and turn it into quasi darkness.

=(xv) As a PRIVATE EASEMENT holder and as an ADJACENT LAND OWNER: POST Construction. Substantial Interference with Ability to Travel in Area with CUMULATIVE 38 Projects on the Board for Approval. Total Traffic Stoppage.

The Project would substantially interfere with the ability to travel in the area with the Monstrosity Project, and the cumulative impact of 38 other projects. Sunset Blvd and Laurel Canyon/Crescent Heights is an F intersection and there are 10 others in the immediate area. (See discussion supra (ix), and infra Part 18, p. 62). . There will be long line for cars and trucks going north on Havenhurst and then right or east on Sunset without the ability to turn on a dedicated right hand turn lane at Crescent Heights etc. The idea of a hard turn lane at Crescent Height is insane. **(Exhibit 1g2-1g3, 1h1-1h2). Crescent Heights is curved this location and it is going to be practically impossible to make a hard right hand turn. If so, it will back up traffic to the Ocean.**

In view of the fact that TR1 failed the cumulative impact of the failure of TR1 must be reviewed. (See discussion infra Part 15, page 57-59)

The issuance of the Statement of Overriding Considerations at LD 196 et seq **IMPEACHES THE FRAUDULENT ANALYSIS IN THE DECISION** and clearly shows that there is a significant adverse impact from this Project (traffic (LD198-199; VTTF8, F154-155, F96) and emergency response time(LD198; VTTF95) and noise and vibration. (LD197;F8, F154, F107), let alone during construction.(LD198F8).

For impact on Fire and Police Response see infra Part 15D pages 58-59; and Part 19, pages 63-64.

(xvi) As a Holder of a PRIVATE EASEMENT, and as an ADJACENT LANDWONER: Removal of 136,000 cy of dirt In a Project that is Within an Earthquake Fault is Not Only Illegal, but Insane, and Could Well Trigger an Earthquake. The vibration impacts alone are enormously RISKY.

The Montrosity is located directly on top of an earthquake Hollywood Fault. As best as one can determine, at least 75pc of it is under the fault per the latest Map in 2014. **(Exhibit 7)**(See discussion infra Part 17, pages 51-62)

The removal of 136,000 cy of dirt which is enough to fill the coliseum and 13,600 trips will cause massive vibration and threat to trigger an earthquake. The City refuses to acknowledge this and claims the fault line is 100 feet away. Wrong. Furthermore, no one has tested for the fault. While there have been two borings on the side furthest away from the fault there are no borings on Havenhurst and Sunset. The Apartment building is 38 feet away.

=(xvii) Vibration impact which is significant, and the threat of earthquake trigger due to the removal of 136,000 cubic yards dirt and 13,600 truck trips. (See discussion infra Part 17B, page 61).

=(xviii) **As an Adjacent Landowner, The Project Would Impact Noise Sensitive Receptors and an Erroneous Standard was Used for All Impacts in the EIR and the EIR is Legally Defective**

It is admitted that the project would increase noise levels at adjacent noise sensitive receptors. (LD87;(VTTF5) The Senior Home of WEHO is directly across from the exits and as such a higher standard of Sensitive Receptors should have been used for all impacts noise, fumes, vibration, etc. of the trucks and the construction. (See discussion infra,

There is no analysis re sensitive receptors for all other negative impacts.

(xix) **As a Holder of a PRIVATE EASEMENT and as an ADJACENT LANDOWNER: Fire Department Impact is Enormous and Police**.

Delay of Fire Department and Police response time which will be almost impossible during certain hours of the day. See traffic concerns. The City has issued a Statement of Overriding Conditions due to the traffic. (LD5; 29, 129, 198-199; VTTF8, VTTF143)). A review of Photo **Exhibit 1D4** reflects that narrow area south from the demarcation and the exits and the Fire Department Truck. (See discussion infra Part 21, pages 65-66).

(xx) **As and ADJACENT LANDOWNER: Illegal Removal of a Historical Building, Now the Chase Building.**

The Lytton building now Chase is a historical building and cannot be torn down which is planned under Alternative 9. (See discussion supra Part 7, p. 28). It was highly likely that the building would be designated a historical modern building. It was obvious to a blind person to wit the Planning

Commission. The troublesome point is that the PC knew that the Building was being considered as Historical Cultural Monument and would be designated, but refused to continue the hearing pending such decision and refused to approve another alternative that included the Lytton building. It totally ignored this point in its rush to approve the Project it ignored its own rules and applicable law.

As a matter of fact, the Los Angeles Cultural Heritage Commission on 9-15-16 recommended designation as a historical monument. This in effect kills the approval by the PC and the matter must be reversed as a matter of law.

The City of WEHO and other appellants from the Hearing Officer asked the PC to hold off action until after the Cultural Heritage Commission voted. The PC, in conformity with the symbol of the Finger on the 15 story building , refused.

All Appellants ask that any hearing on the appeals be held off until after the hearing on the recommendation of the Cultural Commission on 9-15-16 that the Lytton be made a Historical Monument. See Section 1B supra.

=(xxi)**As an ADJACENT LANDOWNER and USER: The decision by the Planning Commission was illegal as well relative to the Lytton.** Under Government Code Section 66474.01 the City can approve a Tentative Tract **ONLY** if mitigation of specific adverse impacts is **INFEASIBLE** (cannot be mitigated by way of some other option or Alternative). The finding of Infeasibility must be supported by substantial evidence. (**Pubic Resources Code Section 21081.5).** The evidence is clear based on the **admissions made by the City** that the Lytton building is part of another alternative, and thus it is by definition not infeasible. There are other Alternatives 5 and 6 (DEIR, p. 5-180 to 5-182) which provide for full preservation of the Lytton. Alternative 5 saves the Lytton and also reduces the commercial from 65,000 per Alternative 9 to 62,500 a reduction of 2500 feet. As a matter of law, the finding of Infeasibility is wrong since Alternative 5 should have been carefully analyzed. The PC rejected Alternative 5 apparently based on aesthetic grounds which is illegal. (VTTLD, p. 140).

The Appellant has used the Chase Bank and its 5 predecessors going back to Lytton for at least 30 years, and its tenants use and have used the Chase Bank facility since the mid 1950s.

(xxii) **As a PRIVATE EASEMENT holder, and an ADJACENT LANDOWNER: There was no Compliance with CEQA discussion of Alternative 9. It was not in the Notice, and it was not discussed. It was rammed down the throat of the community.**

The City of WEHO again asks for a delay until after the Final Determination is made on the Lytton Building as a Historical Monument. On 9-15-16, it was approved by the Historical Cultural Commission as a Historical Monument, and the recommendation goes to the City Council of Los Angeleles.

In fact, there is no analysis of Alternative 9 anywhere. It is skipped. In the hearing Office Report it goes from 8 to 10, and in the PC it stops at 8. (See discussion infra, Part 24, p. 69).

=(xxiii) As a PRIVATE EASEMENT holder and an ADJACENT LANDOWNER, there was a bait and switch took place and no proper notice, and in fact fraudulent notice took place.

This is discussed ad nauseum infra Part 11, pages 38-43)

=(xxiv) As a Private Easement holder and as an ADJACENT LANDOWNER: The Main Mitigation Factor TR1 for circulation and traffic Mitgation is Illegal.

The City of WEHO who Owns the Intersection at Fountain and Havenhurst Opposes the Project and the Exits and Refuses to construct a light at that TR1 intersection. (See **Exhibit 4A and 4b** which is the Appeal filed by the City of WEHO; see discussion infra Part 15, page 53-59). In addition, it has since the LAPC Hearing adopted a right turn only light on Havenhurst and Fountain on 9-19-16. See **Exhibit 4 and 4b** Appeal by City of WEHO. See discussion infra.

As such the failure of the illegal TR1 reflects that the Monstrosity is illegal in its Alternative 9 form. (This also violates the ELDP and the CEQA which

imposes a duty on the City of LA to enforce the mitigations and make sure they are lawful).

The City of LA was required to set forth alternatives under CEQA which they failed to do.

=(xxvi) As a PRIVATE EASEMENT holder and an ADJACENT LANDOWNER: The City of WEHO Has Refused to Permit Sewer Line Hook Up Unless City of LA Agrees to an Agreement. The City of LA refuses to do so. As such there is no sewer hook up.

See Exhibit 4A and 4B (Appeal from PC). The City of WEHO offered a proposal to the City of LA but it is insane and refused. Thus, there is no sewer approval. (See discussion infra, Part 15).

=(xxvii) **As a Holder of a PRIVATE EASEMENT holder and an ADJACENT LANDWONER: Grant of 3-1 Density Bonus Violates Zoning which mandates a 1-1 in a D zone limited to 1 Story, and violates the the Hollywood Community Plan and the General Plan because a 3-1 is illegal in a D zone or in a 1 zone which is a 1.5.1, and MP2035 in that the removal of the dedicated right hand turn lane and the traffic island would be directly inconsistent with MP 2035.**

The approval violates the General Plan and the Hollywood Community Plan and MP 2035. (**Government Code 66471.61** referring to Section **65451**) See Audio of Hearing before PC 2:38 which admits that the project is in a D zone and thus limited to 1-1. It also clearly violates the HCP, and the MP2035 as set forth infra. (See discussion infra Part 26, 26A-26B, Pages 72-73)

=(xxviii). As a PRIVATE EASEMENT holder and ADJACENT LANDOWNER: The 3-1 FAR Is Illegal for a variety of reasons including the fact that 12.22 A.25 (f)(4) (Exhibit 9, page 10) does not apply to these facts because the total density residential is only 35% and no application was made for that under (4)(i) and it does not meet the HCP criteria, the commercial is mixed and thus does not comply with (4)(ii), the off menu cannot circumvent the on menu restrictions which mandate that it be no more than 1500 feet from a major transit stop and it is 1560 feet

This violates every part of 12.22 A.25 (f)(4)(ii) (a and b). See discussion infra, Parts 26, page 72-77,

=(xxix). As an PRIVATE EASEMENT holder, and ADJACENT LANDOWNER: The 3-1 FAR is Also Illegal and Violates 12.22 A.25 (g)(3)(i) Due to the Fact Two Discretionary Alternatives Which Alreay Made

See discussion infra, Part 26F, page 77).

=(xxx) As a PRIVATE EASEMENT holder and ADJACENT LANDOWNER: The Grant of 3-1 FAR Illegally is Illegal Spot Zoning

(See discussion Part 28, page 79).

=(xxxi) As a PRIVATE EASEMENT holder and ADJACENT LANDOWNER: The Traffic island has its own Zoning and Address 8118 Sunset. It is Designated for low cost housing even though it is a Small Piece. It also sits in the middle of Crescent Heights and is used for street purposes. It is Illegal to Do Away With it since it is part of the Street and can only be Vacated in Compliance with the CHSC Section 8309 et. seq.

See discussion infra, Part 14, parts 47-53)

=(xxxii) As a PRIVATE EASEMENT holder and ADJACENT LANDOWNER: The Traffic Island which is in a 1 Zone (1-5.1 FAR) Cannot be Merged with a D Zone and a 1-1 FAR, and Cannot Be Merged with the Project

See discussion infra, Part 28, page 79).

=(xxxiii) As a PRIVATE EASEMENT holder and ADJACENT LANDOWNER: There has Not Been a Zone Change, nor a GP Amendment, nor an Amendment to the HCP, nor the MP2025. An Amendment cannot take place.

See discussion infra, Parts 29, pages 80-81

=(xxxiv) As a PRIVATE EASEMENT holder and ADJACENT LANDOWNER: No Alcohol Approval Can Be Given Since it is Illegal and Violates Government Code 23789 and Rule 61.4

See discussion infra, Part 27, page 82.

In summary, Appellant has standing and is aggrieved to file this appeal due to the illegal action by the City.

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PART 4:

OBJECTION TO THE ENTIRE CITY OF LOS ANGELES FRAUDULENT ACTIVITY IN REGARD TO THIS PROJECT SEEKING TO RUBBER STAMP APPROVAL AND IGNORE ILLEGALITIES

As Set forth below, the entire City of LA and the City Attorney jointly and separately are in a conflict position and are acting contrary to their role mandated under law and should be disqualified, especially the City Attorney who cannot represent the City Council, and the Planning Commission, and also render legal advice.

The following is a summary of the grounds which are discussed in full infra.

=1. The City of Planning Commission **violated the Brown Act** in this matter. (See discussion infra Part 9 pages 34-35).
=2. The City of LA (and the hearing officer, the Planning Commission and the entire staff) had no clue that there is a Private Easement in favor of Appellant and others under the 1905 Crescent Heights Tract. (See discussion infra Part 8, pages 25-34)
=3. The City falsely stated that the Monstrosity Project was 15 or 16 stories which is a patent lie when a key part of it in fact is 234feet and 21.6/22 stories (7 story wig on top of a 15 story building) with a second 15 story as well and three other buildings. It is like calling Shaq 6'2" when he is 7'5". It is outrageously false. (See discussion infra Part 13, pages 45-46)
=4. The City falsely claims that Havenhurst is 60 feet when in fact it is 38 feet and at the most 58 feet from the Project, and much less if there is ownership to the middle of Havenhurst. (See discussion infra Part 13, pages 45-46). (This is all part of the fraudulent TR1 Mitigation re the use of Havenhurst with a proposed light at Havenhurst and Fountain which will never happen (**Exhibit 4A and 4B;** see discussion infra Part 15, pages 53-57)). The City as the lead agency is under a duty to make sure that the mitigation factors are not false and misleading and thus it failed to do so and is a conflict position and must be disqualified.

=5. The City is oblivious to the fact that there is a Senior Home of WEHO directly across from the two new exits as proposed
=6. The City is oblivious that a higher standard of review is mandated for Sensitive Receptors in the City of WEHO Senior Home across the street from the proposed exits fraudulently added in Alternative 9. This standard was not used. (See discussion infra Part 21, pages 65-66)
=7. The City permitted fraudulent notice as part of a joint bait and switch campaign switching in Alternative 9 with significant and material changes that mandate a new EIR. (**Public Resources Code 21092.1;** Guidelines, 15088.5(a). (See discussion infra Part 25, pages 70-73). The Notice switched in Alternative 9 that failed to disclose material items such as the fact that there would be 2.3 times the dirt hauled away, that it would be hauled on Havenhurst, and that the dedicated right hand turn lane and the traffic island (9134 feet) would be given away and removed as part of the street system, and the exits by trucks would be on Havenhurst. The fraud aspect of the Notice including misleading and nondisclosures, and half truths is set forth infra in Part 11, pages 38-43.
=8. Appellant and others have a private easement under the 1905 Crescent Heights Tract and the City cannot remove the dedicated right turn lane off Sunset to Crescent Heights, and the Traffic Island. (See discussion Part 8, pages 25-34)

=9. **The City has violated CSHC Sections 8308 et. seq by failing to vacate the street, and D700 the City Version of it, and is also fraudulently giving away 9134 feet to the developer. (**See discussion infra 17, pages 47-53).
=10. The City fraudulently claims that it is not vacating the dedicated right hand turn lane, and the traffic island which is per se violation of the CSHC 8308 et. seq, when it is obvious that they are vacating street use. It admitted that street use was being changed in the Notice (**Exhibit 8):"** lot area

including any **land to be set aside for street purposes to be included in calculating the maximum foor area. . . ."** (**Exhibit 8**).

=10. The City claims that the Project is 100 from an Hollywood Earthquake fault when in fact the City is relying on an OLD MAP. The refiled application in 2016 mandates a new up to the minute Map be used, and it is clear cut to a blind person that under the new map issued in 2014 at least 75pc of the Project falls DIRECTLY ON TOP OF THE FAULT. **(Exhibit**

7) (See discussion infra Part 17A pages 61-62, and Part 17B re removal of 136,000 cy of dirt with 13,600 semi truck loads of dirt and impact.)
=10. No testing at all was done in conformity with the law to determine where the fault precisely is located and none was undertaken in the area nearest the fault.
=11. The City claims it can get away with this outrageous conduct because the Tract Map is used with a B Permit. (See discussion infra Part 14D, page 51). Well the City again can't read, because the Tract Map cannot apply to commercial property (See discussion infra, Part 14B, page 50), and the B Permit does not facially apply to vacation of property, only to renovation (part of the traffic island)

=12. In addition the Decision by the Planning Commission conveniently omits (Appellant believes that this is another example of an intentional omission or fraudulent nondisclosure or outright fraud perpetrated let alone illegality and invalidity) this important critical point since the entire decision is predicated on a mitigation factor MTR-1 which calls for a street light at Fountain and Havenhurst (south of the Monstrosity).The City of WEHO categorically **refuses** to install one and OPPOSES the PROJECT. The City of LA has been aware of this since January. (**Exhibit 4A; see new Exhibit 4B which is separate Appeal filed by the City of WEHO). This fact alone makes the Project ILLEGAL and mandates a new EIR due to a material change to wit the failure to have TR1. The City as the lead agency is mandated by law to enforce the mitigation factors which it cannot do due to its failure to follow the law. Here the City of LA in effect concealed it and it is the fault of the City of LA by failing to list the alternatives to the TR1 as required by law.** (See discussion infra Part 15 re appeals by the City, pages 53-59)

The City LA claims that it has issued a statement of overriding consideration about the fact the key Mitigation measure cannot be met (MTR1; VTTC23-24; F19 & F26, F154-155) and the sewer line has not been resolved, and that the traffic will be gridlock. This is invalid since the City failed to list alternatives. (**Public Resources Code Section 21002(b).** CEQA requires "shall" that there be mitigation of environmental impacts whenever it is feasible to do so. The law is clear that the governmental agency must identify mitigation alternatives for each significant impact. **(Clover Valley Foundation vs. Rocklin,** 197 Cal. App 4th 200, 244). The City of LA in its rush to approve the project failed to list any other alternative other than TR-1

which undermines and invalidates the entire approval. (See Appeal by City of WEHO **Exhibit 4B).** (See discussion infra Part 15C, page 57).

The fact that the TR1 lies in the City of WEHO does not negate mitigation alternatives in the City of Los Angeles which in effect controls Sunset, Crescent Heights. The City of WEHO does not have any duty to mitigate the horrific negative impact, let alone an exclusive duty. The City of Los Angeles has such duty and miserably failed to do so. (**City of San Diego v. Board of Trustees of California State University** (2015) 61 Cal. 4th 945-957).

=13. It is also omitted that the City of WEHO will not permit hook up to the sewer line unless City of LA meets its standards and the City of LA refuses to do so. (See **Exhibit 4 and 4B).** (See discussion infra Part 15E, page 59).

=14. The City knows there are 38 other projects in the area and 11 F intersections, including at Sunset and Crescent Heights and are oblivious to it. The City has abrogated its duty in failing to properly deal with the 38 projects and its cumulative effects.

=15. In addition, the City is cloaked with ELDP duty to act as the lead agency to verify and mandate compliance with all mitigation measures, and changes that are made to make sure it falls under the ELDP. (Here, the ELDP was fraudulently obtained as well). The City has refused to exercise its duty after a materially changed Alternative 9 was dumped with no legal Notice that failed to disclose material items such as the fact that there would be 2.3 times the dirt hauled away, that it would be hauled on Havenhurst, and that the dedicated right hand turn lane and the traffic island (9134 feet) would be given away and removed as part of the street system. In addition, the City failed to take action when it learned that the project would be reduced from 111,000 commercial to 58,000 and there would be no high paying jobs which is the legal hook or sine qua non to falling under the ELDP and the representations made. As such, the City is under a mandatory duty to remove the Project from ELDP and deny it. It has refused to do so. It has acted in violation of the ELDP and breached its duty as the lead agency. (See discussion infra Part 11, pages 36-38)

The City claims that the reduction from 111000 to 58000 sq feet and 192 jobs is not a material change in the ELDP. Appellant challenges the City to

find one high paying job other than retail and restaurant that was created. There are none. Its all a scam.

=17. The approval of a 3-1 FAR in a D zone which is 1-1 Zone which is the case here reflects that the City is intentionally refusing to apply the law, and is violation of its duty as a lead agency under CEQA and under ELDP and must be disqualified. (See discussion infra Part 26A, page 73)

=18. LAMC 12.22 A. 25 (f)(4)(ii) re Off Menu Densities does not apply. Under (4)(ii)(b) this is not a commercial project but a mixed use project, and (b) only applies to a commercial project. Regarding 3-1 for a commercial project it must be in a 1 zone which is 1.5-1. It is not. It is in a 1D zone limited to 1-1 and not 3-1. (See discussion infra, Part 26 page 71-73) In addition the maximum allowed for residential density increase had it been applied for (which it was not) is 35pc. Here, it cannot meet the HCP requirements for more than 35pc. (Exhibit 16, page 3 numbers 1-3). Furthermore, Section (f)(4)(ii) Off Menu does not apply as a matter of law since it is admittedly more than 1500 feet from a major transit stop (1560 feet) and the City is fully aware of this. (See discussion Infra Part 26C-F, pages 73-77)

=19. The Lytton building is a historical monument and the City refused to apply alternatives keeping the building such as Alternative 4 or 6 in violation of its duty. (See discussion infra Part 7, page 28)

=16. The Approval is Contrary and Inconsistent with the General Plan and Hollywood Community Plan and 2035, and is Thus Illegal and Violates **Government Code Section 66474.61** which provides that a TT must be denied if it if not consistent with a General Plan. (See discussion infra Parts 29, pages 80-81)

=The entire process reflects that the City has acted in a conflict situation and is not neutral and the entire judgment and decision of everyone involved by the City is challenged. This failure to disclose the position of the City of WEHO is particularly shameful and is another glaring example of the non objectivity of the City and the failure to act in a neutral manner in violation of CEQA and the ELDP (discussed infra).

PART 5:
THE CITY OF WEST HOLLYWOOD IS AN APPELLANT.

The position of the City of WEHO is discussed infra. See **Exhibit 4A** and **4B**). (See discussion Part 15, page 53 et seq).

PART 6:
ADMISSIONS MADE BY CITY OF LA

The City of LAPC ADMITTED the following:

=1. The Hollywood Community Plan applies (Audio2:20)
=2. The area is zoned Z4-1D with a 1.5 maximum FAR (A2:25)
=3. But there is a D limit of 1-1 imposed. (A2:38)
=4. Applicant did Not satisfy the On Menu item density because 50 pc of commercial zoned parcel must be within 1500 feet of metro rapid stop and it is not (A12:50)
=5. The property is within 1560 feet of a metro rapid stop (A12:08; A7:15))
=6. The hearing notice of May 24, 2016 hearing states that that there is an off menu item called "lot area including any **land to be set aside for street purposes to be included in calculating the maximum foor area. . . . "** (**Exhibit 8**). There is no indication that a portion of the street to wit the dedicated right hand turn lane from Sunset onto south on Crescent Heights, and the lane on Sunset would be given away and removed for vehicular use. This language used intentionally fraudulent, confusing, and misleading and states that land will be set aside for **street purposes not removal of it. The exact opposite**. The notice is fraudulent. This violates California Streets and Highway Code Section 8324(b), and 8353(b). (See **Exhibit 6**) and LAMC 12.37. (**Exhibit 10**) **Yet, the City LA fraudulently speaks with crooked tongue and claimjs that the area is not being given away and is not being used for street purposes rather for off site public space.**

ILLEGALITY ARGUMENTS IN DETAIL COMMENCE HERE.

PART 7:
THE LOS ANGELES CULTURAL COMMISSIONER 9-1-5-16 VOTED TO DESIGNATE THE LYTTON BUILDING WHICH TAKES UP A SUBSTANTIAL AMOUNT OF SPACE IN THE PROJECT AREA AS A HISTORICAL MONUMENT. THE CITY OF LAPC REFUSED REQUESTS TO CONTINUE THE HEARING ON 7-28-16 UNTIL AFTER THE HEARING BY THE CULTURAL COMMISSION AS PART OF ITS ONGOING EFFORT TO RAM THROUGH THE PROJECT. REQUEST THAT THE CITY COUNCIL CONTINUE THE HEARING ON MATTER UNTIL AFTER THE HEARING ON THE APPROVAL RECOMMENDATION BY THE CULTURAL COMMISSION. MADE BY ALL APPELLANTS.

The continued hearing date is 10-25-16. At this time it is not know precisely what is going to be heard at that time. A request for continuance is made by Appellants to make sure that the hearing on the Recommendation of the Cultural Historical Commission approving the Lytton as a Historical Monument which took place on 9-15-016 (CHC-2016-2522-HCM-CD4) be heard by the City before the hearing on the appeals. (**Exhibit 8C).**

If the Lytton is designated as a historical monument, then the entire EIR fails and the approval fails as a matter of law.

PART 8:
PRIVATE EASEMENT RIGHTS OF APPELLANT WHICH IS SEPARATE FROM THE ROLE OF APPELLANT AS A OWNER OF PROPERTY IN THE CITY OF LA ADJACENT TO THE MONSTROSITY PROJECT

APPEAL RE INTERFERENCE WITH APPELLANT'S PRIVATE EASEMENT RIGHTS TO USE THE DEDICATED RIGHT TURN LANE, AS WELL AS SUNSET AND ALL STREET IN THE1905 CRESCENT HEIGHTS MAP, AND THE STREETS.

=1. THE CITY IS ILLEGALLY INTERFERING WITH THE PRIVATE EASEMENT RIGHTS OF APPELLANT AND ALL OWNERS OF PROPERTY THAT FALL WITHIN THE 1905 CRESCENT HEIGHTS TRACT. THE CITY CANNOT ELIMINATE THE CURVED RIGHT HAND TURN LANE FROM SUNSET ONTO CRESCENT HEIGHTS BACKGROUND RE 8150 AND THE LANE ON SUNSET LEADING TO IT.

The CITY CANNOT TRANSFER THE SUBJECT AREA FROM STREET USE INTO OPEN SPACE, LET ALONE FOR THE SPECIFIC USE OF THE APPLICANT WHICH ARE PROJECT ISSUES DICUSSED INFRA.

SEPARATELY, THE CITY CANNOT APPROVE DE FACTO BLOCKAGE PUBLIC STREETS FOR 13,600 TRUCK LOADS BY SEMI TRUCKS OF 136,000CY OF DIRT ON SUNSET FEEDER LANE AND THE CURRENT DEDICATED RIGHT HAND TURN LANE SOUTH ONTO CRESCENT HEIGHTS, AND BLOCK HAVENHURST.

The statement in the LD206 that there are no easements known to exist:

> "(g) THE DESIGN OF THE SUBDIVISION AND THE PROPOSED IMPROVEMENTS WILL NOT CONFLICT WITH EASEMENTS ACQUIRED BY THE PUBLIC AT LARGE FOR ACCESS THROUGH OR USE OF PROPERTY WITHIN THE PROPOSED SUBDIVISION.
> **No such easements are known to exist**. Needed public access for roads and utilities will be acquired by the City prior to recordation of the proposed tract." (Emp added)

Obviously, this is statement is dead wrong. As set forth herein, the 1905 Crescent Heights Tract Map contains inherent easements across all roads including the dedicated right hand turn lane and Sunset east leading to it. The elimination of the dedicated right hand turn lane from Sunset onto Crescent Heights and the give away of the 9134 feet of the traffic island, with the dedicated right hand turn lane to the Developer as open space, reflects that the City failed to private review easement rights over property which is to become part of the Project.

=A. INTERFERENCE WITH PRIVATE EASEMENT OWNED BY APPELLANT AND OTHERS IS ILLEGAL AND INVALID BY REASON OF VACATION OF CERTAIN STREETS INCLUDING THE DEDICATED RIGHT HAND TURN LAND, AND THE ISLAND, AND OTHER PARTS OF THE STREETS IN THE AREA

The area underlying the 8150 property is located within the 1905 Crescent Heights Tract and Appellant's Apartment Building, and so are the streets. **(See Tract Map 1905 Exhibit 3a).** As one can see, the 1905 plan included two curved intersections and lanes on Sunset Blvd. (east and west on Crescent Heights), with one providing a right turn off from Sunset south onto Crescent Heights, and the other north on Crescent Heights and eastbound on Sunset Blvd. There is symmetry on the other side with a right turn lane from Crescent Heights east onto Sunset. This was the intent.

The law is clear since the old days that the 1905 Map is sufficient to impose a private easement with regard to the streets by reference to a Tract Map. **(Danielson v. Sykes,** 157 Cal. 686, 109 P. 87; Neff v. Ernst, 48 Cal. 2d 628 (1957). See **Exhibit 5** for a copy of the **Ernst** case.). It creates a Private Easement in the owners of property within the Tract Map. Appellant holds such rights as a successor which is transferred to the renters in its Apartment Building, as well as all the other members to wit owners of property within the 1905 Tract Map. **FN 2**

A copy of the current situation is set forth in the documents attached as **Exhibit 3b and 1g1-1g3).**

The City of Los Angeles is totally oblivious to the easement in the LD206 claiming none exist.

The City of Los Angeles intends to do away (eliminate) the subject existing dedicated curved right hand turn lane south on Sunset to Crescent Heights. It also seeks to eliminate the traffic island in the middle of Crescent Heights which together with the dedicated right hand turn lane totals 9134 feet. It claims that it will turn it into non site open space and sidewalk (LD161), and it claims it will build a new hard right turn lane somewhere in the area. It also claims it is not vacating the Street but rather will be transmuting the area of the right turn lane into a pedestrian zone and making it public use but giving it to the Developer (9134 feet total with the traffic island area) which is illegal.

FN 2: Appellant is suing and such suit will be joined by others who own land in the Tract, and if not, a class action will be filed.

The City cannot remove the dedicated right hand turn lane nor the traffic island, and cannot interfere with the private easement of Appellant and all members of the Tract Map 1905. In effect, the City is vacating the part of the street which is illegal. See infra violation of California Streets Highways Code. Part 4 infra.

The California Supreme Court in **Ernst v. Neff,** 48 Cal. 2d 628 (1957)(**Exhibit 5**) made it clear that even though a public use ceases on a vacation of a street, the rights acquired by the owners who have rights to a private easement in such streets are **not affected**. (See **California Streets Highway Code** 8352; 8324; see also 8350-8353; and all other sections (**Exhibit 6) ;** see also City of LA D700 adopting State Law). As the Court ruled:

> "No relinquishment of the private easements in these streets by the plaintiffs or the grantor was shown, and the private rights of these parties therefore continued". (Id. 637)

Thus, the City may not approve removal of the dedicated right hand turn lane from Sunset south onto Crescent Heights nor the use of feeder lane on Sunset or any other streets in the area or engage in any interference with the easements by overburdening them with semi trucks, and increase traffic intentionally that will cause blockage.

The City with a straight face claims it will be adding a new hard right turn lane. This is insane. The photos reflect that it would be a three stooges turn. **(Exhibit 1G2-1G3;1H1-1H2**). Laurel Canyon empties into Crescent Heights and is an F intersection, but it makes a sharp turn and the area is curved in nature. The hard right turn would be impossible let alone for a truck and it cause massive road blockage west on Sunset.

=B. INTERFERENCE WITH PRIVATE EASEMENT BLOCKING USE OF PART OF HAVENHURST AND THE DEDICATED LANE ON SUNSET THAT TURNS INTO THE DEDICATED RIGHT HAND TURN LANE SOUTH ONTO CRESCENT HEIGHTS DURING CONSTRUCTION CAUSED BY HAULING OF 13,600 SEMI TRUCK TRIPS CARRYING 136,000

CY OF DIRT, AND POST HAULING BY TRUCK DELIVERIES, AND BY BUSINESS INVITEES ALL MAKING RIGHT HAND TURNS OUT THE EXITS ONTO HAVENHURST NORTH TO SUNSET, AND THEN RIGHT ON SUNSET.

This is discussed above.

The City's approval substantially interferes with the Private Easement during construction and in effect blocks a city street Havenhurst north to Sunset, and then right on Sunset with the hauling of 13,600 truck trips by semi trucks; and post hauling by business invitees, and residents and others including delivery truck blocking Havenhurst north. It will materially negatively impact use of Havenhurst for all time.

=C. POST HAULING INTERFERENCE WITH PRIVATE EASEMENT BLOCKING USE OF PART OF HAVENHURST AND THE DEDICATED LANE ON SUNSET THAT TURNS INTO THE DEDICATED RIGHT HAND TURN LANE SOUTH ONTO CRESCENT HEIGHTS

This is discussed above. The City's approval substantially interferes with the Private Easement and in effect blocks a city street Havenhurst north to Sunset, and then right on Sunset with the hauling of 13,600 truck trips by semi trucks; and post hauling by business invitees, and residents and others including delivery truck blocking Havenhurst north. It will materially negatively impact use of Havenhurst for all time.

Accordingly, demand is made that the City has no right to eliminate the subject right turn nor change the island a total of 9134 feet, without approval of the Appellant and other holders of similar rights under the Tract Map. Demand is made that City must reject the Monstrosity the Project and that the appeals filed be granted to avoid the City facing lawsuits. There are other options that do not call for removal of the island and the dedicated right hand turn lane that can be considered perhaps.

NON PRIVATE EASEMENT ARGUMENTS

PART 9

=9. The PC Violated the Ralph Brown Open Meetings Act (Government Code Section 54950 et. seq) By Holding Ex Parte Meetings and/or Conversations by a Majority of the Commissioners in a Serial Scheme to Violate the Brown Act

The approval by the City is illegal. There were several ex parte communications held by several meetings or conversations or discussions with the Developer and the project architectural firm. This was disclosed and admitted in open discussion at the PC hearing.

=1. President David Ambroz (Audio of the Hearing Before the LAPC on 7-28-16; 15:00): visited Gehry people at office 7 months ago, and also LACMA; also held phone conversations with Council offices; discussed concern over FAR; also couple phone calls with lobbyists re calendaring; also met with neighbors;
=2. Veronica Padilla Campos (A:17:25): Met on March 17th with project team, also went to see models somewhere;
=3. John Mack (A18:08): 0
=4. VP Renee Dake-Wilson (A18:15): Met with group people at 8999 Beverly Blvd. on July 5th, including Lichtenstein, Dave Kremer of Marathon, and John Irwin and Edgar Kolodin of Townsend; saw models; discussed the project; also went to the LACMA to see Gehry Exhibit; on July 5 she discussed issues but excluded VTT issues; discussed changes that were made;
=5. Roberet Ahn (A20:15): on 12-3-15 met offices of architect and met team; spent hour touring their office and other projects; went over elements of design;
=6. Samantha Milman (21:20): 0

They are ex parte communications and serial meetings and they violate the Brown Act. (Government code Section 54952.2b(1) et. seq; **Stockton Newspapers Inc. v. Redevelopment Agency, 1**71 Cal. App 3d 95 (1985). Therefore the vote taken by the PC is illegal and unlawful and impeaches the entire City of LA and all of its personnel.

The only PC commissioner who recused himself was Richard Katz. Commissioners Choe and Perlman were absent. The other commissioners all held ex parte communications. Appellant believes that there were other ex parte communications, and has no trust in the veracity of the Planning Commission members, and wants to conduct discovery regarding the nature of such contacts in this regard.

In addition, the City Attorneys office which has represented the City is now caught in a conflict itself due to this, and due to the City's failure to act as the lead agency and remove the Project from the ELDP list. Since it has failed to do so, the City is not neutral and is biased.

PART 10

=10. The ELDP Designation Was Fraudulent, and the Material Bait and Switch Change Re Alternative 9 is also Fraudulent and Illegal and Does Not Fall Under the ELDP, and the City of LA is Obligated to Verify the Same. As a Result, the City of LA is in a Conflict Position and Needs to Delegate that Review to an Independent Body other than the City of LA Which Must Take Place Before Review of the Appeal. The DECISION IS ILLEGAL Because There was No Recertification of the Alternative 9 That Was the Bait and Switch

Scam Perpetrated which Materially Changed the Plan and Compliance with the ELDP

This Project received fast tract approval under the ELDP based on false promises of high paying jobs. (See LD45):

> "In certifying the original Project, the Governor determined that the original project would result in a minimum investment of $100 million, **would create high wage jobs, . .** ..." (LD45).

The certification was not based on construction jobs

This was a total lie and a fraud.

After the total material changes in the Alternative 9 which is the bait and switch scam that was perpetrated, there was no effort to seek reapproval by the City of Los Angeles who is charged to do so with regard to the Environmental Leadership Development Project.

The Alternative 9 lowered the square footage commercial by 40pc from 111,000 to 65,000 and there are no high paying jobs or high tech jobs just menial workers in retail and restaurants. (LD46). It now claims there are only 192 full and part time positions which is a euphemism for low paid employees. They are no high wage high skill jobs in the amended ELDP Alternative 9 required by the **Public Resources Code Section 21183(d) and 21178.**

> "7. CEQA requires the Lead Agency approving a project to adopt a Mitigation Monitoring Program ("MMP") or (sic?) **the changes to the project which it has adopted or made a condition of project a**pproval in order to ensure compliance with the mitigation measures during project implementation. The mitigation measures included in the EIR as certified by the City and revised in the MMP as adopted by the City serve that function. The MMP includes all mitigation measures and project design features adopted by the City in connection with such measures during implementation of the project. In accordance with CEQA, the MMP provides the means to ensure that the mitigation measures are fully enforceable. In accordance with

the requirements of **Public Resources Code Section 21081.6,** the City hereby adopts the MMP."

The City of Los Angeles is obligated to enforce any changes or mitigation requirements as the lead agency. (LD195) It failed to do so.

The City claims that this does not constitute a material change. If this is not a material change then nothing is. I dare the City to show one high paying job that is not a manager of a restaurant or retail store that was created by Alternative 9.

Appellant contends that it does and the City has no authority to proceed with any review because it is violated its duty as the Lead Agency and as the governing body of the City which hears appeals and is a conflict position. . Appellant objects to any further interaction by the City until it acts to disqualify the project from ELDP and CEQA

PART 11:

THE NOTICE DATED 5-24-16 (EXHIBIT 8) IS FRAUDULENT AND PART OF A BAIT AND SWITCH ENGAGED IN BY THE CITY TO APPROVE THE PROJECT. LACK OF NOTICE AND LACK OF DUE PROCESS

A. Bait and Switch Re May 24, 2016 CEQA and Other Types of Notice.

As set forth, the City as part of a bait and switch program fraudulently switched Alternative 9 into the Project for approval. It is not part of the Notice dated May 24, 2016 (**Exhibit 8).**

In fact, the Developer in conspiracy with the City changed the project into what is called Alternative 9 (which conveniently is not part of the hearing officer report, nor the Planning Commission Approval) as part of a bait and switch plan without notice wherein they surreptiously and illegally changed the project completely.

There was a complete and illegal failure to give Notice to the public that a new Alternative 9 which changed everything would be considered which called for exits on Havenhurst and the end of the curved right hand turn lane on Sunset, and the fraudulent and illegal giveaway by the City of the island and the curved right hand turn lane over 9134 square feet to the Developer for a few pieces of Silver, and that the amount of dirt hauled away would be increased by 2.3x. (See LD37 re no notice given, rather a recirculated DEIR or RP-DEIR; and LD67).

REASONS WHY THE 5-26-16 NOTICE IS DEFECTIVE FRAUDULENT BAIT AND SWITH, FRAUD, FACTUAL MISREPRESEN-

TATIONS, OMISSIONS NON DISCLOSURES, HALF TRUTHS.

EXHIBIT 8:

= (i) Changed the plan and now called for removal of the dedicated right turn lane on Sunset south onto Crescent Heights, and separate removal of the traffic island in middle of Crescent Heights (known as traffic island). **Exhibit 1G1-1G2-1G3)** The removal of the dedicated right hand turn lane and the separate traffic island without a vacation procedure as a matter of law is **ILLEGAL** constitutes a vacation of a street or a portion of a street and violates the California Streets and Highway Code Section 8308-8309, 8324, 8552-8353 et. seq.; see also LAMC D700**; Exhibit 6);** (See discussion infra part 9, pages 34-35)

=(ii) Changed the plan and now called for truck exits and business invitee exits from the Project right onto Havenhurst drive which is a 38 foot (**not 60**' street as set forth by the City) small little street with a pincher right at the exits (**Exhibit 1e and 1d1**). The two exits are directly across the street from the Senior Home of WEHO (west side of Havenhurst; **Exhibit 1D3**)), and next to the BDR apartment building (east side of Havenhurst), and about 50 feet from the Andalusia (**Exhibit 1C1-1C2).** It is about 50 feet from the Senior Home (**Exhibit 1D3**) and about 100 to 125 feet from the Appellant's Apartment. (**Exhibits 1C1-1C2**).

=(iii) Increased the amount of dirt to be hauled from 58,000 to 136,000 cubic yards of dirt or 2.3x the amount of dirt which is enough to fill the coliseum cy of dirt. It is contemplated that 13,600 truck semi truck loads of 10 cy each to be removed by exiting right on Havenhurst north to Sunset (**Exhibit 1B and 1C1**), and then right turn east on Sunset (**Exhibit 1F-1G**) all past Appellants property and the Andalusia.

=(iv) The post hauling truck deliveries and all business invitee exists and resident exits was changed and would now take place on Havenhurst and exit again would be right on Havenhurst and then right on Sunset past Appellant's property and the Andalusia. The area will become a sig alert;

=(v) Misrepresented the fact that this was not two 15 story buildings rather it two 15 stories plus one of them has a 7 story decorative design (called the

"Finger") which makes it 22 stories and 234 foot Monster Project on Havenhurst side right across from the Abuses Properties. (**Exhibit 2**); (see discussion infra Part 13, pages 45-46)
=(vi) Misrepresented that the entire area was going to be turned into a sig alert freeway and restrict Fire Department Access
=(vii)Misrepresented that Havenhurst was not 60 feet in width rather was 38 feet in width (See discussion infra, Part 13, pages 45-46).
=(viii) The dedicated right hand turn lane and the traffic island was going to be eliminated (which violated the CSHC; **Exhibit 1G1-1G2-1G3)** and an insane hard right hand turn lane would be installed on a curve (**1G1-1G2-1G3-1H1-1H2);**
=(ix). The City was give away 9134 feet of the traffic island and the dedicated right hand turn lane for open space to bail out the Developer who needed open space;
=(x). The hearing notice of May 24, 2016 hearing states that that there is an off menu item called "lot area including any **land to be set aside for street purposes to be included in calculating the maximum foor area. . . . "** (**Exhibit 8**). There is no indication that a portion of the street to wit the dedicated right hand turn lane from Sunset onto south on Crescent Heights, and the lane on Sunset would be given away and removed for vehicular use. This language used intentionally fraudulent, confusing, and misleading and states that land will be set aside for **street purposes not removal of it.** (This also violates California Streets and Highway Code Section 8324(b), and 8353(b). (See **Exhibit 6**) and LAMC 12.37. **(Exhibit 10) The admission by the City that it is for street purposes falls under the CSHCode).**

The Notice admits the following:

a. Pursuant to LAMC Section 12.22-A,25(g)(3), an Off Menu Incentive to allow the lot area including any land to be set side for **street purposes** to be included in calculating the maximum allowable floor area, in lieu of as otherwise required by LAMC Section 17.05; and

The City LA's new position is that it is not for street purposes rather for off site public access area which different from street purposes—the exact opposite. The notice is fraudulent.

=(xi) The Project violated the ELDP and the Alternative 9 knocked it out of ELDP processing and it was the duty of the City to deny the Project and remove it from ELDP status since it did not comply with the ELDP. See infra Part 10, pages 36-38)
=(xii) There was no discussion about Alternative 9 in the Notice, nor anywhere else. It was skipped by the LAPC. (See discussion infra Part 24, page 69)
=(xiii) The Project was illegal and violated the Hollywood Community Plan, MP 2035, and various rules, regulations and statutes (See discussion infra Part 26 pages 71-75)
=(xiv) The Project was illegal since the key mitigation factor TR1 calls for traffic signal at Fountain and Havenhurst which is in City of WEHO and hook up to the City of WEHO sewer, and the City of WEHO notified all that it would never approve such traffic signal and truck exits on Havenhurst, and would approve the sewer line as long as it was based on its requirements. In fact, the City of **WEHO is an Appellant** and destroys the approval process and the Decision by the PC. See discussion infra, Part 15, page 53-57)
=(xv) There were holders of private easement rights who had rights to the areas which the City sought to illegally remove from street use under the 1905 Crescent Heights Tract Map, and failed to give notice to owners regarding the 1905 Tract Map and other Tract Map in the area. (See discussion infra Part 8, pages 25-34).

And as to the FAR and density bonus issues

= (xvi) Violated the City regulations pertaining to Height and density bonuses discussed in part two re CPC by granting an off menu 3-1 FAR in a district that is 1-1 and does not fall within the regulations (has to be 1.5-1 to use off menu 12.22 A 25 (f)(4)(ii)(a)), and because it does not qualify for density bonuses. (Audio of Hearing before LAPC 2:38). (The issue of density bonuses and FAR 3-1 is part of the CPC Appeal. It is also set forth in the VTT appeal to the extent it falls under that as well.) (See discussion infra, Part 26, Pages 71-77)

=(xvii) There was no indication that there would be off menu incentives granted. (**Exhibit 8)**

=(xviii) LAMC 12.22 A. 25 (f)(4)(ii) re Off Menu Densities does not apply. (Exhibit 9). Under (4)(ii)(b) this is not a commercial project but a mixed use project, and (b) only applies to a commercial project. Regarding 3-1 for a commercial project it must be in a 1 zone which is 1.5-1. It is not. It is in a 1D zone limited to 1-1 and not 3-1. In addition the maximum allowed for residential density increase had it been applied for (which it was not) is 35pc. (f)(4)(ii)(a). Here, it cannot meet the HCP requirements for more than 35pc. (Exhibit 16, page 3 numbers 1-3). Furthermore, Section (f)(4)(ii) Off Menu does not apply as a matter of law since it is admittedly more than 1500 feet from a major transit stop (1560 feet) and the City is fully aware of this.

=(xix) One cannot utilize an off menu item if it is available on menu and the applicant skips it and then seeks to also use it as an off menu item to avoid the 1500 foot limitation to a major transit stop. One can't have it both ways. (Exhibit 9, Ordinance 179681; 12.22 A 25, f 4, page 9 (ii) mandating that the project comply and be within 1500 feet of a major transit stop which is not the case here. One cannot change the restriction under on menu of 1500 under off menu. The 1500 limitation applies regardless.

=(xx) Failed to disclose that the area was in a D zone and limited to 1-1 FAR, and not in 1 zone which is limited to 1.5-1 which was necessary to use off menu 12.22 A. 25 (f)(4)(ii) a and/or b. Knowing that the area was in a 1-1 D zone, the City acted nonetheless illegally and violated the 1-1 limitation. (Audio of Hearing Before LAPC 2:38) and separate 1.5-1 in 1 zone if off menu density for commercial, and violated (f)(ii)(a) is to be used for 35% for residential (See discussion infra Part 26, pages 71-76)

=(xxi) Moreover, it failed to disclose that certain discretionary approvals were required for FAR as well as the following:

=a. Height District change from 1-1 to 3-1 since it is in a D which is a 1-1 zone and violates the Hollywood General Community Plan

=b. General Plan Amendment to the HCP to amend MP2035 to show that the island and dedicated right turn lane are closed. The Map for the intersection of Crescent Heights and Sunset in MP2035 conflict with the changes and would require hearings.

=c. Vacation of the dedicated right hand turn lane and the traffic island

=(xxii) The Project was illegal and violated the Hollywood Community Plan, MP 2035, and various rules, regulations and statutes (See discussion infra, Part 29 pages 80-81)

=(xxiii) Failed to disclose new significant impacts from the bait and switch on top of earthquake fault, the location which was not determined, that change removal 136,000 cy dirt and 13,600 semi truck loads, and failure comply with ELDP; and violation of HCP and D Limitation; and TR1 was fraudulent)

(xxiv) Failed to disclose substantial increase in the severity of an environmental impact of being on top of an earthquake fault, and failure of TR1 requiring new mitigation (TR1 was fraudulent) (See discussion infra Part 17, pages 61-62)

The Notice is defective and misleading and violates due process and sought to avoid alternatives and discussion.

PART 12

The MONSTROSITY PROJECT IS OUT OF TOUCH WITH ANYTHING OUTSIDE CENTURY CITY, OR HOLLYWOOD OR WILSHRIE BLVD.

The Project claims it will be 15-16 stories. This is a lie. A key part of it will be 234 foot Monstrosity along Havenhurst and directly across from the Appellant's Property and the Andalusia, and the Abused Properties. In fact it is **close to 22 stories**, and it completely is out of touch with the area. (**Exhibit 2B1, 2C, 2D; and 1H1**).

The largest building in the area is the Colonial House (7 stories and 80 feet) is the La Ronda Apartment just south of the proposed exists on Havenhurst on east side of street (4 stories and 45 feet) both of which are historical monuments. (**Exhibit 2D).** The Granville Apartment on Crescent Heights is 8 stories. (Audio of Hearing before LAPC 9:25)

The closest commercial buildings that are 22 stories are located in Hollywood and Century City and/or Wilshire Blvd with one exception. There is one 31 story condominium known as the Sierra Towers that was constructed by the same architect that constructed the Apartment Building and it is located on Doheny North of Sunset in the City of WEHO. It is about a mile or so away. The Andaz Hyatt Hotel on the north side of Sunset is about 13-14 stories high but it is not 234 feet high (or 21.6 stories high)

The HCP has various provisions. In particular, Housing Incentives in HCP, page 3, Conditional Use Permit for Greater than 35 pc off menu density is appropriate). The following is required under the HCP (**Exhibit 16, p. 3):**

> **"Conditional Use Permit for Greater than 35% Density Bonus: LAMC 12:24 U. 26—Density Bonus requests for Housing Development Projects in which the density increase is greater than the maximum permitted in LAMC Section 12.22 A. 25**
>
> **shall also find that:**
>
> 1. "The project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city, or region;
> 2. The project's location, size, height, operations and other significant features will **be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health,** welfare and safety;
> 3. The project substantially **conforms with the purpose, intent and provision of the General Plan, the applicable community plan, and any applicable specific plan."**
>
> ….. (Emp. Added)

This Monstrosity Project miserably fails to comply with the HCP requirements (especially for more than 35pc density bonus). (**Exhibit 9,** 12.22 A. 25 (f)(4(ii)(a); see discussion infra, Part 26EA, page 76)

PART 13

=13a. The Approval Fraudulently States that the Project Has Two 15 Story Buildings Plus 3 Others, But 1 of the 15 Story Building has a seven story Wig on Top Which Makes it 234 feet and 21.6 Stories not 15. The Monstrosity Is Totally Not Consistent with the Community. The Tallest Building is the Area is Granville Towers on Crescent Heights at 8 stories, and the Colonial House 150 from the South side of Project at 7

It is claimed that the project will be 16 stories, but this is false, it will be 234 feet high (LD38; VTTC1) which is the equivalent of 21.6 stories or 22 stories. (See **Exhibit 2 in its entirety including 2A1, 2D,** group for photos of the Monstrosity). It is completely out of touch with the community. The closest structure of this height is in Hollywood and or Century City; the Sierra Towers on Doheny north on Sunset which has been there for 30 plus years is also present at 31 stories condo non mixed project. The La Ronda is 4 stories and 45 feet, and the Colonial House is 7 stories and 80 feet. Both are historical buildings, along with the Andalusia (next to Appellant's Property and Mia Casa (south)

Furthermore, the Monstrosity is totally out of touch with the low level nature of the Community let alone Havenhurst which is a historical street and masterpiece which will be ruined by this Monstrosity Project.

=13b. The Approval Fraudulently States that Havenhurst is 60 Feet Wide When in Fact It is 38 Feet, and the South Side is Pinched AT the Demarcation Point Between LA and WEHO.

The Approval again misleads when it states that Havenhurst is 60 feet wide. (LD204). In fact, it is a little more than half of that size at 38 feet. See **Exhibit 1a and 1b**. Obviously no one has been out there to walk the street.

PART 14

EVEN IN THE ABSENCE OF A PRIVATE EASEMENT WHICH IS NOT THE CASE, THE CITY CANNOT VACATE THE DEDICATED RIGHT TURN LANE AND ANY OTHER PART OF THE STREETS INCLUDING THE ISLAND, BECAUSE IT VIOLATES CALIFORNIA STREETS HIGHWAYS CODE 8308-09, 8324, 8351-54, AND LAMC 12.37. . THIS IS RAISED BY APPELLANT AS THE OWNER OF PROPERTY ADJACENT TO THE MONSTROSITY AND AS MEMBER OF THE PUBLIC (AND PRIVATE EASEMENT HOLDER). THE CITY HAS ADMITTED THAT THE AREA WAS FOR STREET PURPOSES IN THE NOTICE. (EXHIBIT 8)

Under California law, Appellant holds a private easement over the subject streets by reference to the recorded 1905 Tract map including use of the public streets which includes inter alia the subject right hand turn lane which commences on the south side of Sunset closest to the sidewalk and becomes the subject right turn lane. This subject right turn lane cannot be eliminated nor transmuted into off site open space, nor to pedestrian easement.

=14A. EVEN IN THE ABSENCE OF THE PRIVATE EASEMENTS ELIMINATION OF THE OF STREET USE OF THE DEDICATED RIGHT HAND TURN LAND, AND THEN SEPARATELY THE TRAFFIC ISLAND IN THE MIDDLE OF CRESCENT HEIGHTS VIOLATES THE CALIFORNIA STRETS AND HIGHWAY CODE SECTIONS 8300 ET. SEQ.

The hearing notice of May 24, 2016 hearing states that that there is an off menu item called "lot area including any **land to be set aside for street purposes to be included in calculating the maximum floor area. . . ."** (**Exhibit 8**): In addition, the Notice (**Exhibit 8**) admits the following:

> b. Pursuant to LAMC Section 12.22-A,25(g)(3), an Off Menu Incentive to allow the lot area including any land to be set side for **street purposes** to be included in calculating the maximum allowable floor area, in lieu of as otherwise required by LAMC Section 17.05; and
> c. **Pursuant to LAMC Section 12.22-A, 25(g)(3), an Off Menu Incentive to allow a 3:1 Floor Area Ratio for a Housing Development Project located within 1560 feet of a Transit Stop, in lieu of the 1,500 foot distance specified in LAMC Section 12.22-A,(f)(4)(ii)" (Emp. Added)**

There is no indication that a portion of the street to wit the dedicated right hand turn lane from Sunset onto south on Crescent Heights, and the lane on Sunset would be given away and removed for vehicular use. This language used intentionally fraudulent, confusing, and misleading and states that land will be set aside for **street purposes not removal of it. The exact opposite**. This violates California Streets and Highway Code Section 8324(b), and 8353(b). (See **Exhibit 6**) and **LAMC 12.37**. (**Exh. 10)**

The Notice in fact impeaches the entire fraudulent argument by the City of LA that the area was not for street purposes.

In terms of State law, elimination of any **portion of or right in a** public street or highway requires a formal vacation procedure and to try to vacate the private easement which would be illegal to do. (California Streets Highways Code Sections 8308-8309, 8324, and 8352-53; See **Exhibit 6).** (Also a violation of D700 of the LA City Regulations). Section 8308 is clear that one cannot interfere with any rights connected with a street including the **right of access**, easements.

The de facto illegal attempted vacation of the dedicated right hand turn violates the California Streets Highways Code 8324 and the City can never establish that the area is totally unnecessary for present or future public use.

Furthermore, State law requires a hearing procedure under Section 8320-8325 with due process and notice to the public, separate dedicated hearings, findings, etc. No notice was given and no hearings were noticed nor held. **Under no circumstances would the City be able to meet the proper standard for vacation of the curved right hand turn lane which is that it will never be "unnecessary for present or prospective public use."** The same with the traffic island which is now part of the street since 1966. (Section 8324(b)). This mickey mouse attempt to circumvent the Code is illegal.

In addition, the contemplated change of street to open space so that the Developer can meet the open space requirement. It is an illegal giveaway of 9134 feet and is a rip off.

In any event as separately discussed infra, it cannot do so since it is subject to a private easement held by Appellant and others.

The City claims with a straight face that it is not vacating the street merely changing its use to open public space for pedestrian usage. The City is impeached by its own **NOTICE Exhibit 8** which is to the contrary and that it was for street purposes. It is seeking to **totally eliminate vehicular use of a street to wit the heavily used subject** dedicated right turn lane (through a Ministerial B permit and a revocable permit) and the traffic island. This it cannot do as well. It cannot eliminate vehicular use of the subject dedicated right turn lane, nor can it transmute it into a hard right turn lane, and it cannot vacate it without compliance with the applicable code sections noted.

Even with a formal vacation under Section 8308 et al if that were possible somewhere in the universe (which it is not), Appellant's private easement and that of the other owners of property in the Tract Map 1905 cannot be interfered with and cannot be extinguished. (CHSC 8350-8353).

=14B. THE TRACT MAP ARGUMENT RAISED BY THE CITY IS FACIALLY ILLEGAL AND PATENTLY FRAUDULENT. THE TT DOES NOT COVER PUBLIC STREETS.

The City also claims that a vacation is not required because the subject curved right hand turn property and the island property which both total about 9134 feet (and which has its own address 8181 Sunset) and which is in the middle of Crescent Heights and is part of the street, would become non site open space and sidewalk and merged through the tract map (merger and resubdivision). This misses the point.

The City cannot eliminate the area because it is subject to a private easement(s), and it cannot do so in any event since it is a street, and it cannot eliminate street use.

And even if arguendo they could which they can't, a Tract Map only **encompasses private property and PRIVATE STREETS AND IT does NOT cover the public streets,** and thus use of a subdivision to take away or transmute City property subject to a private easement is illegal and invalid. (See D211.62 Department of Planning re Private Streets and Tract Maps). The only proper procedure is vacation of a part of a street and the required notice etc and the very difficult standard which the City will never ever be able to overcome.

=14C. LACK OF NOTICE TO PRIVATE EASEMENT HOLDERS IN THE 1905 TRACT, AND OTHER TRACTS IN THE AREA.

All private easement owners in the 1905 Tract are required to be notified that their private easement rights are being interfered with and the City is

conspiring to take away private property rights. No such notice has been given by the City and any notice that was given was fraudulent. See infra.

=14D. THE ARGUMENT THAT A B PERMIT PERMITS THE SCAM PROPOSED BY THE CITY IS ILLEGAL AND FRAUDULENT AS WELL.

In any event, the City cannot seek to circumvent the applicable State law by means of a mickey mouse ministerial B permit and a revocable permit which interferes with the private easement and is illegal. A "B" permit is for a massive construction project, and transmutation of any property into open space is a devious attempt to try to circumvent the law re compliance with the vacation law. (See **Exhibit 12**):

> "5.1 B Permit Description and Purpose
>
> The B Permit is required for major street construction in the public right of way. This includes widening of streets, the changing of existing street grade, and the installation of sewers, storm drains, street lights, and traffic control signals. Street widening generally includes . . . .B Permit construction plans are often complex and prepared by an Engineer hired by the B Permit Applicant."

And

> "The primary purpose of a BC-Permit is to mangae the City's inspection of major street construction work."

And:

> "The B Permit is frequently issued for major street improvements **adjacent to land under private development."**

A B permit is not used to steal public property and give it to a Developer. It is for construction purposes only. It has nothing to do with

changing use, let alone vacation of part of a public street. The position by the City is condoning theft by the City. FN 5

Use of a B Permit to cover up the illegal give away of public property would not be valid even if there had been no private easement. (LAMC 62.106(b). It is for extensive public work improvements. The City knows this and the attempted giving away of property with a B Permit is an intentional wrongful act and is illegal.

In regard to the last fraudulent ludicrous argument by the City about an encroachment permit, that the City will issue an encroachment permit which is revocable, try moving a building that is constructed. It is an insane argument as a last ditch effort by the City to permit a fraud to take place and to steal public property subject to Private Easements. In any event, it cannot encroach into an area that is a street covered by private easement, and it cannot be given away. There is no encroachment. The City is giving away its land that is street use and vacating vehicular use of the streets.

=14E. AN EIR IS REQUIRED FOR THE SCAM MERGER AGREEMENT REGARDING REMOVAL OF THE DEDICATED RIGHT HAND TURN LAND AND THE TRAFFIC ISLAND AND ITS BEING GIVEN AWAY TO THE DEVELOPER.

In addition, the attempted removal of the curved right hand turn lane also requires evaluation under in the EIR since it is a discretionary approval. It must be fully disclosed which never took place here. There was no notice.

The Notice, and the EIR, the Staff Reports, and the Letters of Determination failed to disclose that the dedicated right hand turn lane and that the 9123 feet would be given to the Developer consisting of the island and the dedicated right had turn lane and used by the Developer for in effect for nothing.

FN 4: A "B" permit may be used to deal with the construction re the traffic island and the dedicated right hand turn if they are improved in some manner that qualify for B permit, but not as a vehicle for grand theft street.

PART 15

=15A. Failure to Disclose in the Decision by the PC that the City of WEHO Has Refused to Permit a Light at Fountain and Havenhurst which is the key mitigation factor under TR1, and Refuses to Permit Sewer Hookup. Thus, the Entire Project falls. The City of WEHO Has Filed its Own Appeal and Clearly and Emphatically Points Out that the City of LA has Abused it Authority and is Acting Illegally in Violation of CEQA.

TR1 is the key mitigation measure. It calls for a traffic light at Sunset and Fountain. The City of WEHO who controls the light **refuses to permit it and refuses to permit any exits on Havenhurst. It also refuses to permit sewer** hookup. (LD34; 128). This **is not disclosed in the LD** as best one can determine but the City of WEHO advised the City that this is the case in January early on. (See **Exhibit 4A** for letter from City of WEHO) (LD9, 29, 129,133,145, 198; VTTC23-24, F96, F155). The City of WEHO has since filed its own appeal and is an Appellant. (**Exhibit 4B)** discussed infra.

The City of WEHO in its Objections **(Exhibit 4A)** states:

> "Thus it is **misleading** to the public to maintain this as a required mitigation measure and to suggest that the impact is capable of being mitigated to a level of insignificance. This **error is fatal to the EIR** and deprives the public . . . of a meaningful description of the project impacts. Including the mitigation measure as a condition of approval in several sections of the CEQA findings in the Letter of Determination, (including the references to public safety, emergency response times and traffic) also creates an ambiguity that **obfuscates the Projects traffic impacts** relative to future project review and implementation.

Pursuant to CEQA Section 15126.4.a.2, mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments in order to be viable. Given that the City of West Hollywood does not support and will not approve said traffic signal installation, mitigation measure TR-1 is unenforceable. Therefore, the FEIR **inadequately addresses a known significant** traffic impact, and the EIR should not be certified without revision.

Additionally, the City of Los Angeles has **a duty to** identify all feasible mitigation measures that could mitigate or reduce this impact. 14 Cal. Regs 15126). With the knowledge that the MM TR-1 is infeasible and unenforceable through permit conditions, the City has **not met its burden to mitigate the identified impact under CEQA.** Further, the City's finding X1.6 in the Letter of Determination is not supported by substantial evidence because the traffic impact at Havenhurst and Fountain has not been mitigated to the extent feasible. There is no evidence that the city has explored any other feasible means of mitigating this impact to the environment notwithstanding that the City of West Hollywood has repeatedly reported that the traffic signal is objectionable and will not be approved. Contrary to the statement in Los Angeles' response letter dated June 21, 2016, it is not the City of West Hollywood's role to identify feasible mitigation measures for this project." (Emp Added)

The City has now also filed an Appeal from the decision. (See **Exhibit 4B**). See discussion infra 5B.

The most outrageous point is that:

=(i) the CityLA designated the City of WEHO as the enforcing agency when it knew that WEHO would not enforce it because it refused to grant approval to TR1. This was all part of a fraudulent attempt by the City to seek to enforce use of alternative exits such as the obvious one Crescent Heights. The City did not do so. The City never evaluated this scenario.
=(ii) The CityLA violated the ELDP which granted them a mandatory duty to review changes and to enforce compliance with any mitigation measures. (See ELDP 4(2) supra). It failed to do so and to disclose it in the LD.

The CityLA is now attempting to circumvent violation of the law by claiming that this calls for a Statement of Overriding Considerations. (LD198; VTTF8, F55) This is illegal and improper and it must be disqualified from acting any further in this matter since it has violated its duty and requiring Mitigation TR1 compliance and it cannot circumvent it by undermining its own duty by issuance of a fraudulent Statement of Overriding Considerations because the City of WEHO refused to approve a light at Fountain and Havenhurst and permit sewer hook up except on its terms, and the City of LA refuses to do so.

It is illegal to utilize the term unavoidable when it is not unavoidable, since the problem would be reduced if the exits are placed on Crescent Heights, as well as the dirt removal.

=15B. APPEAL By the City of West Hollywood A Copy of the Appeal is Attached as Exhibit 4B.

The City of WEHO appealed the Monstrosity Project. (See **Exhibit 4B).** **The City of WEHO in its Appeal adopts its prior position and contends that the Approval Fails to Address Impacts, Does not Include Required Mitigation, and Relies on Invalid Assumptions.**

The City of WEHO in furtherance of its Opposition Papers (**Exhibit 4A)** has now filed its own Appeal. (**Exhibit 4B).** While the City of LA could care less about its citizens having approved this garbage Monstrosity in violation of its duties and the applicable law, it will have to deal with the City of WEHO which it cannot easily ignore, as well as Appellant. The City of WEHO in its Appeal reiterates its position that it will never approve a light under TR-1 at Fountain and Havenhurst, and the EIR is fatally defective and violates CEQA.

> "The EIR provides only one mitigation impacts to the Fountain/Havenhurst intersection Mitigation Measure TR-1 requires the developer to guarantee the necessary funds to enable Wets Hollywood to install a signal at the intersection of Fountain/Havenhurst. (See PC Letter of Determination, Case No.

VTT 72370-CN-1A, p.1 46). The Planning Commission did not find that there were no other feasible mitigation measures capable of mitigating the impact to Fountain/Havenhurst. (See PC . . . p. 146-147). In fact, at the Planning Commission July 28 hearing, staff stated for the first time, that it had explored other feasible mitigation measures and TR-1 was determined to be the "most appropriate. . . ." Yet no other mitigation measures were identified in the EIR. West Hollywood has sole jurisdiction over the impacted intersection and West Hollywood has made it clear since at least July 2015 that its traffic engineers and staff do not believe that it is appropriate to install a traffic light at that location. West Hollywood has stated unequivocally on numerous occasions that it will not install a light in that location. (DEIR, p. 4-J66). Even if this were supported by any evidence in the record, which it is not, it appears that staff has considered other feasible measures that would mitigate impacts to Fountain/Havenhurst, but failed to include them in the EIR.

In fact, to call TR-1 a mitigation measure is illusory. TR-1 is not and never has been a feasible mitigation measure because it is solely within the control of West Hollywood, which has informed the City of Los Angeles on numerous occasions that it will not implement TR-1. ". . . .

An EIR must identify feasible mitigation measures for each significant impact when the legal feasibility of a mitigation measure is uncertain, the EIR should suggest substitute mitigation measures that can be implemented in its place . . . . (**Clover Valley Found. V. City of Rocklin** (2011) 197 Cal. App. 4th 200, 244 (finding that EIRs must identify feasible mitigation measures for each significant impact.) The City of Los Angeles has no authority to enforce TR-1 and therefore **has not satisfied CEQA's clear mandate to identify enforceable mitigation measures for each impact. "**

The City of WEHO also pointed out that the City of LA has responsibility to mitigate this impact:

"'CEQA does not allow agencies to approve projects after refusing to require feasible mitigation measures for significant impacts.' (**Woodward Park Homeowners Assn, Inc. v. City of Fresno** (2007) 150 Cal. App 4th, 683, 692) . . . ."

And in conclusion that the City of LA has considered feasible measures to mitigate and refused to include them in the EIR which is illegal, and that the "**EIR must be revised to include feasible mitigation measures to mitigate impacts to the Fountain/Havenhurst intersection.**"

=15C. Violation of CEQA Which Mandates That the City List All Alternatives to TR1. The City Refuses to Do So.

=11. In addition the Decision by the Planning Commission conveniently omits (Appellant believes that this is another example of an intentional omission or fraudulent nondisclosure or outright fraud perpetrated let alone illegality and invalidity) this important critical point since the entire decision is predicated on a mitigation factor MTR1 which calls for a street light at Fountain and Havenhurst (south of the Monstrosity).The City of WEHO categorically **refuses** to install one and OPPOSES the PROJECT. The City of LA has been aware of this since mid May. (**Exhibit 4; see new Exhibit 4B which is the Appeal filed by the City of WEHO). This fact alone mandates a new EIR. The City as the lead agency is mandated by law to enforce the mitigation factors. Here the City of LA in effect concealed it and it is the fault of the City of LA by failing to list the alternatives to the TR1.**

The City claims that it has issued a statement of overriding consideration about the fact the key Mitigation measure cannot be met (MTR1; VTTC23-24; F19 & F26, F154-155) and the sewer line has not been resolved, and that the traffic will be gridlock. This is invalid since the City failed to list alternatives. (**Public Resources Code Section 21002(b).** CEQA requires "shall" that there be mitigation of environmental impacts whenever it is feasible to do so. The law is clear that the governmental agency must identify mitigation alternatives for each significant impact. **(Clover Valley Foundation vs. Rocklin,** 197 Cal. App 4th 200, 244).

The PC approval based on TR1 which is illegal since the City of WEHO refuses to build the light at Fountain and Havenhurst and the City has known this for months. (See Exhibit **4A** for Opposition and now **Exhibit 4B** for Appeal from LD). There are no other mitigations listed other than TR1.

(DEIR 4-J-66) The City failed to identify the other alternatives claiming that TR1 is best. That is three stooges logic. The City does not get to not follow the law and list the alternatives. The alternatives must be delineated under the Public Resources Code so they can be reviewed and evaluated. The fact that the TR1 lies in the City of WEHO does not negate mitigation alternatives in the City of Los Angeles which in effect controls Sunset, Crescent Heights. The City of WEHO does not have any duty to mitigate the horrific negative impact, let alone an exclusive duty. The City of Los Angeles has such duty and miserably failed to do so. (**City of San Diego v. Board of Trustees of California State University** (2015) 61 Cal. 4th 945-957).

=15D. Reduction in Response Time by the Fire Department.

It is admitted that it would reduce the time for the fire department to reach the area:

> "Furthermore, if the City of West Hollywood elects not to implement Mitigation Measure TR-1, project related traffic impacts at the intersection of Havenhurst Drive and Fountain Avenue would remain **significant** and unavoidable." (Emp. Added).(LD129)(See also LD 29, 129,145, 198; VTTF96, F155; C23-24).

New emergency responses times by the Police and Fire must be recalculated due to the non implementation of the TR1 all thanks to the City of LA.

A photo of the Fire Truck dealing with the narrow street south of the demarcation is attached as **Exhibit 1D4**)

=15E. THERE IS NO ESCROW HOOK UP FOR THE PROJECT UNDER CONTRACT AND OR AGREMENT. THE PROJECT IS ILLEGAL

The City of LA has no sewer hook up deal with the City of WEHO. The City of WEHO offered one but the City in its infinite stupidity walked away from it. (**See Exhibit 4A and 4B). The law is clear that the Project may not be**

approved re any major condition or requirement absent a contract or binding agreement such as here for the sewer and there is NONE.

PART 16

CITY OF WEHO ARGUES THAT THE CITY OF LA USED INVALID ASSUMPTIONS RE TRAFFIC ANALYSIS NOT SUPPORTED BY EVIDENCE. APPELLANT INCORPORATES THESE ARGUMENTS AND ADOPTS THEM.

=16A. Invalid Assumptions re Amount of Trips for Project (item a) and Used an Improper Traffic Baseline (item b).

The City of WEHO in its Appeal (Exhibit 4b; p. 5), also argues that the City of LA has used invalid assumptions in its Traffic Impact Analysis to: (i) reduce the amount of trips for the Project, and (ii) used an improper traffic baseline. Appellant incorporates these herein be reference in full. As to the amount of trips reduction, the argument is very detailed, and it can be found in Exhibit 4B, page 5, item (a). As to the improper traffic baseline (item b):

> "However, the FEIR fails to provide evidence to support the conclusion that the 'existing use over time' for the site was in fact a fully leased and occupied center. To the contrary, if there are in fact underperforming uses or seasonal variations, which is to be expected, the statements the in FEIR support a conclusion that the Project was not fully leased at any time in recent history, let alone at the time the NOP was issued. Without such evidence, there is no support for the use of a fully leased and occupied center as the baseline. The EIR cannot use a baseline of hypothetical conditions. **(Communities for a Better Environment v. South Coast Air Qualify Management Dist.** (2010) 48 Cal. 4th 310, 316).

=16B. Greenhouse Gas Analysis Relies on Invalid Assumptions, Fails to Address Impacts, and Does Not Include Required Mitigation (item D)

Page 6 of **Exhibit 4B.**

=16C. The Analysis of Impacts to Sewer InfraStructure Fails to Address Potential Impacts from Constructing a New Connection (item D).

Page 6 of Exhibit 4B.

=16D. The Alternative Analysis is Inadequate Because It Does Address Alternative Locations (item F).

Page 6 of **Exhibit 4B.**

PART 17

The Monstrosity Project Falls Apprx 75% plus In the Hollywood Earthqauke Fault. As Such It is Illegal to Approve the Project.

=17A. At Least 75Pc of the Property Lies over the Fault as Reflected in the Latest Map. Only 1 Bore Location Took Place and There is No Way to Be Sure Where the Fault is Exactly Without Borings On All Sides Especially the Southern Side.

The CPC was revised in April 2016. Thus, the new earthquake maps are applicable. The PC had to make a finding that there is no public safety threat. It is also a CEQA issue. The PC adopted the argument by the Developer hook line and sinker and failed to make any independent analysis.

The Monstrosity Project falls within the Hollywood Earthquake Fault Zone. (LD75;125;VTTF51). In fact, at least 75pc of the project and perhaps more falls inside the Zone and is over the Fault according to the latest maps. (**Exhibit 6**). The latest map is 11-14.

The City claims that the fault is 100 feet away, and requires a 50 foot setback from the edge of the fault according to their outdated map. This is no valid. There is no way to know where the exact fault lies but the latest map shows it under at least 75pc of the 8150 property. **FN 7 The Applicant ONLY tested ONE LOCATION.**

The only way to be sure is to test all sides of the property which was not done. It could be at the Southern end where the residences were moved. The borings provided do not answer the question needed to make a

FN 6: Government Code Section 3603 prohibits construction over an active fault.

determination if it under the site, if it active, and/or how far away the fault is from the line.

It should be noted that the fault if it is not part of the Raymond Fault, will trigger every 1600 years at 5.8 to 6.5. If it is part of the Raymond Fault it will trigger every 3,000 to 5,000 year at up to 7.0.

=17B. There Is No Analysis Regarding the Removal of 136,000 cy of dirt and 13,600 Trip Loads of Dirt Over the Area, Plus Construction Will Have.

There is also no analysis regarding removal of 136,000 cubic yards of dirt and 13,600 huge semi trucks impact on Havenhurst and Sunset. The City claims that no analysis is needed because it has been determined that removal of 136,000 of a project sitting on an earthquake fault with 13,600 truck trips it is not significant impact (LD125; VTTF51). This position standing alone impeaches the credibility of the entire City of Los Angeles Review staff and they should be disqualified from further review of this case.

PART 18

There is No Cumulative Analysis of the Impact of 38 Other Projects. This is Illegal. The City Should be Disqualified For Abdicating Their Mandatory Duty.

There are 38 other projects going up in the vicinity and the claim is there is no significant impact from this project. (LD128; VTTF42, F95) As noted, this is another example of a false claim and the insanity of the City of LA and how desperate they are to approve this Monstrosity. This position further impeaches the credibility of the entire City of Los Angeles Review staff and they should be disqualified from further review of this case.

The issuance of the Statement of Overriding Considerations at LD 196 et seq **IMPEACHES THE FRAUDULENT ANALYSIS IN THE DECISION** and clearly shows that there is a significant adverse impact from this Project

(traffic (LD198-199; VTTF8, F154-155, F96) and emergency response time(LD198; VTTF95) and noise and vibration. (LD197;F8, F154, F107), let alone during construction.(LD198F8).

There is no cumulative traffic analysis re 38 projects and the added congestion of MP2035.

PART 19

The City Ignores the Impact of the Traffic on Fire and Police Response.

The City again claims that the impact on Fire and Police is less than significant with the horrific gridlock on Sunset and Crescent Heights virtually all morning, and most of the afternoon, and at night on weekends. (LD129); (See also traffic LD29; 129; 145). Yet they issue a statement of overriding considerations. (VTT154-155; F1-9, F96, F8) Laurel Canyon empties into Crescent Heights and there is bumper to bumper traffic most of the mornings in the week, and down Crescent Heights and on Sunset. In the afternoon, there is bumper to bumper traffic north on Crescent Heights to Laurel Canyon, and both directions on Sunset. In addition, Fountain is busy most of the afternoon as well and into the early evening. On weekends, Sunset is bumper to bumper, and so is parts of Fountain. The notion that there is less than a significant impact in the area for FD and Police is patently absurd.

There is also no analysis of the impact on the elimination of the dedicated right hand turn lane etc. on fire trucks. There is no chance they can make a right turn without it. Response time is more than 5 minutes 90 pc of the time per the Fire Department. Fire response is a key element of the HCP.

It is admitted that it would reduce the time for the fire department to reach the area:

> "Furthermore, if the City of West Hollywood elects not to implement Mitigation Measure TR-1, project related traffic impacts at the

intersection of Havenhurst Drive and Fountain Avenue would remain **significant** and unavoidable." (Emp. Added).

The City issued a Statement of Overriding Considerations (LD29, 129, 145, 198-199); VTTF8, F154-155)

It is illegal to utilize the term unavoidable when it is not unavoidable, since the problem would be reduced if the exits are placed on Crescent Heights, as well as the dirt removal. The City never evaluated this scenario.

Furthermore, it is a violation of CEQA to not set forth alternatives to TR1. This is what the City of LA has done. No alternatives. See Section 5C supra.

The City claims that it has issued a statement of overriding consideration about the fact the key Mitigation measure cannot be met (MTR1; VTTC23-24; F19 & F26, F154-155) and the sewer line has not been resolved, and that the traffic will be gridlock. This is invalid since the City failed to list alternatives. (**Public Resources Code Section 21002(b).** CEQA requires "shall" that there be mitigation of environmental impacts whenever it is feasible to do so. The law is clear that the governmental agency must identify mitigation alternatives for each significant impact. **(Clover Valley Foundation vs. Rocklin,** 197 Cal. App 4th 200, 244).

PART 20

The Building Will Be Over 150 Feet from the Street and Thus It is Illegal to Approve Under the Fire Department Rules.

The Fire Rules provide that a building may not be more than 150 feet from the edge of a roadway. (LD5) This is the case here without the free gift of 9134 feet. A cursory walk of the area reveals that any building will be more than 150 feet from the edge of the roadway especially because of the addition of the alleged 9134 feet. This violates the Fire Rules.

PART 21

=21a. The WRONG Standard for Measuring Impacts Was Used. The Sensitive Receptor Standard Should have Been Used for Impacts.

As previously argued, the EIR uses the wrong standard re noise and all other impacts, and should have used the correct standard which is sensitive receptor standard due to the fact that the City of WEHO Senior Home is located directly across the street from the exits and the construction.

=21B. The Decision Regarding Noise Level Is Not Valid. It States that a Standing Truck Has a dba of 58. Wrong. The level is 80-90.

The findings regarding noise level are fraudulent. It is noted that a standing truck has a dba of 58. (VTT58) Perhaps in fairy land. A review of any sound chart reflects that the noise of a standing truck let alone hauling diesel truck is in the 80-90 range which is motorcycle range. (LD87; VTT58). In addition, it permits amplification noise of 86 which again is in motorcycle noise range. (LD24). See Chart Noise Level **Exhibit 11).**

The law is clear that the ridiculous levels set by Governments are not **definitive. (Berkeley Keep Jets Over the Bay.com vs Board of Port Commissioners, 91 Cal. App 4th 1344, 1381 (2001).:**

> "Given the uniqueness of the CEQA standard, the fact that residential uses are considered compatible with a noise level of 65 decibels for purposes of land use planning is not determinative in setting a threshold of significance under CEQA. For example, in *Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal.App.3d 872 [274 Cal.Rptr. 720], the court ruled that citizens' personal observations about the significance of noise impacts on their community constituted substantial evidence that the impact may be

significant and should be assessed in an EIR, even though the noise levels did not exceed general planning standards. (*Id.* at pp. 881-882.)

PART 22

The Decision Conveniently Seeks to Disregard the Fact That the 50 Trip standard is Violated and applies a Net Theory to try to Circumvent it. (LD103, 145).

All of the figures utilized by the City re traffic are wrong let alone take into account 38 new projects. (VTTF42, F95)However, the fact is that any increase over 50 is a problem. Here, the 50 trip standard was violated. However, the City ignores this and tries to apply a net theory of averaging which is illegal. (LD103, 145; VTTF51); VTTF129

PART 23

The Decision Totally Fails to Comply with the Hollywood Community Plan and thus the City of LA General Plan, and the Land Use Element and The Traffic MP 2035,

State law is clear. Everything must be consistent with the General Plan. **(Devita v. County of Napa (**1995) 9 Cal. 4th 763, 773-773). The Approval here violates the General Plan and the HCP in terms of height, density, inconsistency with the area etc. (See also Lesher Communications v. City of Walnut Creek (1990) 52 Cal. 3d 535, 541, zoning must comply with the General Plan not the other way around).

There is a total failure to comply with the Hollywood Community Plan. (Housing Standards and Criteria, page 2; **Exhibit 14**) zoning, and traffic, sewer, traffic, drainage fire protection etc, and hauling of 136,000 cy dirt,

and 13,600 truck trips, and construction of a 234 foot finger Monstrosity which is 22 stories not 15-16.

The HCP lists its **Purposes** as follows:

"3. . . .

To encourage the preservation and enhancement of the varied and distinctive residential character of the Community, and to **protect lower density housing** from the scattered intrusion of apartments."

And its **Policies**:

. . . .

The Plan encourages the preservation of lower density residential areas, and the conservation of open space lands.

Much of the Hollywood Community . . . It is also the City's policy that the Hollywood Community Plan incorporate the sites designated on the Cultural and **Historic Monuments Element of the General Plan. "**

Under Land Use, Housing:

"The intensity of residential land use in this Plan and the density of the population which can be accommodated thereon, shall be limited in accordance with the following criteria:

1. The **adequacy of the existing and assured circulation** and public transportation systems within the area:
2. The availability of **sewers**, drainage facilities, **fire protection services** and facilities, and other public utilities"

Under **Circulation, Standards and Criteria:**

". . . .

Design characteristics which give street identify **such as curves**, changes in direction and topographical differences, **should be emphasized by street trees and planted median strips** and by paving. . . . . (Emp. Added)

. . . .

"No increase in density shall be effected by zone change or subdivision unless it is determined that the **local streets**, major and secondary highways, ... **available in the area of the property involved, are adequate to serve the traffic generated**. (Emp. Added)

The Monstrosity Fails All of these. The Monstrosity Finger building is out of touch with the existing community.

Here, the local streets for this project alone let alone the 38 others will not meet and are not adequate to serve the traffic generated, let alone with the removal of the dedicated right hand turn lane south onto Crescent Heights, and the idiotic hard right on Crescent Heights instead, and removal of the traffic island. Most of the intersections are F rated. Sunset and Crescent Heights (Laurel Canyon) is one of the disasters in the City.

TR1 which is supposed to provide for mitigation (which is a lie and a fraud itself since it could not mitigate anything) is a lie and a fraud because the City of WEHO has refused to permit it (and in fact has approved installation of a right hand turn lane only on Havenhurst and Fountain). There are 10 F Streets intersections in the area, and the City approved removal of the right hand turn lane which itself is insane proposition, and violation of the HCP which encourages it, and the traffic island.

It will create massive traffic jams along 10 F intersections, and create problems for the Fire Department. The drainage sewer is not finalized and the City of LA refuses to work out a deal with the City of WEHO. As such, it has not finalized.

It also violates the HCP by fraudulently approving a 3-1 far with increased density which does not qualify for the ELDP and which provides for removal of 136,000 cy of dirt with 13,600 trip of semi trucks north up Havenhurst. This also is insane concept.

It is totally contrary and will destroy the neighborhood character of a peaceful quiet historic street that will be subject to business invitees who will exit on Havenhurst into the morning hours.

It also is contrary to the reservation of the Lytton Building as a Historic Monument which the City sought to avoid but the Commission so voted on 9-15-16.

As noted, there is no compliance with the General Plan and the Community Plan and thus it is illegal.

The project would be non compliant with the street map in the HCP and MP2035.

It also separately violates the HCP re increased density for residential under off menu 12.22 A 25 (f)(4)(ii)(a) **(Exhibit 16).**

PART 24

=20. NO CEQA Review by the Hearing Officer of the PC of Alternative 9. This was Skipped over.

Not only was the Notice fraudulent, there is no analysis in the Decision by the hearing officer, nor in the LD about Alternative 9 because the City knows it is fraudulent and seeks to avoid it. It does not exist. (LD 183; VTT137). There is no compliance with CEQA. The City abdicated its duty to conduct a proper CEQA review. The Decision goes from 1-8 and 10, and the Decision by the PC stops at 8. (LD178; VTT137). Unbelievably Alternative 9 is not discussed as required under CEQA.

PART 25

25. THE EIR IS A FRAUD AND DEFECTIVE AND IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE. THERE WERE MATERIAL CHANGES MADE NON DISCLOSED IN THE NOTICE AND THEN POST NOTICE. GOVERNMENT CODE SECTION 15088.5 MANDATES THAT A NEW EIR BE FILED

Government Code Section 15088.5 mandates a new EIR whenever there are material changes not disclosed in the Notice or when post notice material changes take place. (**Clover Valley Foundation vs. City of Rocklin**, 197 Cal. App 4th 200 (2011)).

> [4] "Significant new information" includes, for example, a disclosure that: (1) a new significant environmental impact would result from the project or a new mitigation measure; (2) a substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted; (3) a feasible alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the project's significant impacts but the project's proponents decline to adopt it; or (4) the draft EIR "was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (*Mountain Lion Coalition v. Fish & Game Com.* (1989) 214 Cal.App.3d 1043 [*Mountain Lion Coalition*].)" (Guidelines, § 15088.5, subd. (a).)"

Review cannot take in light of fraud by the City. Review cannot take place in a bait and switch situation with the Notice designed to avoid comment and eliminate due process.

Failure to tell the truth after the bait and switch as outlined above and failure to make findings as to Alternative 9. It does not exist anywhere. It goes from

8 to 10 in the LD without 9. There has never been a 9, let alone a thorough EIR review of Alternative 9.

In addition, the failure to discuss each of the items omitted from the Notice.

Failure of the EIR to disclose other feasible project alternative or mitigation measure considerably different from the others previously analyzed that would clearly lessen the significant environmental impacts of the project regarding Alternative 5 and or 6 re Lytton, and re other alternatives avoiding Havenhurst as exit and subject of dirt hauling, fraudulent TR 1 was never viable and no alternatives to avoid the light on Foutain and Havenhurst were listed, earthquake risk and effect upon removal of 135,000 cy of dirt with 32,500 truck loads semi haulers (**Exhibit 7)** , advising the public that the area was for street use and not complying with **CSHC 8308-09 (Exhibit 6)** and **LAMC 700** et. seq re vacation of public street for dedicated right hand turn lane and traffic island, fraudulent notice as outlined above, violation of HCP and General Plan re D limitation of 1-1 and illegal approval of 3-1 FAR, and violation of off menu LAMC 12.22 A 5 (f)(4)(ii) a and b for a variety of reason including not apply.

=25B. No Disclosure in the Notice that the Private Easements of Owners in the 1905 Crescent Heights Tract Was Being Attacked.

In closing, **the EIR, the Staff Reports, and the Letters of Determination failed to disclose that the dedicated right hand turn lane and that the 9123 feet would be given to the Developer consisting of the island and the dedicated right had turn lane and used by the Developer for in effect for nothing. The Notice is evidence of a fraud.**

SECTION 2: THE CPC APPEAL CPC-2013-2551-MCUP-DB-SPR;

PART 26
FAR 3-1 APPEAL AND OFF MENU ITEMS

26.THE GRANT OF FAR 3-1 IS ILLEGAL AND INVALID FOR MANY REASONS BECAUSE IT IS IN A D ZONE WITH A MAXIMUM OF 1-1, OTHERWISE IT IS ALSO IN A 1 ZONE WITH A MAX OF 1.5-1, AND IT IS A MIXED USE PROJECT NOT A COMMERCIAL PROJECT AND THUS ON ITS FACE 12.22 a. 25 (f)(4)(b)(ii) (EXHIBIT 0, PAGE10) DOES NOT APPLY, AND EVEN IF IT APPLIED, THE OFF MENU DENSITY BONUS DOES NOT APPLY BECAUSE IT IS MORE THAN 1500 FEET FROM A MAJOR TRANSIT STOP, AND IT IS LIMITED TO A MAX OF 35 % INCREASE FOR RESIDENTIAL 12.22 A. 25 (f)(4)(b)(ii) PAGE 10 OF EXHIBIT 9, WHICH IS NOT BEING REQUESTED

=26A. The Property is in a D Zone and Limited to Only Be a 1-1 Density.

This is discussed supra. See Audio of Hearing LAPC 2:38. A 1 zone is limited to 1.5.-1.

=26B. The Grant of a Density Bonus of 3-1 Is Illegal Because It is In a D Zone Limited to 1-1 and Not in a 1 Zone Limited to 1.5 to 1,

The request for a FAR density bonus of **3-1 FAR** is invalid and illegal. The Applicant requested the following incentives per the Notice: (**Exhibit 8**).

"3. Pursuant to LAMC Section 12.22-A.25©, {1} a 22% density bonus to provide 45 additional units**, in lieu of the 35% density bonus**, where 11% (28 units of the total units will be set aside for Very Low income Households, **and** {2} the utilization of Parking Option 1 to allow one onsite parking space for each Residential Unit of zero to one bedrooms, two onsite parking spaces for each Residential Unit . . . . " {brackets added}

In addition, the Applicant asked for two OFF Menu Incentives.

"The Applicant is requesting two Off Menu Affordable Housing Incentives (LD) as follows:

d. Pursuant to LAMC Section 12.22-A,25(g)(3), an Off Menu Incentive to allow the lot area including any land to be set side for **street purposes** to be included in calculating the maximum allowable floor area, in lieu of as otherwise required by LAMC Section 17.05; and

e. **Pursuant to LAMC Section 12.22-A, 25(g)(3), an Off Menu Incentive to allow a 3:1 Floor Area Ratio for a Housing Development Project located within 1560 feet of a Transit Stop, in lieu of the 1,500 foot distance specified in LAMC Section 12.22-A,(f)(4)(ii)" (Emp. Added)**

The Applicant asked for ON MENU

i. Parking reduction
ii. 22 pc extra units from 204 to 249

PLUS OFF MENU

Iii 3-1 FAR for the entire project

iii. which includes half public streets as lot area for FAR which is improper

Numbers 1 and 2 are permitted under what is called the 1818 low income housing rules but not 3 (LD202).

Summary: As a result of the zoning violation, and violation of the General Plan and HCP, the City must deny the Project and has a mandatory duty to do so. (**Government Code Section 66474.61).**

=26C. Section 12.22 A.25 (f)(4)(ii)(b) Page 10 of Exhibit 9 Does Not Apply Because This is Not a Commercial Project, and is a Mixed Use Project and Subsection(ii)(b) Only Applies to a Commercial Project

Section **12.22-A. 25**((f)(4)(ii)(b) reads as follows **(Exhibit 9):**

> "(b). 50 % of the commercially zoned parcel is located in or within 1500 feet of a Traffic Stop/Major Employment Center."

As such, since this is not a commercially zoned parcel and is not a commercial project rather a mixed use with residential, section (ii)(b) on its face does not apply.

Subsection (f)(4)(b)(a) re a 35 % density bonus for residential applies, but it is exclaimed by the Applicant so it is not applicable.

=26D. The Off Menu Density Bonus Cannot Be Used to Cirvument the On Menu Density Bonus and Cannot Cirvumvent the 1500 Foot Limitation

It is Admitted the Property is Outside the 1500 foot mark.

Even assuming arguendo only that the Section (f)(4)(b)(ii) applies to a mixed use project which is a big if, one cannot circumvent the On Menu Code which limits the density increase to off menu and claim that the 1500 restriction does not apply. **12.22-A, 25(f(4)(ii)(b) on page 10 of Exhibit 9 limits off menu to 1500 feet. Here it is 1560 feet and on its face does not comply.**

A 3-1 FAR on menu incentive is based on ministerial approval and must meet the standards and it fails to legally do so. There is no discretion. Section **12.22-A, 25(f)(4)(ii)(b) page 10 of Exhibit 9 provides:**

=1. It must be adjacent to a highway

=2. It must be in height 1XL, 1VL, 1L, with a FAR **of 1.5:1** (as noted below it is not in a 1.5-1 FAR district but in a D zone with a 1-1 FAR district);

=3. It must be within **1500 feet of a major transit stop.**
(as noted it is not)

As set forth above, it is admitted that the Project is 1560 feet away not 1500 feet away from a major metro stop.

> **f. "Pursuant to LAMC Section 12.22-A, 25(g)(3), an Off Menu Incentive to allow a 3:1 Floor Area Ratio for a Housing Development Project located within 1560 feet of a Transit Stop, in lieu of the 1,500 foot distance specified in LAMC Section 12.22-A,(f)(4)(ii)" (Emp. Added)**

Thus, the Decision granting the FAR 3-1 pathetically fails to comply with a 3-1 FAR standard and the City had NO discretion and could not grant it since it is ILLEGAL because it cannot be granted and circumvent the on menu code, and it is not in a 1 zone which is 1-5 to 1 rather it is in a D zone which is 1-1, and it is 1560 feet from a major metro transit stop.

=26E.A. Section (f)(4)(ii)(a) Does Not Apply Because It Sets Forth a A Maximum Residential Density of 35pc. Only As noted, the Applicant has Disclaimed subsection (f)(ii)(b)(a) 35 % Density Residential and Did Not Ask for It

The Applicant did not ask for a 35pc bonus but since the City is a joint conspiracy with the Applicant it may seek to give it to him A CUP which calls for an increase of 35 pc or more in density as bonus requires an additional finding that the approval would not adversely affect or further degrade the adjacent properties, and the surrounding neighborhood.

"3. Pursuant to LAMC Section 12.22-A.25©, a 22% density bonus to provide 45 additional units, **in lieu of the 35% density bonus**, where 11% (28 units of the total units will be set aside for Very Low income Households, and the utilization of Parking Option"

(Housing Incentives in HCP, page 3, Conditional Use Permit for Greater than 35 pc). The following is required under the HCP:

1. The project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city, or region;

2. The project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety;

3. The project substantially conforms with the purpose, intent and provision of the General Plan, the applicable community plan, and any applicable specific plan. (Emp. Added)

. . .

> Appellant will be greatly adversely affected and impacted by traffic, and noise and vibrations, and lack of fire response because there is Statement of Overriding Considerations on these issues fraudulently installed. (LD29, 198-199).

The Decision and grant of FAR 3-1 is totally incompatible with the HCP.

In particular, the concept of removal of 136,000 cy dirt and 13,600 truck loads by huge double semi trucks for months which enough dirt to fill the Coliseum would damage any community let alone this one which is lovely tree lined residential with a bottleneck.

=26E.B. No CUP Was Filed for More Than 35% Density Residential Bonus

At the outset, a CUP is needed under Cp-3251-DB for an off menu FAR incentive. (See LAMC 12.24 U.26 Density Bonus which exceed the maximum permitted under 12.22 A.25; **Exhibit 16** page 3). There is none

SUMMARY: As a result of the violation of the plain language of 12.22 A 25, (f)(4)(ii) a and b, the City of LA is under a mandatory duty to deny the Project. (**Government Code Section 66474.61).**

=26F. LAMC 12.22 A. 25 (g)(3)(i) Provides that the Applicant Was Not Entitled to Off Menu Cannot Be Granted If It is Subject to Other Discretionary Standards.

Section 12.22 A. 25 (g)(3)(i) is clear. If an applicant requests a waiver or modification of any development standard that is not included on the Menu of Incentives in part f, and that are not subject to other discretionary

applications, then it can proceed. **(Exhibit 9,** page 14). If it is subject to other discretionary applications then it cannot proceed.

Here it arguably allegedly was subject to other discretionary applications.

PART 27

=27. THE ISLAND HAS ITS OWN ADDRESS 8118 SUNSET AND IS ZONED FOR AFFORDABLE HOUSING EVEN THOUGH IT IS IN THE MIDDLE OF CRESCENT HEIGHTS AND IS NOW DE FACTO PART OF THE STREET (CRESCENT HEIGHTS AND SUNSET) SINCE THE LATE 1960s. THE 9134 FEET CONSISTING OF THE ISLAND AND THE DEDICATED RIGHT HAND TURN LANE WHICH IS BEING VACATED IS ILLEGALLY BEEN USED AS FAR 3-1 BECAUSE ONE CANNOT MERGE A C4-1 INTO A HD-1D WITH A FAR OF 1-1.

The island is 8118 Sunset and it has a separate address even though it is part of the street area. The island is zone C4-1. It is zoned for affordable housing even though it is part of the street since late 1960s when the Pandoras Box was closed and torn down, and the island was placed in the middle of Crescent Heights as part of the street.

The Housing Element shows the island as a potential site for affordable housing. Assuming R-4 density (400 sf lot area of 9134 sq feet) in the C4 Zone, 22 units could be developed for low cost housing and eligible for 1818 incentives.

This area which is part of the 9134 feet which also includes the dedicated right hand turn lane has been improperly added to the FAR area, and it is illegal to try to merge C4-1 into HD-1D with a FAR of 1-1. The City contends it has not illegally been vacated and converted into off site open space. This is false but even if true, sorry City you can't have it both way.

g. Pursuant to LAMC Section 12.22-A,25(g)(3), an Off Menu Incentive to allow the lot area including any land **to be set side for street purposes to be included in calculating the maximum** allowable floor area, in lieu of as otherwise required by LAMC Section 17.05; and (Emp added.)

If it was for street purposes it could be included but not if it is for off site open space which the City claims it is. (Another example of the City's manipulation of the situation.)

PART 28

THE ENTIRE PROCESS REFLECTS SPOT ZONING WHICH IS ILLEGAL

The grant of a FAR 3-1 out of the blue which violates the law reflects spot zoning which is illegal.

The ILLEGAL approval of FAR 3-1 is like giving the keys to the inmates in an insane asylum and unfettered right to regulate density bonuses. The City has abdicated its duties and instead has rolled over like a dog waiting to have its head rubbed by a Developer.

PART 29

=29A. THE 3-1 FAR IS ILLEGAL. THE AREA IS 1-1 D ZONE.

This is a D District or 1-1. The City admitted it is in a 1D zone which is 1.5-1, and in a D zone which is a 1-1. (Audio of Hearing before PC 2:38). Right now the Decision is illegal and violates the General Plan and the Hollywood General Community Plan. As such, the City of LA is under a mandatory duty to deny the Project. (**Government Code Section 66474.61).**

=29B. There Was No Height District Change from 1-1 in D District to 3-1 under LAMC 12.32F and thus the Decision is Illegal.

A Height District change is mandatory from 1-1 to 3-1. The failure to request a Height District amendment and General Plan Amendment means that the land use element would be inconsistent and not accurately reflect the tripling of FAR from 110,000 to an insane 330,000 feet. The Project would show a 1-1 FAR but the Project would have a 3-1 FAR.

In addition, the Project did not qualify for the off menu incentive bonus items because there are specific adverse impacts as documented by the Statement of Overriding Considerations.

=29C. An Amendment to the General Plan, HCP and/or amend MP2035 Is Required and Without It the Approval Is Illegal.

The Street Map for the intersection of Crescent Heights and Sunset in the MP2035 conflict with the approval and would require a hearing(s). MP 2035 must be amended to show that the island is gone and the dedicated right turn lane are closed forever and that the City gave away 9124 feet and is open space.

=29D. NO General Plan Amendment, nor HCP Amendment, nor Amendment to MP 2035 Nor any Zone Change Can Take Place After Approval. The EIR is Illegal and Falls and the City Even Though It is in Bed with the Developer and Wants the Project Legally Cannot Save It

CSHC Code Sections 8308 et. seq. cannot be amended by the City. The City can amend its own rules and regulations but they cannot conflict with the CSHC (D700).

In terms of a D zone, it is limited to 1-1. It cannot be changed without a General Plan Amendment which is legal.

In view of the D limitation, and the other limitations any Los Angeles Charter 555 provides that a General Plan Amendment may be undertaken only in conformity with 555. There is a process to accomplish this task. This cannot be piecemeal with selective amendments to the General Plan to favor one owner or applicant. (LAMC 12.32 which implements Charter 558). It must involve the entire General Plan, an entire Element, a significant part of an Element, or a geographical area so long as the Element part or geographical area constitutes a significant social, economic, or physical identity. (Charter 555).

PART 30 ALCOHOL

=30. The Approval of a CUP Even Though it Does Not Appear One was Requested and Noticed for Alcohol Which Violates the Maximum Number of ABC licenses Issued in the District 1942. It Will Negatively Materially Impact the Residents of the Apartment Building, and Others Including the Senior Home of WEHO, and the Buddhist Temple All Within 100 Feet.

=30A. The Maximum Number of 5 On Site Licenses Has Been Exceeded And No New Licenses Can Be Issued.

The Decision purports to grant a liquor license upon application with the ABC. (VTTC3-C6)

There is a limit on alcoholic licenses that can be issued. Unless the owners of any restaurants who want to use liquor can obtain an existing license, no new license may be issued. The material disclosed is that there is an over concentration of on site liquor licenses in Census Tract 1942 which covers 8150 eastward and northward. There is a limit of 5 on site and 4 off site licenses in the Tract 1942. It has 13 on site, and 4 off site. Within 600 feet, there are 12 on site and 2 offsite. This does **not** include the Census Tract that starts at Havenhurst and goes West and South and there are many licenses in that Tract.

Therefore no new license can be issued since it exceeds the maximum permitted.

=30B. No New License Can Be Issued Since It will Materially Impact the Residents of Appellant's

Apartment, the Senior Home of WEHO, and the Buddhist Temple.

A liquor license or renewal etc. also cannot be granted (shall not be approved) if it will materially impact residents within 100 feet if it will interfere with the quiet enjoyment of the residents. (Government Code 23789, and Rule 61.4). The burden is on the Applicant to demonstrate no material impact of quiet enjoyment of the residents. The Applicant must fill out a form and list all residents within 100 feet. (See **Exhibit 13)** The distance is measured by a direct line from the closest edge of the residential structure to the closest edge of your structure or parking lot. Here, the Apartment Building is about 50-60 from the property. (Havenhurst is 38 feet (not 60 feet as set forth by the City) plus the sidewalk of about 10 feet on either side. `

In addition, a license can be refused if it is within 600 feet of a church. (Section 23789(a). Here, the Buddhist Temple is 90 feet away.

The grant of ABC licenses will materially impact the residents in the area including the residents of Appellant's Apartment Building directly across the street which is 38 feet in width Havenhurst, and the residents in the Senior Home of WEHO directly across the street from the exits on Havenhurst, and the Buddhist Temple which is 90 feet away.

It is clear from the past that new liquor licenses will attract alcoholics, drunkers, drug addicts, bums, and others especially after closing hours and late at night who urinate, try to have sex, and or sleep in the area.

It will act as an attractive nuisance like a bee to honey for drunken drivers and limousine and Uber drivers who are insensitive and will have lights on and honk their horns because they could care less, and play loud music, and wake people up, especially while waiting in line to exit on Havenhurst to traverse to Sunset to make a right turn. This is a recipe for a disaster.

CONCLUSION

The entire process is wrought with fraud and conflict by the City of Los Angeles, and illegality. The Decision must as a law be reversed on so many grounds.

=1. It illegally interferes with the Private Easement rights of Appellant and others,
=2. It violates the Brown Act,
=3. Fraudulent lack of notice and cover up
=4. Illegal violation of the ELDP and the Project does not qualify for ELDP and must be removed;
=5. Illegal attempt to vacate the dedicated right hand turn lane and the traffic island in violation of CSHC Section 8308 et seq.
=6. Illegal mickey mouse attempt re the use of the Tract Map maneuver and the B Permit,
=7. Illegal giving away of 9134 feet of property,
=8. Illegal grant of a FAR 3-1 and violation of LAMC 12.22 A. 25 (f)(4)(ii) a and b for various reasons including (f)(4)(ii)(b) does not apply because mixed project and not commercial, and (f)(4)(b)(ii) does not apply because more than 1500 from a metro major traffic stop, and (f)(4)(b) (a) does not apply because limited to 1 zone which is max of 1.5-1, and max of 35pc and no application made for 35pc residential ; and 12.22 A (g)(iii);
=9. Illegal violation of the General Plan and the HCP and the Zoning ordinance by trying to use 3-1 FAR in a 1 D zone which is maximum 1-1 FAR.
=10. Illegal attempt to use TR1 when in fact not viable, and sewer as well which invalidates the entire approval.
=11. Violation of CEQA re notice, and no discussion of Alternative 9.
=12. Failure to use proper sensitive receptor standard in the EIR due to the location of the City of WEHO senior center right across the street from the exits as proposed;
=13. Illegal attempt to merge 8118 Sunset the Traffic Island with the Project both of which have separate zonings
=14. Illegal Spot Zoning
=15. Sits on top of earthquake fault and illegal
=16. Building is more than 150 feet from street and violates Fire Department Rules
=16. Illegal grant of liquor license

In addition, there is the blatant abdication of a mandatory duty and the failure to follow and comply with CEQA re notice, and resolution of issues and alternatives.

Very Truly Yours,

Allan E. Wilion, Esq.
Attorney for Appellant
Susanne Manners

Cc:
Councilman Ryu
FixTheCity
All Appellants

The Law Dictionary

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Navigation

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What is **ADJACENT**?

Lying near or close to; contiguous. The difference between adjacent and adjoining seems to be that the former implies that the two objects are not widely separated, though they may not actually touch, while adjoining imports that they are so joined or united to each other that no third object intervenes. People v. Keechler, 194 111. 235. 62 N. E. 525; Ilanifen v. Armitage (C. C.) 117 Fed. &45; McDonald v. Wilson. 59 Ind. 54; Wormley v. Wright County, 108 Iowa, 232, 78 N. W. 824; Hennessy v. Douglas County, 90 Wis. 129, 74 N. W. 9S3; Yard v. Ocean Beach Ass'n, 49 N. J. Eq. 300, 24 Atl. 729; Henderson v. Long, 11 Fed. Cas. 10S4; Yuba County v. Kate Hayes Min. Co., 141 Cal. 3Go, 74 Pac. 1049; United States v. St. Anthony It. Co.. 192 U. S. 524, 24 Sup. Ct. 333, 48 L. Ed. 54S. But see Miller v. Cabell, 81 Ky. 184; In re Sadler, 142 Pa. 511, 21 Atl. 978.

More On This Topic

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6. How Do I Know If I Have Outstanding Traffic Tickets
7. How Do I Locate My Property Lines?
8. How to Apply for a Lost Car Title
9. Filing a Small Claims Suit in Florida
10. Getting a Permit to Carry a Concealed Weapon in Georgia

EXHIBIT 8B

HOLLY L. WOLCOTT
CITY CLERK

SHANNON D. HOPPES
EXECUTIVE OFFICER

When making inquiries relative to this matter, please refer to the Council File No. 16-1011-S1

City of Los Angeles
CALIFORNIA

ERIC GARCETTI
MAYOR

OFFICE OF THE
CITY CLERK

Council and Public Services Division
200 N. Spring Street, Room 395
Los Angeles, CA 90012
General Information - (213) 978-1133
FAX: (213) 978-1040

BRIAN WALTERS
DIVISION MANAGER

clerk.lacity.org

CPC-2013-2551-MCUP-DB-SPR-1A
CD 4

September 30, 2016

NOTICE TO APPELLANT(S)/APPLICANT(S)/OWNER(S)/OCCUPANTS AND INTERESTED PARTIES WITHIN A 500-FOOT RADIUS

You are hereby notified that the Planning and Land Use Management (PLUM) Committee of the Los Angeles City Council will hold a public hearing on **Tuesday, October 25, 2016**, at approximately **2:30 p.m.** or soon thereafter in the Board of Public Works Edward R. Roybal Hearing Room 350, City Hall, 200 North Spring Street, Los Angeles, CA 90012, to consider Environmental Impact Report and Errata (ENV-2013-2552-EIR), Mitigation Measures, Mitigation Monitoring Program, Statement of Overriding Considerations and related California Environmental Quality Act (CEQA) findings, report from the Los Angeles City Planning Commission (LACPC), and appeals filed by: Assistant City Manager Stephanie DeWolfe on behalf of the City of West Hollywood (Representative: Beth Collins-Burgard and Dylan Johnson, Brownstein Hyatt Farber Schreck LLP); JDR Crescent LLC and IGI Crescent LLC (Representative: Robert L. Glushon and Kristina Kropp, Luna and Glushon); Susane Manners (Representative: Allan Wilion, Esq.); Fix the City, Incorporated (Representative: Beverly Grossman Palmer, Strumwasser and Woocher LLP); Laurel Canyon Association (Representative: Jamie T. Hall, Channel Law Group LLP) from the entire determination of the LACPC in approving a Master Conditional Use to permit the sale and/or dispensing of a full line of alcoholic beverages for on-site consumption in conjunction with four restaurants/dining uses, and the sale of a full line of alcoholic beverages for off-site consumption in conjunction with a grocery store; and in approving a Site Plan Review for a mixed-used development with 249 residential dwelling units including 28 units set aside for Very Low Income households, 65,000 square feet of commercial uses and 820 parking spaces within four subterranean and semi-subterranean levels, for the properties located at 8148-8182 West Sunset Boulevard, 1438-1486 North Havenhurst Drive, and 1435-1443 North Crescent Heights Boulevard, subject to modified Conditions of Approval. (On July 28, 2016 the LACPC also approved a Density Bonus.)

Applicant: AG SCH 8150 Owner, LP
Representative: Michael Nytzen, Paul Hastings, LLP

If you are unable to appear at this meeting, you may submit your comments in writing. Written comments may be addressed to the City Clerk, Room 395, City Hall, 200 North Spring Street, Los Angeles, CA 90012. In addition, you may wish to view the contents of Council file No. 16-1011-S1 by visiting: **http://www.lacouncilfile.com**

8B

Please be advised that the PLUM Committee reserves the right to continue this matter to a later date, subject to any time limit constraints.

Sharon Dickinson, Legislative Assistant
Planning and Land Use Management Committee
(213) 978-1074

Note: If you challenge this proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk at, or prior to, the public hearing. Any written correspondence delivered to the City Clerk before the City Council's final action on a matter will become a part of the administrative record. The time in which you may seek judicial review of any final action by the City Council is limited by California Code of Civil Procedure Section 1094.6 which provides that an action pursuant to Code of Civil Procedure Section 1094.5 challenging the Council's action must be filed no later than the 90th day following the date on which the Council action becomes final.

EXHIBIT 8C

AGENDA
CULTURAL HERITAGE COMMISSION
REGULAR MEETING
THURSDAY, SEPTEMBER 15, 2016, 9:00 A.M.*
200 North Spring Street
Room 1010, City Hall
Los Angeles, CA 90012

PLEASE NOTE CHANGE OF TIME

MEMBERS
Richard Barron, President
Gail Kennard, Vice President
Jeremy Irvine, Commissioner
Barry A. Milofsky, Commissioner
Elissa Scrafano, Commissioner

Fely C. Pingol, Commission Executive Assistant
(213) 978-1300

EVERY PERSON WISHING TO ADDRESS THE COMMISSION MUST COMPLETE A SPEAKERS REQUEST FORM AT THE MEETING AND SUBMIT IT TO THE COMMISSION EXECUTIVE ASSISTANT

POLICY FOR DESIGNATED PUBLIC HEARING ITEM NOS. 4, 5, 6, 7, 8, 9, 10, 11, 12 AND 13:
Pursuant to the Commission's general operating procedures, the Commission at times must necessarily limit the speaking times of those presenting testimony on either side of an issue that is **designated** as a public hearing item. All requests to address the Commission on public hearing items must be submitted prior to the Commission's consideration of the item.

TIME SEGMENTS noted * herein are approximate. Some items may be delayed due to length of discussion of previous items. **Commission meetings may be heard on Council Phone by dialing (213) 621-2489 or (818) 904-9450.**

Members of the public who wish to submit written materials on agendized items should submit them prior to the meeting to the Commission Office, 200 North Spring Street, Room 532, Los Angeles, California 90012

As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate. The meeting facility and its parking are wheelchair accessible. Sign language interpreters, assistive listening devices, and other auxiliary aids and/or services may be provided upon request. To ensure availability, please make your request no later than seven (7) working days prior to the meeting by contacting the Commission Secretariat at (213) 978-1300.

FINALIZATION OF COMMISSION ACTIONS: In accordance with City Charter Section 32.3, actions of the Cultural Heritage Commission shall become final at expiration of next five meeting days of the Los Angeles City Council during which the Council has convened in regular session.

AGENDA are posted for public review in the Main Street lobby of City Hall East, 200 N. Main Street, Los Angeles, California and are accessible online at **www.planning.lacity.org**. Click the "Meetings and Hearings" quick link. CHC agenda are available under any of the seven service areas.

8C

6. **TOM OF FINLAND HOUSE, 1421 LAVETA TERRACE, CHC-2016-2510-HCM, CD 13**
Determination of Monument Status after Inspection. Motion Required

CEQA Review and Recommendation: Categorical Exemption pursuant to City CEQA Guidelines, Article III, Section 1, Class 8 & 31.

Owner/
Applicant: Durk Dehner, Tom of Finland Foundation

7. **S. CHARLES LEE RESIDENCE, 1078 S. HAYWORTH AVENUE, CHC-2016-2025-HCM, CD 5.**
Determination of Monument Status after Inspection. Motion Required

CEQA Review and Recommendation: Categorical Exemption pursuant to City CEQA Guidelines, Article III, Section 1, Class 8 & 31.

Owner/
Applicant: Barbara A. Jones

8. **S. T. FALK APARTMENTS, 3631-3635 CARNATION AVENUE AND 1810-1816 LUCILE AVENUE, CHC-2016-1078-HCM, CD 13.**
Determination of Monument Status after Inspection. Motion Required

CEQA Review and Recommendation: Categorical Exemption pursuant to City CEQA Guidelines, Article III, Section 1, Class 8 & 31.

Owner/
Applicant: John-Mark Horton

9. **LYTTON SAVINGS, 8150 WEST SUNSET BOULEVARD, CHC-2016-2522-HCM, CD 4.**
Determination of Monument Status after Inspection. Motion Required

CEQA Review and Recommendation: Categorical Exemption pursuant to City CEQA Guidelines, Article III, Section 1, Class 8 & 31.

Owner: Tyler Siegel and John Irwin, AG-SCH 8150 Sunset Boulevard Owner LP c/o Townscape Management Inc.

Applicant: Steven Luftman and Keith Nakata, Friends of Lytton Savings

***** FOLLOWING ITEM TO BE HEARD AFTER 11:00AM*****

10. **CHARLOTTE AND ROBERT DISNEY HOUSE, 4406 WEST KINGSWELL AVENUE, CHC-2016-2575-HCM, CD 4.** Determination of Monument Status after Inspection. Motion Required

CEQA Review and Recommendation: Categorical Exemption pursuant to City CEQA Guidelines, Article III, Section 1, Class 8 & 31.

Owner: Sang Ho Yoo, Krystal Yoo, and Hyun Bae Kim

Applicant: City of Los Angeles

EXHIBIT 16

FINDINGS / SPECIALIZED REQUIREMENTS

HOUSING INCENTIVES
Density Bonus (DB) - Conditional Use (CU) – Public Benefit (PUB)

RELATED CODE SECTIONS: The Department of City Planning (DCP) offers several processes intended to facilitate affordable housing in the City of Los Angeles. Section 12.22 A.25 of the Los Angeles Municipal Code (LAMC) authorizes the Director of Planning to approve applications for Density Bonus requesting up to three (3) on-menu incentive items; and the City Planning Commission to approve applications for Density Bonus requesting any off-menu items. Section 12.24 U.26 of the LAMC authorizes the City Planning Commission to approve a Conditional Use Permit for applications requesting a density bonus increase greater than the maximum permitted in Section 12.22 A.25. Section 14.00 A.2 authorizes the Director to approve Public Benefit Projects where otherwise not permitted by right or by Conditional Use and which meet specific performance standards or alternative compliance measures. Check which entitlement you are requesting below:

- ☐ - Density Bonus Filing with On-Menu Incentive Items
- ☐ - Density Bonus Filing with Off-Menu Items*
- ☐ - Conditional Use Permit for greater than 35% Density Bonus*
- ☐ - Public Benefit Project*

* *These entitlement requests may be applied for following consultation with DCP Project Planning staff only. All applications require an Affordable Housing Referral Form from the Metro DSC Housing Services Unit.*

PRIORITY HOUSING PROJECT PROCESSING: In accordance with the Mayor's Executive Directive No. 13 (ED13), issued on October 23, 2015, DCP has implemented a policy to prioritize case processing for projects that contribute to the new construction or rehabilitation of housing developments that meet the criteria set forth in ED 13. Please complete the following regarding your project:

The project contains a minimum of 10 or more units; and	☐ - YES	☐ - NO
At least 20% of on-site rental units have rents that are restricted so as to be affordable to and occupied by low income households; or	☐ - YES	☐ - NO
At least 30% of on-site for sale units have sales prices that are restricted so as to be affordable to and occupied by low- or moderate-income households	☐ - YES	☐ - NO

PUBLIC HEARING AND NOTICE: A request for a Density Bonus with on-menu incentives *does not* require a public hearing. However, mailing labels and a copy of labels for abutting property owners of all contiguously owned properties of the subject site will be required for mailing of the determination letter. A map keyed to the labels is also required. Abutting owners include those across the street or alley or having a common corner with the subject property (i.e., every parcel that would touch the subject property if all rights-of-way were removed from the map).

A request for Density Bonus with off-menu incentives, a Conditional Use, or a Public Benefit application *does* require a public hearing. Notification includes mailings to property owners and occupants within a 500-foot radius of all contiguously owned properties of the subject site as well as on-site posting of the hearing notice. Applications reviewed at Planning Commission level also require on-site posting of the Commission Meeting Agenda. Refer to DCP's *Mailing Procedures* (CP-2074) and *On-Site Posting* (CP-7762) handouts for further instructions.

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SPECIALIZED REQUIREMENTS: When filing any of the above applications, the following items are required in addition to those specified in the *Master Filing Instructions* form (CP-7810).

1. **Affordable Housing Referral Form (AHRF):** Provide the original *Affordable Housing Referral Form* (CP-4043) reviewed and signed by City Planning's Metro DSC Housing Services Unit staff prior to case filing. DCP's current Assignment List and Staff Directory, with contact information, can be found at http://planning.lacity.org under the "About" tab.

2. **Proof of Filing with HCIDLA:** As part of AB2222, effective January 1, 2015, the Housing and Community Investment Department (HCIDLA) must evaluate properties on which there is a proposed Density Bonus case and determine whether replacement units are required. Include proof of filing with HCIDLA via Housing Application Forms that are stamped by said department.

3. **Pre-Filing Review:** Requests for a Density Bonus with off-menu incentives, a Conditional Use Permit for >35% Density Bonus, or a Public Benefit Project require consultation with staff assigned to the geographic area in which the project is located prior to the filing of your application. An appointment is required for this review. DCP's current Assignment List and Staff Directory, with contact information, can be found on City Planning's website.

4. **Color Elevations:** Color elevations are mandatory for all Density Bonus cases. These shall include specifications and a legend for all materials and colors proposed for the street facing façade. Refer to DCP's *Elevation Instructions* (CP-7817) for technical requirements. Provide as many copies as plans required per the *Master Filing Instructions*.

5. **Color Renderings:** Color renderings are mandatory for all Density Bonus cases that include a Site Plan Review filing and/or are reviewed at the City Planning Commission level. Provide as many copies as plans required per the *Master Filing Instructions*.

6. **Citywide Design Guidelines Checklist:** If your project involves the construction of, addition to, or exterior alteration to any building or structure, please complete the Residential or Mixed-Use Design Guidelines (as applicable to your project), available on DCP's website. This does not apply to projects located within a Specific Plan or Overlay that contains its own design regulations.

GENERAL FINDINGS: Each of the following requests requires findings for approval. Include the applicable finding(s) separately for every item checked in the previous REQUESTED ACTION(S) section. On a separate page, copy each finding stated below and provide a detailed justification/explanation of how the proposed project conforms to the finding.

- **Density Bonus with On-Menu Incentive Items:** LAMC 12.22 A.25(g)(2) – To be eligible for any on-menu incentives, a Housing Development Project (other than an Adaptive Reuse project) shall comply with the following:

    1. The façade of any portion of a building that abuts a street shall be articulated with a change of material or with a break in plane, so that the façade is not a flat surface. Indicate the sheet number on your plans which shows compliance with this requirement: _____

    2. All buildings must be oriented to the street by providing entrances, windows, architectural features and/or balconies on the front and along any street-facing elevations. Indicate the sheet number on your plans which shows compliance with this requirement: _____

3. The Housing Development Project shall not be a contributing structure in a designated Historic Preservation Overlay Zone and shall not be on the City of Los Angeles list of Historical-Cultural Monuments. Please check the "Planning and Zoning" tab under the property profile in ZIMAS at http://zimas.lacity.org

4. The Housing Development Project shall not be located on a substandard street in a Hillside Area or in a Very High Fire Hazard Severity Zone as established in Section 57.4908 of the Municipal Code. To verify whether a project is located on a substandard street, obtain a Hillside Referral Form from the Bureau of Engineering; to verify whether a project is located within a Very High Fire Hazard Severity Zone, check the "Additional" tab under the property profile in ZIMAS.

- **Density Bonus with Off-Menu Incentive Items:** LAMC 12.22 A.25(g)(3) – Provide a pro forma or other documentation to show that the waiver or modification is needed in order to make the Restricted Affordable Units economically feasible in addition to the items listed above. A third-party peer review of the pro-forma is also required.

- **Conditional Use Permit for Greater than 35% Density Bonus:** LAMC 12.24 U.26 – Density Bonus requests for Housing Development Projects in which the density increase is greater than the maximum permitted in LAMC Section 12.22 A.25 shall also find that:

  1. The project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city, or region;

  2. The project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety;

  3. The project substantially conforms with the purpose, intent and provision of the General Plan, the applicable community plan, and any applicable specific plan.

  4. The project is consistent with and implements the affordable housing provisions of the Housing Element of the General Plan;

  5. The project contains the requisite number of affordable and/or senior citizen units as set forth in California Government Code Section 65915(b); and

  6. The project addresses the policies and standards contained in the City Planning Commission's Affordable Housing Incentives Guidelines.

- **Public Benefit Project:** LAMC 14.00 A.2 – Density increase requests for a Housing Development Project to provide for additional density in excess of that permitted in LAMC Section 12.22 A.25 shall find that the proposed project substantially meets the purposes of the performance standards set forth in LAMC Section 14.00 A.2. If utilizing this process, also complete the *Public Benefit Projects* form (CP-7766).