



## DEPARTMENT OF CITY PLANNING

### APPEAL RECOMMENDATION REPORT

#### City Planning Commission

**Date:** July 28, 2016  
**Time:** After 8:30 A.M.  
**Place:** Van Nuys City Hall Council Chambers  
2nd Floor  
14410 Sylvan Street  
Van Nuys, CA 91401

**Public Hearing Completed:** May 24, 2016  
**Expiration Date:** August 4, 2016  
**Appeal Status:** Pursuant to LAMC Section 17.06, the Tract Map is appealable to City Council

**Case No.:** VTT-72370-CN-1A  
**CEQA No.:** ENV-2013-2552-EIR  
(SCH No. 2013091044)  
**Incidental Cases:** VTT-72370-CN;  
CPC-2013-2551-MCUP-DB-SPR  
**Related Cases:** None  
**Council No.:** 4 – Hon. David Ryu  
**Plan Area:** Hollywood  
**Specific Plan:** None  
**Certified NC:** Hollywood Hills West  
**General Plan:** Neighborhood Office Commercial  
**Zone:** C4-1D  
**Applicant Representative:** AG SCH 8150 Sunset Owner, LP  
Michael Nytzen,  
Paul Hastings, LLP  
**Appellants:** (1) Laura Lake,  
Fix the City  
(2) Robert Glushon,  
JDR Crescent, LLC; IGI  
Crescent, LLC  
(3) Scott Lunceford,  
City of West Hollywood  
(4) Susanne Manner,  
Allan Wilion, ESQ

**PROJECT LOCATION:** 8148-8182 West Sunset Boulevard; 1438-1486 North Havenhurst Drive; 1435-1443 North Crescent Heights Boulevard.

**PROPOSED PROJECT:** The project, as approved by the Advisory Agency on June 23, 2016, Vesting Tentative Tract Map No. 72370-CN, consists of one master lot and 10 air space lots for the development of 249 residential dwelling units, including 28 units set-aside for Very Low Income households, and 65,000 square feet of commercial uses.

The project site is currently occupied by two commercial buildings and associated parking, all of which would be removed to allow for the project.

#### REQUESTED ACTIONS:

1. Pursuant to LAMC Section 17.03 of the Los Angeles Municipal Code, **appeals** of the Deputy Advisory Agency's approval of **Vesting Tentative Tract No. VTT-72370-CN**;
2. Pursuant to Section 21082.1(c)(3) of the California Public Resources Code, the Certification of the Environmental Impact Report (EIR), ENV-2013-2552-EIR, SCH No. 2013091044, for the above-referenced project, and Adoption of the Statement of Overriding Considerations setting forth the reason and benefits of adopting the EIR with full knowledge that significant impacts may remain;
3. Pursuant to Section 21801.6 of the California Public Resources Code, the Adoption of the proposed Mitigation Monitoring Program; and,

4. Pursuant to Section 21081 of the California Public Resources Code, the Adoption of the required Findings for the adoption of the EIR.

**RECOMMENDED ACTIONS:**

1. **Deny** the appeals on the overall project (VTT-72370-CN-1A);
2. **Find** that the City Planning Commission has reviewed and considered the information contained in the Environmental Impact Report, Environmental Clearance No. **ENV-2013-2552-EIR**, (SCH. No. **2013091044**), in its determination of the proposed project and **Affirm** that the EIR was certified by the Deputy Advisory Agency on June 23, 2016 and that the EIR was prepared in compliance with the California Environmental Act and reflects the independent judgment of the lead agency and Adopt the EIR for use in reviewing the approved project. The City Planning Commission actions confirm that the Deputy Advisory Agency:
  - a. **Certified** that the EIR has been prepared in compliance with CEQA and reflects the City's (Lead Agency) independent judgment and analysis; and,
  - b. **Adopted** the Statement of Overriding Considerations setting forth the reasons and benefits of adopting the EIR with full knowledge that significant impacts may occur; and
  - c. **Adopted** the Mitigation Measures, Mitigation Monitoring Program; and,
  - d. **Adopted** the related Environmental Findings;
3. **Advise** the Applicant that, pursuant to California State Public Resources Code Section 21081.6, the City shall monitor or require evidence that **mitigation conditions** are implemented and maintained throughout the life of the project and the City may require any necessary fees to cover the cost of such monitoring; and, that pursuant to the State Fish and Game Code Section 711.4, a Fish and Game and/or Certificate of Game Exemption is now required to be submitted to the County Clerk prior to or concurrent with the Environmental Notices and Determination (NOD) filing.

VINCENT P. BERTONI, AICP  
Director of Planning



William Lamborn, Hearing Officer  
Telephone: (213) 978-1470



Christina Toy Lee, City Planner



Luciralia Ibarra, Deputy Advisory Agency

**ADVICE TO PUBLIC:** \*The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communications may be mailed to the *Commission Secretariat, 200 North Spring Street, Room 532, Los Angeles, CA 90012* (Phone No. 213-978-1300). While all written communications are given to the Commission for consideration, the initial packets are sent out the week prior to the Commission's meeting date. If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agendaed herein, or in written correspondence on these matters delivered to this agency at or prior to the public hearing. As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability, and upon request, will provide reasonable accommodation to ensure equal access to this programs, services and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or other services may be provided upon request. To ensure availability of services, please make your request not later than three working days (72 hours) prior to the meeting by calling the Commission Secretariat at (213) 978-1300.

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EIR: <http://planning.lacity.org/eir/8150Sunset/8150SunsetCoverPg.html>

Project Correspondence: <http://planning.lacity.org/eir/8150Sunset/correspondence.htm>

Additional Documents: <http://planning.lacity.org/eir/8150Sunset/listOfdocs.htm>

## **PROJECT SUMMARY**

Four appeals have been filed against the Deputy Advisory Agency's approval of Vesting Tentative Tract Map No. 72370-CN to permit one master lot and 10 air space lots for the development of 249 residential dwelling units, including 28 units set-aside for Very Low Income households, and 65,000 square feet of commercial uses. The project request includes Haul Route approval for the export of approximately 136,500 cubic yards of material.

The project site is an irregular shaped 2.56-acre lot consisting of two parcels, with the property having primary frontage on Sunset Boulevard and with frontage along Havenhurst Drive and Crescent Heights Boulevard. The project site is zoned C4-1D and is currently improved with two commercial buildings containing 80,000 square feet of commercial space, including a bank, fast food uses and associated parking, all of which would be removed to allow for the proposed project.

The applicant, AG SCH 8150 Sunset Boulevard Owner, LP, is proposing to construct a new mixed-use development comprised of 249 residential units, including 28 units set aside for Very Low Income households, and approximately 65,000 square feet of commercial and restaurant uses. The residential unit mix is proposed to include 54 studio units, 134 one-bedroom units, 35 two-bedroom units, 24 three-bedroom units, and 2 four-bedroom units. The proposed commercial space includes a 24,811 square foot grocery store, 23,158 square feet of restaurant area, 11,937 square feet of retail uses, and a 5,094 square foot bank. Retail uses will be located in the one- to three-story North Building fronting Sunset Boulevard, at ground level in the three building elements of the South Building, and in the one-story retail structure within the central plaza.

Building heights for the project range from three stories at the Sunset Boulevard retail frontage to 15 stories at the South Building. Specifically, the South Building will include three tower elements, one along Havenhurst Drive at 15 stories in height (approximately 234 feet above grade), one along Crescent Heights Boulevard at 11 stories (approximately 174 feet above grade), and one at the central portion of the South Building between the East and West tower elements at five stories (approximately 110 feet above grade). The maximum building height will be approximately 234 feet as measured from the lowest point of the project site. Although building heights for the North Building are limited to three stories, an architectural projection (or "marquis element") at the northwest corner of the North Building will extend up to a height of 7 stories (or approximately 80 feet) above the Sunset Boulevard grade. The project will have a total floor area of 334,000 square feet, with a FAR of 3:0:1.

### **Existing Zone and Land Use**

The Hollywood Community Plan map designates the project site for Neighborhood Office Commercial land uses with corresponding zones of C1, C2, C4, P, RAS3, and RAS4. The project site is zoned C4-1D. This zoning designation does not restrict height. The zoning designation limits the project site to a 1.5:1 floor area ratio. However, the site's "D" limitation, pursuant to Ordinance 165,714 passed by the City Council on March 22, 1989, limits the project site to a 1:1 floor area ratio. The project site is not located within a specific plan.

The project site is currently improved with two commercial buildings, including a bank and fast food uses, and associated parking, with a total of 80,000 square feet of commercial space, all of which would be removed to allow for the proposed project. The property has frontage along Havenhurst Drive, Sunset Boulevard, and Crescent Heights Boulevard. There are no protected trees on the site.

### **Surrounding Properties**

The project is an infill development located within a commercial area of Sunset Boulevard. The project vicinity is highly urbanized and generally built out, and is characterized by a mix of uses,

including commercial, restaurant, bar, hotel, single- and multi-family residential uses in the C4-1D, (Q)C2-2D, CR-1D, R4-1D, R2-1XL, and R1-1 zones. A mix of commercial uses is concentrated along Sunset Boulevard to the east and west of the project site. Areas to the north of Sunset Boulevard demonstrate hillside topography and consist of predominately single-family residential uses. Areas immediately to the west of the project site along Havenhurst Drive are characterized by multi-family residential uses. Areas immediately to the south of the project site are located in the City of West Hollywood and are characterized by multi-family residential uses. Notable uses in the project vicinity Boulevard include hotel and multi-family residential buildings constructed in the 1920s and 1930s, including the Chateau Marmont on Sunset Boulevard to the west; the Colonial House and Ronda Apartments on Havenhurst Drive to the south; the Andalusia Apartments on Havenhurst Drive to the west; and The Granville, The Tuscan, and the Savoy Plaza on Crescent Heights Boulevard to the southeast.

### **Circulation**

The applicant filed a Vesting Tentative Tract Map preceding the adoption of the Mobility Plan 2035, and therefore the Transportation Element applies to the subject property.

Sunset Boulevard is a Major Highway Class II dedicated to a 95-foot width along the project site's northern street frontage (Avenue I under the Mobility Plan 2035).

Crescent Heights Boulevard is a Major Highway Class II dedicated to a variable width of up to 95 feet along the project site's eastern street frontage (Avenue II under the Mobility Plan 2035).

Havenhurst Drive is a Local Street dedicated to a 60-foot width along the project site's western street frontage (Local Street under the Mobility Plan 2035).

### **Public Transit**

The following transit lines provide service to and around the project site:

- Metro Rapid Line: 780
- Metro Regional/Local Lines: 2/302, 217, 218
- West Hollywood Cityline: Orange, Blue

### **Hazards**

The project site is located within an Alquist-Priolo Zone. The project site is not located within a Fault Rupture Study Area. The project site is located approximately 0.25 kilometers from the nearest fault (Hollywood Fault).

The property is not located in Landslide, Liquefaction, Tsunami Inundation, Very High Fire Hazard Severity Zone, Flood Zone, Methane Hazard, or High Wind Velocity areas.

### **On-Site Related Cases:**

Case No. CPC-2013-2551-MCUP-DB-SPR: This is a concurrent request seeking: 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 1 to allow one on-site parking space for each Residential Unit of zero to one bedrooms, two on-site parking spaces for each Residential Unit of two to three bedrooms, and two-and-one-half on-site parking spaces for each Residential Unit of four or more bedrooms; an Off-Menu Incentive to allow the lot area including any land to be set aside for street purposes to be included in calculating the maximum allowable floor area, in lieu of as otherwise required by LAMC Section 17.05; an Off-Menu Incentive to allow a 3:1 Floor Area Ratio for a Housing Development Project located within 1,560 feet of a Transit Stop, in lieu of the 1,500 foot distance specified in LAMC Section 12.22-A,25(f)(4)(ii); a Master Conditional Use for the sale and/or dispensing of a full line of alcoholic beverages for on-site consumption in conjunction with four restaurant/dining uses, and the sale of a full line of alcoholic beverages for off-site

consumption in conjunction with a grocery store; and a Site Plan Review for a project which creates or results in an increase of 50 or more dwelling units and 50,000 gross square feet of nonresidential floor area.

Ordinance No. 182,960: On April 2, 2014, the City Council voted to set aside the approval of the 2012 Hollywood Community Plan Update, reverting the zoning designations and policies, goals, and objectives that were in effect immediately prior to the approval of the 2012 Hollywood Community Plan update.

Case No. CPC-2014-669-CPU (Ordinance No. 182,960): On March 13, 2014, the City Planning Commission: Approved a Resolution vacating, rescinding, and setting aside the previously approved General Plan Amendment relative to the Hollywood Community Plan Update and all related actions to the Transportation Element and Framework Element that was made part of the General Plan of the City of Los Angeles; Approved an Ordinance rescinding, vacating, and setting aside Ordinance No. 182,173, thereby reverting the zoning ordinances and regulations in place immediately prior to the City Council's adoption of Ordinance No. 182,173; and, Approved a Resolution for the General Plan Framework Element Amendment reaffirming the City's historic interpretation and implementation of the Framework Element's monitoring policies and programs, as modified by the Commission.

Ordinance No. 182,173: On June 19, 2012, the City Council adopted the 2012 Hollywood Community Plan Update, which updated the 1988 Hollywood Community plan, including land use designations and policies addressing development through 2030.

Case No. CPC-2005-6082-CPU (Ordinance No. 182,173-SA4:5C): On February 24, 2012, the City Planning Commission approved an Update to the Hollywood Community Plan, adopting changes to the Hollywood Community Plan text, maps, footnotes and nomenclature changes, as well as rezoning actions. Amendments were made to the Highways and Freeways Map of the Transportation Element of the General Plan, and the Long-Range Land Use Diagram of the Citywide General Plan Framework Element.

Ordinance No. 164,714: At its meeting of March 22, 1989, the City Council passed an ordinance, effective May 16, 1989, establishing a "D" limitation to allow a floor area ratio not to exceed 1:1 on the project site in the C4-1D zone.

#### **Off-Site Related Cases:**

Case No. VTT-54281-CC: On October 14, 2003, the Advisory Agency approved a 10-unit condominium conversion located at 1471-1475 N. Havenhurst Drive.

#### **Environmental Impact Report:**

On September 12, 2013 the City circulated a Notice of Preparation (NOP) to State, regional, and local agencies, and members of the public for a 33-day review period commencing on September 12, 2013 and ending October 15, 2013. A public scoping meeting was conducted on October 2, 2013 at the Will and Ariel Durant Branch Library, located at 7140 W. Sunset Boulevard, Los Angeles, California 90046. In accordance with State CEQA Guidelines, upon completion of the Draft Environmental Impact Report, a Notice of Completion and Availability was submitted to the State Clearinghouse, Governor's Office of Planning and Research for distribution to State Agencies as well as interested parties. The Draft EIR was circulated for a 62-day public review period on November 20, 2014 through January 20, 2015.

Based on comments received on the Draft EIR, the applicant developed a new project alternative, Alternative 9, Enhanced View Corridor and Additional Underground Parking Alternative (the project). The City determined that recirculating portions of the Draft EIR was desirable, with the purpose being to foster further public input and informed decision-making associated with the CEQA process for the project. Because the revisions were limited to a

specific portion of the EIR (the new discussion of Alternative 9) and other insubstantial corrections to the Draft EIR, the City elected to only recirculate the modified portions of the document. As was done for the Draft EIR, the City submitted a Notice of Completion and Availability of the Recirculated Portions of the Draft EIR (RP-DEIR) to the State Clearinghouse, Governor's Office of Planning and Research for distribution to State Agencies as well as interested parties. The RP-DEIR was circulated for a 61-day public review on September 10, 2015 through November 9, 2015.

The City published a Final EIR for the project on May 13, 2016. On June 10, 2016, an Errata to the EIR was published on the City's website with additional information in response to comments that were made during the public hearing process.

On June 23, 2016, the Advisory Agency certified the Environmental Impact Report, in conjunction with Vesting Tentative Tract Map No. VTT-72370-CN. The Environmental Impact Report identified impacts that would have 1) no impacts or less than significant impacts, 2) potential significant impacts that could be mitigated to less than significant, and 3) significant and unavoidable impacts. The impacts are summarized below.

Impacts found to have No Impact or Less Than Significant include the following:

- Agricultural and Forestry Resources
- Aesthetics and Visual Resources (Visual Character - Operation, Views, Light and Glare, Shading, Regulatory Framework Consistency)
- Air Quality (Plan Consistency, Operational Air Quality, Odors)
- Biological Resources
- Geology and Soils (Surface Fault Rupture, Liquefaction, Landslides, Expansive Soils, Geologic Hazards, Sediment and Erosion, Landform Alteration, Disposal of Wastewater)
- Greenhouse Gas Emissions (Construction and Operation)
- Hazardous Materials (Airport Land Use Plan or Hazard, Hazards within ¼ mile of a school, Emergency Response or Evacuation Plan, Wildland Fires)
- Hydrology and Water Quality (Water Quality, Groundwater, Drainage, Runoff, 100-Year Flood Plain or Flood Risk, Inundation by Seiche, Tsunami or Mudflow)
- Land Use and Planning (Consistency with Plans and Policies, Land Use Compatibility, Dividing an Established Community, Conflict with Habitat Conservation Plan or Natural Community Conservation Plan)
- Mineral Resources
- Noise (Permanent Increase in Ambient Noise, Conflict with Land Use Compatibility, Operational Noise in Excess of Standards, Operational Vibration, Within 2 Miles of Airport)
- Population and Housing (Construction, Population & Employee Generation Replacement Housing)
- Public Services (Parks and Recreation – Construction, Libraries)
- Transportation and Circulation (Neighborhood Streets, Regional Traffic, Public Transit, Access, Pedestrian/Bicycle Safety, Parking, Regulatory Framework Consistency, Air Traffic)
- Utilities and Service Systems (Water Supply, Wastewater, Solid Waste, Stormwater Drainage, Other Utilities and Service Systems)

Impacts found to be Less Than Significant with Mitigation include the following:

- Aesthetics and Visual Character (Construction)
- Air Quality (Construction)
- Cultural Resources (Archeological and Paleontological Resources)
- Geology and Soils (Seismic Ground Shaking, Temporary Excavations Site Stability)

- Hazards/Hazardous Materials (Asbestos and Lead Based Paint: Transport, Use of Disposal of Hazardous Materials, Release of Hazardous Materials, Listed Hazardous Materials Site)
- Public Services (Police Protection, Fire Protection, Schools, Parks and Recreation)

Impacts Found to be Significant and Unavoidable even with the implementation of all feasible mitigation include the following:

- Cultural Resources (Historical Resources)
- Noise (Construction noise and vibration)
- Traffic and Transportation (Construction traffic during shoring and excavation phase; Intersection impacts at Havenhurst Drive and Fountain Avenue in the City of West Hollywood during project Operations)

## **CONCLUSION**

In consideration of the request, the Deputy Advisory Agency acted reasonably in approving Vesting Tentative Tract Map No. VTT-72370-CN. The proposed tract map is consistent with the existing zone and land use designation. The proposed 249 units is well below the 278 units permitted by right, and the mix of proposed uses is consistent with the C4-1D zone and Neighborhood Office Commercial land use designation of the Hollywood Community Plan. The proposed project will serve the community by providing a new mixed-use housing development, 221 market rate residential dwelling units, 28 restricted affordable units for Very Low Income households, and 65,000 square feet of commercial floor area. The project's site is at a prominent corner lot location adjacent to commercial uses concentrated along Sunset Boulevard and along the Sunset Strip to the west of the project site. Therefore, and in consideration of all the facts, staff recommends that the decisions of the Deputy Advisory Agency be sustained and the appeals be denied.

## APPEAL ANALYSIS

### Appellant 1: Laura Lake / Fix the City.

The Appellants' statements have been summarized in the following categories (see attached Exhibits for the appellants' entire letters).

#### Appellant's Statements – Street Vacation

- Only the City Council has the authority to vacate a street.
- Findings are required to be made by the City Engineer in order to vacate a street.
- Notice of street vacation must be provided to private easement owners pursuant to the California Streets and Highways Code.
- The Advisory Agency cannot merge a public street and city property with private property without a street vacation.
- Use of any City property was not noticed for the public hearing.
- Use of the City-owned property constitutes a gift of public land to a private party, and fair market value compensation is required. Only City Council has the authority to permit City land to be used by a private party.
- The project is not consistent with the street and highway maps in the Hollywood Community Plan and in Mobility Plan 2035.
- The Advisory Agency has not explained how the current easements on the project site are to be vacated and replaced by a two-foot dedication.
- The discussion of Vision Zero is not supported by substantial evidence, and there is no analysis of the impact of the road closure on pedestrian and bicycle safety.
- A variance is needed to permit restaurants above the ground floor.

#### Staff Response

The Appellant's statements relative to the requirements for street vacation, inclusive of posting, noticing, City Council authority, and required City Engineer findings do not apply to the project because the project has not requested a street vacation. No street vacation was requested, and no action involving a street vacation was before the Deputy Advisory Agency for their consideration. Accordingly, and as noted by the Appellant, the public hearing did not include any mention of street vacation. Moreover, the Tract Map, stamp-dated April 13, 2016, clearly shows the existing City-owned traffic island as being "not a part" of the proposed subdivision. In order for the applicant to effectuate the proposed reconfiguration of the traffic island, a Revocable Permit and a B-Permit will be required from the Department of Public Works. This process is separate and apart from the subdivision request, is reviewed and processed by another City department, and is not under the jurisdiction of the Deputy Advisory Agency. Therefore, the Deputy Advisory Agency duly did not provide notice, consider or take action on any street vacation. Furthermore, the language in the Hearing Notice regarding requested Off-Menu Density Bonus Incentive for "land to be set aside for street purposes" concerns how floor area ratio is calculated before or after on-site street dedications pursuant to Bureau of Engineering requirements, and is not related to street vacations, as the Appellant incorrectly asserts.

Contrary to the Appellant's statements, the project does not involve any gift of public land to a private party. While the conversion and maintenance of the existing traffic island as publicly accessible open space will be paid for by the applicant, the traffic island currently is, and will so remain, as land owned by the City. As such, no fair market compensation for the purchase of the land by a private party would be required nor appropriate. The landscaped public open space will provide an amenity for the community, as recognized by the Appellant (Appeal page 7), and will do so at the expense of the applicant. Further, the Determination Letter does not state that the traffic island is a park or open space under existing conditions as claimed by the Appellant, but rather recognizes that it is an existing traffic island that is proposed to be improved and maintained by the applicant as publicly accessible open space in With-Project conditions.

The Appellant incorrectly asserts that the two-foot dedications along Sunset Boulevard and Crescent Heights Boulevard are replacing a street vacation of existing easements. As discussed above, no street vacation has been requested. The two-foot dedication along Sunset Boulevard referenced by the Appellant will be made pursuant to Bureau of Engineering requirements, as stated in the BOE letter dated November 17, 2014 and incorporated into the Decision Letter as Condition No. 1. This dedication is required consistent with the street standards in the Transportation Element, as the applicant filed a Vesting Tentative Tract Map request prior to the adoption of Mobility Plan 2035. Therefore, further statements by the Appellant suggesting that the project is inconsistent with Mobility Plan 2035 are not relevant, as the Vesting Tentative Tract Map is subject to the requirements of the Transportation Element. The two-foot dedication will be part of the public right-of-way, as shown on the Tract Map.

The project proposes outdoor dining above the third level on the North retail building, fronting Sunset Boulevard. The Appellant is incorrect in asserting that a variance is needed to permit outdoor dining above the first floor. Pursuant to ZAI 1808 and the Los Angeles Department of Building and Safety Zoning Manual, outdoor dining above the ground floor is permitted in the C2 or less restrictive zones, inclusive of the C4-1D zoning designation of the project site.

The Appellant states that the discussion of Vision Zero in the Determination Letter is not supported by substantial evidence. The Vision Zero Initiative uses data generated from the most recently available five years of collision data (Statewide Integrated Traffic Records System) Data from 2009–2013) to compile a network of streets in Los Angeles with the highest injury rates, identified as the High Injury Network. This Vision Zero information further describes existing conditions concerning pedestrian safety in the project vicinity, supplementing the information provided in the EIR. Sunset Boulevard is identified in the High Injury Network in the project vicinity, and the project's removal of vehicular access on Sunset Boulevard is intended to provide a pedestrian friendly environment in this area. Pedestrian and bicycle safety, and site vehicular/pedestrian site access, are addressed in Section 4.J of the Draft EIR and Section 2.0, Subsection B.10 of the RP-DEIR. Bicycle and pedestrian safety are further discussed in Topical Response TR-4, Traffic and Parking, subheadings "Traffic Island Reconfiguration" and "Pedestrian and Bicycle Facilities and Safety," in the Final EIR. Contrary to the Appellant's statements that the EIR did not analyze impacts to pedestrian safety due to the proposed "road closure," the impact analysis in the EIR, including the aforementioned sections, assumes With-Project conditions, which include the reconfiguration of the traffic island to public space, under continued ownership of the City. As noted throughout the EIR, the traffic island reconfiguration retains the same number of travel lanes as under existing conditions, including a southbound right turn lane on Sunset Boulevard. As further discussed therein, the traffic island reconfiguration is anticipated to improve safety conditions, and would reduce crossing distances with potential vehicle-pedestrian conflicts. Impacts were found to be less than significant and the EIR's analysis was adequate. Substantial evidence has not been presented to the contrary.

With regard to the appellant's statement that only City Council has the authority to permit City land to be used by a private party, this is incorrect. As noted above, the City has established processes aside from street vacations where, through B-Permits, and/or revocable permits, the City may permit a private party to use City land.

#### Appellant's Statements – Traffic Impacts

- The traffic impacts analysis did not address the closest intersections
- The traffic impacts analysis did not take into account the added congestion of Mobility Plan 2035
- The EIR did not address traffic and noise impacts associated with commercial loading/unloading

### Staff Response

Traffic impacts were addressed in DEIR Section 4.J, and in Section 2.B.10 of the RP-DEIR. The EIR traffic impact analysis (Appendix H to the Draft EIR, with supplemental analysis for Alternative 9 in Appendix A to the RP-DEIR) evaluated potential intersection impacts consistent with established LADOT traffic study procedures. The traffic study was reviewed and approved by LADOT, inclusive of trip generation rates and the selection of intersections to be included in the analysis (see LADOT approval letter in Appendix H-5 to the Draft EIR). As shown in DEIR Figure 4.J-1, the intersections in the City of Los Angeles and the City of West Hollywood in closest proximity to the project site were indeed analyzed, including Sunset Boulevard / Crescent Heights Boulevard, Fountain Avenue / Crescent Heights Boulevard, Fountain Avenue / Havenhurst Drive, and a signal warrant analysis at the currently unsignalized intersection of Sunset Boulevard / Havenhurst Drive.

The Appellant argues that the traffic impact analysis, including the cumulative impact analysis, does not take into account the “added congestion” of Mobility Plan 2035. Mobility Plan 2035 includes changes to street designations throughout the City, as well as design standards of some streets (including the addition of new bicycle lanes and/or reductions in the number of vehicular travel lanes). Notwithstanding, the effects of the changes proposed by Mobility Plan 2035 in the project area are expected to be nominal. Mobility Plan 2035 changes the roadway designations of facilities in the project area, including reclassifying Sunset Boulevard and Fairfax Avenue from their earlier Major Highway Class II to Avenue I, and Crescent Heights Boulevard, which was also a Major Highway Class II, to Avenue II. No new bicycle or transit-only lanes are anticipated on any of these facilities, and the number of vehicular travel lanes is not proposed to change relative to current conditions. Therefore no “added congestion” is anticipated along any of the streets within the study area due to implementation of modifications related to the implementation of Mobility Plan 2035. Moreover, most of the streets and intersections evaluated in the EIR are located within the City of West Hollywood, and are unaffected by Mobility Plan 2035. Further, Mobility Plan 2035 was adopted in January, 2016 following the public circulation of both the Draft EIR and the RP-DEIR. The project filed a Vesting Tentative Tract Map and as such is subject to the Transportation Element. Street dedications required of the project by the Bureau of Engineering accordingly reflect the street standards in effect prior to Mobility Plan 2035.

The Appellant argues that the EIR did not address the noise and disruption of delivery trucks due to “beeping warning sounds.” However, the EIR fully addressed potential operational noise impacts in Section 4.G of the Draft EIR and 2.B.7 of the RP-DEIR, with supporting technical data in Draft EIR Appendix F and RP-DEIR Appendix A. Specifically, as discussed on Draft EIR page 4.G-27, operational noise impacts from delivery trucks were analyzed and found to be below established quantitative levels of significance. Impacts would be less than significant and no mitigation is required. Moreover, in the proposed project design, the loading dock and trash and sorting areas will be fully enclosed within Basement Level 2. All delivery truck maneuvering will occur indoors, and operational noise impacts would be less than significant.

### Appellant’s Statements –Density Bonus

- The applicant has incorrectly presented the project as by-right and has deprived the City Council of its role in reviewing a major development project.
- The request for a 3:1 FAR as an off-menu incentive cannot be granted by the Advisory Agency without an application for a Conditional Use Permit under CP-3251-DB, or if the project is subject to other discretionary applications.
- The project is in Height District 1D and therefore does not qualify for the off-menu density bonus incentive.
- Approval of a 3:1 FAR would set a growth-inducing precedent for other commercial properties in the area.

Staff Response

Contrary to the Appellant's statements, the applicant has not presented the project by-right. The applicant has requested multiple discretionary actions from the City, inclusive of a Vesting Tentative Tract, Density Bonus with Off-Menu Incentives, Site Plan Review, and a Master Conditional Use Permit for on- and off-site alcohol sales. Anticipated necessary project approvals are enumerated in Draft EIR Section 2, "Project Description" and are referenced throughout the project's application materials. To the extent that this comment is intended to imply that the City Council needs to approve a street vacation, no such vacation is proposed for the project nor was such a request before the Deputy Advisory Agency. To the extent that it can be inferred that the comment refers to a Major Development Project pursuant to LAMC 12.24-U.10(14), the project does not meet the criteria of a Major Development Project, and moreover, the City Planning Commission would be the initial decision maker for such a request, with City Council action only on appeal.

The Appellant incorrectly argues that the qualification for density bonus incentives or their associated approval was granted by the Deputy Advisory Agency. The qualification of the project for such Off-Menu Density Bonus Incentives was not before the Deputy Advisory Agency, and instead are subject to review by the City Planning Commission. The City Planning Commission will consider the request for the Density Bonus incentives, Site Plan Review and Master Conditional Use Permit requested by the applicant. Further, the Density Bonus requests are permitted by State law in order to incentivize the production of low-income housing, in exchange for additional density and waivers, including increased FAR. The Deputy Advisory Agency has conditionally approved the proposed subdivision pursuant to the provisions of the Subdivision Map Act and contingent upon approval of the associated project entitlement requests by the City Planning Commission. The Deputy Advisory Agency included a condition in the Decision Letter that states:

Condition No. 19: "Prior to the issuance of the building permit or the recordation of the final map, a copy of CPC-2013-2551-MCUP-DB-SPR shall be submitted to the satisfaction of the Advisory Agency. In the event that CPC-2013-2551-MCUP-DB-SPR is not approved, the subdivider shall submit a tract modification." (Page 8)

Regarding the Appellant's statement that the approval of the Density Bonus Incentives request would set a growth-inducing precedent, it should be noted approval of the project would have no bearing on the requisite review process or potential approval and/or implementation of future projects in the area. Such circumstances would not be an effect attributable to the Project, indirect or otherwise. As such, potential future projects would be subject to their own environmental review process as well as any discretionary review as required by the City pursuant to applicable requirements.

Appellant's Statements – Utilities and Emergency Response Times:

- The VTT is not consistent with the Hollywood Community Plan Housing Standards and Criteria regarding the adequacy of existing and assured circulation system and the availability of sewers, fire protection services and other public facilities.
- Water supply, water pressure, water mains, and sewers are inadequate to meet current and cumulative demand.
- Streets are inadequate because the City of West Hollywood will not implement Mitigation Measure TR-1.
- LAFD response times at stations serving the project site are below established standards.

Staff Response:

The Appellant argues that the project would be inconsistent with the Hollywood Community Plan standards regarding the adequacy of infrastructure to support the project. Potential impacts associated with fire protection and emergency response are discussed in Sections 4.I.1 and 4.J of the Draft EIR and Section 2.0 Alternative 9: Enhanced View Corridor and Additional

Underground Parking Alternative, Subsection B.9.1 and Subsection B.10 of the Recirculated DEIR. As further discussed therein, and summarized in Topical Response TR-6 Public Services and Utilities in the Final EIR, impacts would be less than significant with the recommended mitigation. There is substantial evidence in the record to support the EIR's conclusions that significant impacts would not occur in this regard. The appellant specifically asserts that none of the three stations that serve the site meet the LAFD response time standard of reaching the scene within five minutes 90% of the time. However, it should be further noted that the response standards distinguish between 5:00 minutes for 90 percent of emergency medical services (EMS) and 5:20 minutes for 90 percent of fire incident responses.

As discussed on DEIR page 4.1.1-14, existing average response times for the three Fire Stations serving the project site (Fire Stations Nos. 41, 27, 97) range from 5:04 for Fire Station 27 to 6:00 for Fire Station 97. Fire Station 27 meets the criteria for fire incidence responses. More recent LAFD data from 2015, the last complete year of available data, demonstrates that both Fire Station 27 (2.4 miles from the project site) and Fire Station 41 (0.9 miles from the project site) meet both EMS and non-EMS criteria, with average EMS response times of 3:55 and 4:20, and average non-EMS response times of 3:30 and 5:06, respectively. While Fire Station 97 remains above this criteria, with a 2015 average EMS response time of 5:03 and non-EMS response time of 5:46, due to its location in the residential hillside areas 2.5 miles to the north of the project site, it is of the three stations the one that is least likely to be impacted by effects attributable to the project, and would be unlikely to have response paths that traverse streets with traffic generated by the project. Effects to response times, as further detailed in the EIR, were determined to be less than significant. Moreover, the Deputy Advisory Agency included a condition in the Decision Letter that states:

Condition 10.k: "Prior to the issuance of any building permit, definitive plans and specifications shall be submitted to the Fire Department, and any requirements for necessary permits shall be satisfied, inclusive of the conditions identified in the Fire Department letter dated May 10, 2016, and included in the case file." (Page 5)

As described in Section 4.J, Transportation and Circulation, of the Draft EIR, Project-related traffic would significantly impact the intersection of Fountain Avenue / Havenhurst Drive. Accordingly, traffic associated with the project could potentially affect emergency vehicle response times in the area. Impacts on traffic that could cause delays in emergency response times are addressed through Mitigation Measure TR-1 provided in Section 4.J, of the Draft EIR, which requires the installation of a traffic signal at the intersection of Havenhurst Drive and Fountain Avenue, as well as through implementation of the Project's TDM program, which would incorporate the trip-reduction programs and services identified in the City of Los Angeles Transportation Demand Management Ordinance (LAMC Section 12.26-J - amended by Ordinance 168,700). The TDM program would incorporate appropriate trip-reduction programs and services identified in the City's ordinance, including components that would encourage carpooling and ridesharing, telecommuting, and other trip-reducing programs.

As also concluded in Section 4.J of the Draft EIR, the Project's operational traffic impacts would be mitigated to a less than significant level with installation of a new traffic signal at the intersection of Havenhurst Drive and Fountain Avenue. However, it is still expected that the project operations would incrementally increase traffic, and such increases in traffic could delay emergency response times compared to current conditions. Furthermore, if the City of West Hollywood elects to not implement Mitigation Measure TR-1, the EIR acknowledges that project-related traffic impacts at the intersection of Havenhurst Drive and Fountain Avenue would remain significant and unavoidable.

Nonetheless, as discussed on pages 4.1.2-13 and 4.1.2-14 in Section 4.1.2, Police Protection, of the Draft EIR with regard to LAPD response times, and on page 4.1.1-14 in Section 4.1.1, Fire Protection and Emergency Medical Services, with regard to LAFD response times, several factors influence emergency response times in addition to traffic, including alarm transfer time,

alarm answering and processing time, mobilization time, risk appraisal, geography, distance, traffic signals, and roadway characteristics. In response to issues that have been raised regarding emergency response times and associated reporting, the LAFD has recently been taking a number of steps to improve their related systems, processes and practices. Upgrades underway or pending include: installation of automated vehicle locating systems on all LAFD apparatus; replacement of fire station alerting systems that control fire station dispatch audio, signal lights, and other fire station alerting hardware and software; development of a new computer aided dispatch system to manage fire and emergency medical service incidents from initial report to conclusion of an incident; and, use of traffic pre-emption systems. A traffic pre-emption system allows the normal operation of traffic lights to be preempted by an emergency vehicle to improve response times by stopping conflicting traffic in advance, providing the emergency vehicle the right-of-way. In addition to these improvements being implemented by the LAFD, emergency response is also routinely facilitated, particularly for high priority calls, through use of sirens to clear a path of travel, driving in the lanes of opposing traffic, use of alternate routes, and multiple station response.

In addition, it is anticipated that emergency vehicles travelling to the project site would utilize major roadways with higher traffic capacity in order to minimize travel time to their destination, which in the immediate vicinity of the project site includes Sunset Boulevard and/or Crescent Heights Boulevard. As such, despite the potential for a significant traffic impact at the intersection of Havenhurst Drive and Fountain Avenue in the absence of recommended mitigation, it is not expected that traffic impacts at this intersection would have a material effect on emergency vehicle access and travel times to the project site. Thus, even without installation of a new traffic signal as required by Mitigation Measure TR-1, given implementation of the project's TDM program, the other means available to LAFD and LAPD to maintain reasonable response times, impacts on emergency response times were determined to be less than significant.

The Appellant has not provided supporting evidence that water supply, water pressure, or sewer infrastructure would be insufficient to meet the demands of the proposed project, other than a broad conclusory statement that such would be the case. However, the Draft EIR fully evaluated potential project-level impacts to these impact areas in sections 4.I.1 and 4.K.1, with supporting information in DEIR Appendix I, RP-DEIR Section 2.0, and FEIR Appendix C, which fully examined potential impacts to waste water systems within the City of West Hollywood. Impacts were found to be less than significant without the need for mitigation. Fair-share contributions to off-set the project's waste water flows in City of West Hollywood sewers are further addressed by PDF-WW-1.

The Appellant further argues that Hollywood Community Plan language is inconsistent with the project because the Community Plan states that no increase in density shall be effectuated by a zone change or subdivision unless the local transportation system can serve the traffic generated. However, the project's proposed 249 units are less than the 278 allowed by the underlying C4 zone. Moreover, the project is utilizing the State Density Bonus program, to fulfil the statewide policy objectives of providing affordable housing. The project is not effectuating an increase in density by a zone change or by a subdivision. Therefore, in addition to the impacts being less than significant as discussed above, the cited Hollywood Community Plan Standards and Criteria section is not applicable for the approvals requested by the project. Further, the 22% Density Bonus referenced in Decision Letter is in fact a more conservative interpretation of the allowable density on the site. Pattern and practice for the City has always been to determine density based on the underlying zone in the LAMC, which in this case is C4. The Advisory Agency has correctly approved the Map based upon the underlying zone, which permits 278 units on the project site. The High Density Residential Category under the Hollywood Community Plan is a guiding document, and is referred to as a "proposed residential density category and their capacities." Corresponding zones, in contrast, are prescriptive in terms of their permitted residential densities and other development standards specified in the LAMC.

Such an interpretation is consistent with case law (Naraghi Lakes Neighborhood Preservation Association v. City of Modesto, Cal.App.4<sup>th</sup>(2016), which considers that General Plan language and policies were intended to provide a guiding pattern for future development, as opposed to the mandatory development standards codified by a site's zoning, and that this framework for analyzing specific General Plan policies applies whether the policy in question is qualitative or quantitative in nature. It is further of note that Hollywood Community Plan states that "Additional low and moderate-income housing is needed in all parts of this Community. Density bonuses for provision of such housing through Government Code 65915 may be granted in the Low-Medium I or less restrictive residential categories."

Appellant's Statements – Environmental Leadership Development Program (ELDP):

- Alternative 9 as approved by the Advisory Agency does not qualify for ELDP status

Staff Response

Contrary to the Appellant's statements, the project remains eligible for the ELDP program under Alternative 9, as approved by the Advisory Agency. The ELDP designation requires that a project result in an investment in California of over \$100 million, achieve a 10 percent greater transportation efficiency than a comparable project, be located on an infill site, create high-wage, highly-skilled jobs, result in zero net additional emissions of greenhouse gases, as determined by the California Air Resources Board (CARB), and achieve at least LEED Silver certification. On April 8, 2014 Governor Brown certified that the project meets the criteria set forth in the statute and on May 1, 2014 the Joint Legislative Budget Committee concurred in the certification.

The project as proposed is still within the scope of the original criteria. The project remains on an infill site and will achieve LEED Silver certification. The project results in an investment of over \$100 million, and will exceed by at least 10 percent transportation efficiency for comparable projects.

The Appellant claims that the project does not qualify for ELDP status due to the reduction of square feet compared to the original project. The reduction in commercial space will have a corresponding reduction in greenhouse gas emissions compared to the original project, as documented in the RP-DEIR, improving the project's performance relative to this ELDP criteria. As far as job creation, the proposed project will create a comparable amount of construction-phase jobs which, as noted in the ELDP certification, will pay prevailing and living wages. AB900 is silent on what constitutes the creation of permanent jobs, and the State legislative analyst has noted that permanent job creation is "not clearly defined in the statute." Moreover, the ELDP certification requires the creation of construction and operational jobs, but does not specify a minimum number of jobs. In applying for the ELDP certification, and the basis upon which such designation was approved, it was anticipated that on-site employment generated by the 111,339 square feet of retail space will result in 339 employment positions. Additionally, the project multiplier effect of direct, indirect and induced project employment will result in employment for 511 persons, while the project multiplier effect of direct, indirect and induced construction employment will result in employment for 1,375 persons. The reduction of commercial space can be expected to result in a proportional reduction of operational-phase jobs.

Appellant's Statements – Floor Area Ratio and General Plan consistency:

- The project is not compatible in scale or density with adjacent properties.
- The project is inconsistent with the General Plan due to closing the street and the intensification of surrounding properties.
- General Plan Amendments are needed to close the street for consistency with the Hollywood Community Plan.

- The Statement of Overriding Considerations is predicated on compliance with the General Plan. The project is spot zoning through unlawful off-menu incentives.

#### Staff Response

The Appellant argues that the project is inconsistent with the General Plan due to street closing. As noted above, the project is not requesting a street vacation, and has not requested nor does it require a General Plan Amendment related to changes in the circulation system. The Appellant further suggests that the project is spot-zoning. The requested project entitlements include a Site Plan Review, Conditional Use for alcohol, and Density Bonus for the provision of affordable housing units. The project is not proposing a Zone Change, Height District Change, or other legislative action to modify the zoning on the project site. As such, the claim that the project is "spot zoning" is incorrect.

The Appellant further suggests that the project is inconsistent with the General Plan due to incompatibility of scale, density, and intensity with relation to adjacent properties. However, the Vesting Tentative Tract before the Advisory Agency is not related to an increase in intensity of land use. The FAR increase sought by the project is relative to an Off-Menu Density Bonus request that will be considered by the City Planning Commission. Moreover, the Off-Menu Density Bonus requests are permitted pursuant to LAMC 12.22-A,25(g)(3) in order to implement the State Density Bonus Law and incentivize the production of affordable housing. With regards to density, the 249 units provided by the proposed project is less than the 278 units allowed by right per the underlying C4 zone, which allows for R4 densities of 400 square feet per dwelling unit. Furthermore, the Statement of Overriding Considerations is included in the Decision Letter in order for decision makers to consider the benefits of the project against its anticipated significant and unavoidable impacts. The Appellant is confusing the project's review under CEQA to the approval of the Tract Map relative to its consistency with the General Plan.

The Appellant fails to provide substantial evidence that the project is not compatible in scale or density with adjacent properties. The Appellant claims that there is substantial evidence provided by adjacent property owners and their legal representatives. Such claims are duly responded to separately in Staff's response to other appellants. This Appellant has provided no further information to support their assertion, aside from a "Figure" referenced, but not included, in the Appeal package. Land Use consistency, including consistency with the Hollywood Community Plan, was fully addressed in the Draft EIR Section F., RP-DEIR Section 2.B.6, and in FEIR Topical Response TR-2, "Land Use and Planning." The compatibility of the project with its surroundings in relation to height and scale is further discussed in Draft EIR Section 4.A, RP-DEIR Section 2.B.1, and FEIR Topical Response TR-1 (Aesthetics / Visual Resources). The Deputy Advisory Agency has correctly found, based on substantial evidence and as discussed beginning on page 198 of the Decision Letter that the project is consistent with applicable general and specific plans. The Appellant fails to provide substantial evidence to the contrary.

The Appellant argues that the project is not consistent with the Hollywood Community Plan ("The plan encourages the preservation of lower density residential areas, and the conservation of open space lands"). With respect to the quoted Plan text, the project site is not designated as open space to be conserved, is not located in a lower density residential area, and is currently developed with commercial uses. The project site would further not result in the loss of a lower density residential area or conflict with the preservation of such an area, as the project site is commercially zoned C4-1D, which is a commercial zone that allows for a range of commercial and multi-family uses. Adjacent areas on and around Sunset Boulevard to the west, east and north of the project site are zoned C4-1D, CR-1D, [T][Q]C2-1 and [Q]C2-2D, are also not low density zones, and are currently improved with a wide array of retail, restaurant, grocery store, bar, movie theatre, fitness center, and hotel uses. As noted above, the proposed subdivision before the Deputy Advisory Agency further is not related to an increase in density sought by the applicant, as the 249 units provided by the proposed project is less than the 278 units allowed by right per the underlying C4 zoning. Further, the 22% Density Bonus referenced in Decision

Letter is in fact a more conservative interpretation of the allowable density on the site. Pattern and practice for the City has always been to determine density based on the underlying zone in the LAMC, which in this case is C4. The Advisory Agency has correctly approved the Map based upon the underlying zone, which permits 278 units on the project site. The High Density Residential Category under the Hollywood Community Plan is a guiding document, and is referred to as a “proposed residential density category and their capacities.” Corresponding zones, in contrast, are prescriptive in terms of their permitted residential densities and other development standards specified in the LAMC. The Plan further states that “Additional low and moderate-income housing is needed in all parts of this Community. Density bonuses for provision of such housing through Government Code 65915 may be granted in the Low-Medium I or less restrictive residential categories.”

**Appellant 2: Robert Glushon JDR Crescent, LLC; IGI Crescent, LLC**

Appellant’s Statements: Consistency with the General Plan, Land Use Element, and Hollywood Community Plan

- The project is inconsistent with the principles, goals and objectives of the City’s Residential Citywide Design Guidelines.
- The project is inconsistent with the Hollywood Community Plan purposes and objectives.

The Appellant argues that the project is inconsistent with several goals and objectives of the City’s Residential Citywide Design Guidelines. Land Use consistency, including consistency with the Commercial Citywide Design Guidelines and the Hollywood Community Plan, was addressed in the Draft EIR Section 4.F., RP-DEIR Section 2.B.6, and in FEIR Topical Response TR-2, “Land Use and Planning.” The compatibility of the project with its surroundings in relation to height and scale is further discussed in Draft EIR Section 4.A, RP-DEIR Section 2.B.1, and FEIR Topical Response TR-1 (Aesthetics / Visual Resources) and TR-2 (Land Use and Planning). The Appellant’s comments are addressed below.

*Citywide Residential Design Guidelines*

The proposed project was evaluated for consistency with the Commercial Citywide Design Guidelines for Pedestrian Oriented and Commercial Mixed-Use Projects, which are the appropriate guidelines for a mixed-use development such as the proposed project. Notwithstanding, the language from the Residential Guidelines cited by the Appellant is either identical or substantially similar to those contained within the Commercial Citywide Design Guidelines. The evaluation of consistency and rationale set forth in the Draft EIR with respect to the original project applies equally to the project, as further discussed on RP-DEIR page 2-32 through 2-33, and that impacts related to consistency would be similar to those under the project.

The Appellant asserts that the project would be inconsistent with the Guidelines’ stated principles to “nurture neighborhood character” and to “encourage projects appropriate to the context of the City’s climate and urban environment.” These two principles are part of the Guidelines’ 10 Urban Design Principles. The more specific Design Guidelines serve to implement these general principles, which broadly encourage projects to complement the existing urban form in order to enhance the built environment in Los Angeles.

Draft EIR Tables 4.A-1 and 4.F-3 discuss consistency with applicable Citywide Design Guidelines policies and objectives, including those cited by the Appellant, such as “To consider neighborhood context and linkages in building and site design,” “To ensure that new buildings are compatible in scale, massing, style, and/or architectural materials with existing structures in the surrounding neighborhood,” and to “Respect the character of existing buildings with regards to height, scale, style and architectural materials.”

As further discussed in the EIR and in the Determination Letter, the project will improve neighborhood linkages compared to existing conditions, which consist of surface parking lots

located between the sidewalk and commercial buildings. In contrast, the project will provide an expanded pedestrian network with a central public plaza directly accessible from sidewalks at the northwest and northeast corners of the project site, and from the center of the project's Sunset Boulevard frontage, resulting in street-to-street pedestrian linkages throughout the site. The one- to three-story retail frontage along Sunset Boulevard will be oriented towards the street, is conducive to the pedestrian environment, and would activate the streetscape with ground-floor retail and restaurant uses. Façade treatments include sidewalk-oriented retail windows and transparent glass at ground level along the street front.

The project massing and design are responsive to and consistent with the surrounding neighborhood context, massing and scale (see RP-DEIR Sections 2.B.1 and 2.B.6, and Final EIR Topical Responses TR-1 (Aesthetics/Visual Resources) and TR-2 (Land Use and Planning)). The project massing is consistent with the existing land use pattern that contrasts higher intensity uses along the commercial areas on Sunset Boulevard with low-rise multi-family uses to the south and single-family residential areas demonstrating hillside topography to the north of Sunset Boulevard. This land use pattern applies to the project vicinity in both the Cities of Los Angeles and West Hollywood. The project further incorporates a stepped back design and breaks in massing to respond to the scale of the lower intensity multi-family residential uses to the south and to the west of the project site. The residential portion of the west tower provides a variable 14- to 40-foot -foot setback along Havenhurst Drive, and the residential portion of the east tower will be setback from 4 to 28 feet from the property line. Rear setbacks for the residential portions of the east and west towers range from 15 to 30 feet from the property line. The massing and orientation of the taller building elements will open up an approximately 150-foot wide view corridor through the center of the project site, thereby softening the scale and appearance of the project as it relates to surrounding single- and multi-family residential areas. While the overall mass and scale of the east and west building components will be taller than surrounding structures, the setbacks and breaks in massing greatly limit the broad, large and flat building surfaces, in order to be responsive to the neighborhood character and the views of residences to the north and south of the project site.

The project selection of building materials is also responsive to the surrounding context, and is consistent with the Citywide Design Guidelines language cited above. Building materials will be transparent at ground-floor retail frontages to enhance the pedestrian scale, while the lower residential portions of the east and west residential building elements would feature a solid material, such as stone cladding, with punched windows to relate to existing neighborhood characteristics. The project's central building will provide substantial articulation through unique vertically oriented design components, intended to attract pedestrians and visitors to the central plaza. The residential portion of the eastern building features simpler articulation in order to relate to its surroundings. The upper portion of the western residential building will be comprised of a transparent glazed façade with a degree of transparency to soften its massing, and will provide integrated vertical and horizontal articulation through balconies and vertically oriented architectural features. Glass used in building façades will be non-reflective or treated with a non-reflective coating in order to minimize glare, and all major utilities will be placed underground. Landscaping will be provided along the exposed portion of the semi-subterranean parking structure on Havenhurst Drive, where the wall is partially exposed due to the southerly descending slope, with additional landscaping and in-ground tree planters above on Building Level 2, in order to further soften the project's interface with adjacent residential areas to the west. Substantial landscaping is further provided along the southern property line where the central building steps down to Level 2 and Level 3, including in-ground tree planters and ground cover landscaping.

Notwithstanding that the project is substantially consistent with the Citywide Design Guidelines, the Appellant is incorrect in asserting that the project would be inconsistent with the General Plan due to any inconsistencies with the Guidelines. The Citywide Design Guidelines are expressly "performance goals, not zoning regulations or development standards and therefore

do not supersede regulations in the municipal code” (Citywide Commercial Design Guidelines page 4). The Guidelines further clarify that “The provisions set forth in this document identify the desired level of design quality for all development. However, flexibility is necessary and encouraged to achieve excellent design. Therefore, the use of the words “shall” and “must” have been purposely avoided within the specific guidelines.” (Page 5) The Appellant’s assertion that inconsistency with aspirational guidelines would constitute a violation of the General Plan is mistaken, and moreover, the project has been found to be substantially consistent with such Guidelines, as discussed above.

Lastly, the Appellant is incorrect in stating that the City is “choosing to ignore” the project’s adjacency to 2-3 story residential buildings. In fact, the EIR, Staff Report and Determination Letter fully acknowledge and describe the environmental setting and existing conditions surrounding the proposed project (see Draft EIR pages 2-1 through 2-2, Draft EIR pages 4.A-2 through 4.A-7, RP-DEIR Figure 2-2, Staff Report page 3 and pages 200-204, and Determination Letter pages 200 through 203). The analysis and conclusions summarized above and more fully discussed in the EIR, Staff Report and Determination fully disclose the surrounding environmental setting and appropriately consider the project’s relationship to this existing context when analyzing the project’s potential environmental impacts.

#### *Hollywood Community Plan*

The Appellant further argues that the project is inconsistent with the Hollywood Community Plan’s stated purposes, “To promote an arrangement of land use, circulation, and services which will encourage and contribute to the physical health, safety and welfare of the Community,” and “To balance growth and stability.” Such general purposes are more specifically described through the objectives and policies of the Plan, and the project is consistent with such policies, as further described in Draft EIR Table 4.F-2 and RP-DEIR page 2-32. In regards to the Community Plan policy to “Encourage the preservation and enhancement of the varied and distinctive residential character of the community,” the project will preserve and enhance the existing residential character of the surrounding community by limiting development to a commercially zoned property that currently lacks residential uses, and by providing a distinctive design that enhances community character. Further, the Appellant has only partially cited the applicable Plan text, which continues to encourage “...to protect lower density housing from the scattered intrusion of apartments.” The proposed project indeed protects lower density housing from the intrusion of apartments by placing more intense multi-family mixed-use development along a major commercial thoroughfare and not within established lower density residential neighborhoods. Therefore, and as more fully discussed in the EIR and the Decision Letter, the project will appropriately balance growth and stability and promote an appropriate arrangement of land uses and services, as it would provide new commercial and residential uses, including 28 units set aside for Very Low Income households, to meet current and future demand for housing in the area without intruding upon or threatening the preservation of existing lower-density residential areas.

The project is consistent with the policy, cited by the Appellant, “To promote economic well-being and public convenience through allocating and distributing commercial lands for retail, service and office facilities in quantities and patterns based on accepted planning principles and standards.” The project will provide 65,000 square feet of retail space on a commercially zoned parcel along an established commercial corridor, in close proximity to existing single- and multi-family housing and to residents within the mixed-use project itself. The project would also provide new housing units adjacent to a wide range of similar commercial uses along Sunset Boulevard. As further described in Draft EIR Section 4.F and RP-DEIR Section 2.B.6, the project is consistent with accepted planning principles and practices through siting housing within existing activity centers and in proximity to public transportation.

The Appellant again provides a partial citation to the Hollywood Community Plan, in this case the policy to “encourage preservation of open space consistent with property rights when

privately owned and to promote the preservation of views.” This policy continues to read as follows, “...promote the preservation of views, natural topography and mountainous parts of the Community for the enjoyment of both local residents and persons throughout the Los Angeles region.” To the extent that it can be inferred that the Appellant is referring to a loss of views for residents in the 2-3 story residential dwellings immediately to the south of the project site, changes to an individual private homeowner’s view is not considered an impact pursuant to CEQA, nor to the broader policy statement contained within the Hollywood Community Plan that when read in its entirety applies more generally to both local residents and persons throughout the region. Notwithstanding, as summarized below, the EIR fully evaluated view impacts, and consistency with this Community Plan Policy. Impacts were found to be less than significant and determinations of consistency with the cited policy are based on substantial evidence in the record.

As noted in Draft EIR Table 4.F-2, the original project is consistent with this policy as it would not result in significant adverse effects to existing views of scenic resources, including the Hollywood Hills, which are discussed in detail on pages 4.A-25 through 4.A-41 of the Draft EIR. The RP-DEIR further discusses the project’s consistency with the Hollywood Community Plan. As stated on page 2-32, the project would not result in significant adverse effects to existing views of scenic resources, including views of and from the Hollywood Hills to the north of the project site, and consistency with the Hollywood Community Plan is similar to the detailed discussion provided in Draft EIR section 4.F. The RP-DEIR also evaluated potential impacts to views, including views of the Hollywood Hills, on pages 2-11 through 2-16. Impacts were found to be less than significant, and are further reduced below the already insignificant impacts of the original project.

To conclude, the Advisory Agency has correctly found, based on substantial evidence and as discussed beginning on page 198 of the Decision Letter, that the project is consistent with applicable general and specific plans. The proposed project is consistent with the applicable objectives of the Hollywood Community Plan to preserve and enhance the varied and distinctive residential character of the Community, protect lower density housing from the scattered intrusion of apartments, and promote the preservation of views, natural character, and topography of mountainous parts of the Community for the enjoyment of both local residents and persons throughout the Los Angeles region. The project is substantially consistent with the Community Plan’s objectives and with the Citywide Commercial Design Guidelines. The Appellant has failed to submit substantial evidence to the contrary, and has only provided general statements concerning the project’s proximity to 2-3 story multi-family housing, a fact that is well recognized in throughout the record of proceedings, inclusive of the EIR land use consistency analysis, Determination Letter and associated findings.

#### Appellant’s Statements: The EIR is inadequate

- The EIR fails to analyze the existing “D” limitation
- The EIR does not analyze consistency with Mobility Plan 2035
- The EIR does not use appropriate thresholds for noise and for traffic impacts
- The EIR fails to analyze consistency with land use policies and plans
- The EIR does not analyze consistency with the residential community to the south of the project site
- Street vacation is not addressed
- Mitigation Measure TR-1 is in the City of West Hollywood and is unenforceable
- The EIR has “phantom thresholds” TR-3 and TR-4, and “ignores plan words” by using terminology such as Threshold TR-6
- Mitigation Measures related to emergency vehicle response times concern only traffic circulation on-site and along Havenhurst Drive
- Mitigation Measures GS-1 improperly defers environmental assessment
- The EIR relies on an outdated January, 2014 Alquist Priolo Earthquake Fault Zone Map

### Staff Response

The Appellant is incorrect in stating that the EIR does not recognize or analyze the “D” limitation as the baseline and existing conditions with respect to zoning on the project site. The “D” limitation is described throughout the EIR (See DEIR pages 2-2, 4.F-2) with the existing zoning regulations that apply to the project site, and is recognized as the existing regulatory condition and land use baseline in that regard.

The Appellant incorrectly contends that the EIR should have analyzed consistency with Mobility Plan 2035. Mobility Plan 2035 was adopted in January, 2016 after both the Draft EIR and RP-DEIR had been circulated for public review. Moreover, the applicant filed a Vesting Tentative Tract Map prior to the adoption of Mobility Plan 2035, and as such is subject to the requirements of the Transportation Element, not those of Mobility Plan 2035.

The Appellant incorrectly asserts that the EIR did not use appropriate thresholds for intersection impacts and noise impacts. The Appellant argues that the use of “general thresholds” may not be appropriate for a project “of this scale.” However, the EIR evaluated intersection and noise impacts using established thresholds from the adopted City of Los Angeles 2006 CEQA Thresholds Guide, as is established practice for projects within the City of Los Angeles. Further, the traffic impact analysis and traffic study used City of West Hollywood methodologies and thresholds for intersections located within that jurisdiction. The assertion that traffic “general traffic thresholds” are not appropriate because traffic at intersections is currently at LOS D or worse is inaccurate. Under CEQA, the project is not required to mitigate pre-existing conditions, but rather the analysis appropriately compares the incremental increase of impacts under “With Project” conditions, including in cumulative analysis, as compared to a “Without Project” baseline. Moreover, LADOT traffic methodologies take into account for the sensitivity of poor existing intersection levels of service by imposing more stringent thresholds, or rather lower “With Project” incremental increase in transportation compared to baseline, for intersections operating at E or F (see Traffic Study page 102 in Appendix H to the Draft EIR). Contrary to the Appellant’s statements, the EIR adequately analyzed potential traffic impacts.

Similarly, construction and operational phase noise impacts were evaluated consistent with established thresholds in the LA CEQA Thresholds Guide. It is not incumbent on the proposed project to create new thresholds based upon the scale of the project. The Appellant makes arbitrary statements dismissing established methodology without providing substantial evidence that the thresholds used in the EIR were inadequate.

Moreover, the Appellant fails to provide evidence that the EIR did not analyze compatibility with the multi-family residential community to the south of the project site, or that the EIR’s land use consistency analysis relies on conclusory statements. In contrast, the Draft EIR and RP-DEIR thoroughly analyzed the project’s consistency with applicable plans and policies in Section 4.F., Land Use, of the Draft EIR, and in Section 2.B.6 of the RP-DEIR. The thorough analysis contained on Draft EIR pages 4.F-19 through 4.F-57 and RP-DEIR pages 2-34 through 2-35 evaluate the project for consistency with applicable plans based upon specific proposed project characteristics and analysis as are relevant to each policy covered therein. In contrast to the Appellant’s assertions, the EIR fully recognized the existing multi-family neighborhoods to the south of the project as the existing environmental setting. The EIR, Staff Report and Determination Letter describe such existing conditions within the project vicinity (see Draft EIR pages 2-1 through 2-2, Draft EIR pages 4.A-2 through 4.A-7, RP-DEIR Figure 2-2, Staff Report page 3 and pages 200-204, and Determination Letter pages 200 through 203). These existing conditions were considered when evaluating the project’s consistency with applicable land use plans and policies. Potential project impacts were conducted fully disclosing the surrounding environmental setting and appropriately analyzing the project’s relationship to this context.

The Appellant asserts that the EIR fails to analyze a Street Vacation process. However, as noted throughout this Appeal Recommendation Report, no such vacation has been requested nor is necessary for the applicant to effectuate the proposed reconfiguration of the existing

traffic island at Sunset Boulevard and Crescent Heights Boulevard. Moreover, the impact analysis within the EIR takes into account the reconfiguration of the traffic island as "With Project" conditions when compared to the existing baseline, and as such captures all potential physical impacts on the environment associated with this component of the project's development.

Contrary to the Appellant's statements, the EIR and Determination Letter fully recognize that the intersection of Havenhurst Drive and Fountain Avenue is located within the City of West Hollywood, and that the impact is significant and unavoidable if the jurisdiction elects not to implement the recommended mitigation (see Determination Letter page 27, 141-145). The City therefore accordingly adopted a Statement of Overriding Considerations (Determination Letter 193). The EIR, inclusive of the June 2016 errata, is clear in this regard that the subject intersection is under the jurisdiction of the City of West Hollywood. Draft EIR page 66 accordingly concludes, "No other feasible improvements to the intersection of Fountain Avenue/Havenhurst Drive have been identified at this time, and should the City of West Hollywood determine that it does not wish to install a new traffic signal at this location, the project's impacts would remain significant and unavoidable." The City of Los Angeles understands from correspondence received from the City of West Hollywood including correspondence in the record dated May 23, 2016, that West Hollywood does not intend to implement this recommended mitigation measure. The City therefore appropriately found in its determination that this impact would remain significant and unavoidable. In a letter dated June 21, 2016 the City of Los Angeles responded to the City of West Hollywood soliciting input and alternative equivalent mitigation. The City of Los Angeles has not received any further information to date except for an appeal filed by West Hollywood restating their opposition to the mitigation measure. It is wholly appropriate under CEQA for the Lead Agency to adopt a Statement of Overriding Considerations in the event that the mitigation, which was identified to the extent feasible, were not to be implemented.

The Appellant's assertion that the EIR contains "phantom" Mitigation Measures TR-3 and TR-4 is inaccurate. The EIR contained two traffic mitigation measures, one of which (TR-2) was only applicable to original project and not the proposed project (Alternative 9), and as such has been removed from the Mitigation Monitoring Program (MMP) in the Determination Letter. Mitigation Measures TR-3 and TR-4 do not exist and therefore are not in the project's MMP. Further, language such as "Threshold TR-6" is common in Environmental Impact Reports and other CEQA documents. The Appellant's claims relative to semantics are a distraction from the substance of the EIR's analysis and are irrelevant to the discussion of potential environmental impacts contained therein.

The Appellant claims that the project would result in impacts to emergency response times. As discussed above in Staff Response to Appellant 1 regarding emergency vehicle response times, impacts on emergency response times are considered less than significant, even without installation of a new traffic signal as required by Mitigation Measure TR-1, given implementation of the project's TDM program, the other means available to LAFD and LAPD to maintain reasonable response times. Please see above for a complete discussion of this issue.

The Appellant further asserts that proposed mitigation measures to reduce impacts to emergency response times are insufficient because they only address on-site or site-adjacent circulation. The mitigation measures related to traffic are only proposed in areas where there would be significant traffic impacts, namely, the intersection of Havenhurst Drive and Fountain Avenue, which is adjacent to the project site. Whether such impacts are on-site, adjacent, or at a farther distance from the project site is irrelevant. It is not the project's responsibility to propose or distribute off-site mitigation to traffic or any other impact area where there is no impact requiring or necessitating such mitigation.

Contrary to the Appellant's statements, Mitigation Measure GS-1 does not represent deferred mitigation. The project has received a Soils Approval Letter from the City of Los Angeles

Department of Building and Safety, dated October 19, 2015 (See Final EIR Appendix B and Final EIR Topical Response TR-5, Geology and Soils). Prior to the issuance of grading permits, the project will be required to submit more detailed construction-level plans and designs, and their corresponding geotechnical study, at which time the Department of Building and Safety may impose further conditions. As such, Mitigation Measure GS-1 will document and enforce standard City processes and regulations that normally occur at such a time when more detailed construction plans have been developed. This does not represent deferred mitigation, as suggested by the Appellant.

The Appellant further states that the EIR relies on a January, 2014 Alquist Priolo Earthquake Fault Zone Map, which is they claim is outdated. However, the Department of Building and Safety Grading Division has since confirmed that the Fault Rupture Hazard Assessment Report (dated 01/27/2014) was prepared and reviewed as part of the above referenced approval, and that the December 2015 map indeed does not change Grading's conclusions in this regard.

### **Appellant 3: City of West Hollywood**

#### Appellant's Statements – Mitigation Measure TR-1

- Mitigation Measure TR-1 is unenforceable
- Mitigation Measure TR-1 must be replaced with a substitute feasible mitigation measure, and it is not the City of West Hollywood's responsibility to identify mitigation measures
- There is evidence that this mitigation will never be completed
- The traffic impact has not been mitigated to the extent feasible

#### Staff Response

Contrary to the Appellant's statements, the EIR and Decision Letter fully recognize that the intersection of Havenhurst Drive and Fountain Avenue is located within the City of West Hollywood, and that if the jurisdiction elects not to implement the recommended mitigation, impacts would remain significant and unavoidable (see Determination Letter page 27, 141-145). The City therefore accordingly adopted a Statement of Overriding Considerations (Determination Letter page 193). The EIR, inclusive of the June 2016 errata, is clear in that the subject intersection is under the jurisdiction of the City of West Hollywood. Draft EIR page 66 accordingly concludes, "No other feasible improvements to the intersection of Fountain Avenue/Havenhurst Drive have been identified at this time, and should the City of West Hollywood determine that it does not wish to install a new traffic signal at this location, the project's impacts would remain significant and unavoidable." The City of Los Angeles understands that the City of West Hollywood does not intend to implement the recommended mitigation measure. The Deputy Advisory Agency therefore appropriately found in its determination that this impact would remain significant and unavoidable. In a letter dated June 21, 2016 the City of Los Angeles responded to the City of West Hollywood soliciting input on potential alternative equivalent mitigation. The City of Los Angeles has not received any further information to date. While the Appellant is correct that it is not the City of West Hollywood's responsibility to identify mitigation, the City of Los Angeles has already provided a measure that would mitigate the impact to the extent feasible. It is wholly appropriate under CEQA for the Lead Agency to adopt a Statement of Overriding Considerations in the event that mitigation measure were not to be implemented. The Mitigation Monitoring Program further requires Project Design Feature PDF-Traffic-1, which will minimize neighborhood traffic impacts on Havenhurst Drive south of the project site by restricting egress left-hand turns via a physical barrier:

**PDF-Traffic-1:** In order to ensure the vehicles exiting from the project's Havenhurst Drive driveways do not make left-turns onto southbound Havenhurst Drive, the applicant shall construct a physical barrier or other equivalent improvement, subject to review and approval by LADOT.

Appellant's Statements – Project Design Feature PDF-WW-1

- The PDF must be clear that the applicant is also responsible for its fair share for ongoing maintenance and operation of the sewer system.
- The sewer rate should be calculated based upon the City of West Hollywood City Sewer Charge extrapolated over a 50-year period.

Staff Response

The City of West Hollywood requests the installation of a new 8-inch diameter sewer aligned in Crescent Heights Boulevard in the City of Los Angeles, or a requirement of the applicant to pay the City of West Hollywood a “fair-share” cost of on-going operation and maintenance of the City of West Hollywood-owned sewer system. At the public hearing held for the project on May 24, 2016, a representative from the City of West Hollywood indicated that the City of West Hollywood has an established requirement that projects pay a fair-share contribution to the City of West Hollywood’s sewer system.

The EIR fully evaluated impacts to wastewater systems, including those within the City of West Hollywood. As detailed in the Recirculated Portions of the Draft EIR Appendix C, the project’s wastewater contribution would be approximately 2% of the remaining 46% capacity of downstream sewers in the City of West Hollywood, and impacts would be less than significant. However, to ensure that project is subject to the same fair-share contribution as other projects which use City of West Hollywood sewers, the EIR includes a Project Design Feature that has been revised to read as follows:

**PDF-WW-1:** In order to address potential future improvements to sewage conveyance facilities within the City of West Hollywood that serve the project site, the project shall contribute fair-share payments to the City of West Hollywood commensurate with the project’s incremental impact to affected facilities. Prior to the issuance of building permits, the applicant shall enter into an agreement with the City of West Hollywood determining the project’s specific fair-share contribution for West Hollywood sewage system upgrades. The fair share contribution shall be calculated in the same manner used to calculate the fair share contribution for development projects within the City of West Hollywood, and the project’s specific contribution shall be determined at such a time that the necessary improvements and associated capital costs are known, and shall be proportional to the project’s contribution to total wastewater flows in each affected West Hollywood-owned sewer. The applicant shall guarantee (by bond, cash or irrevocable letter of credit, subject to the approval of the City of West Hollywood) the necessary funding to enable the City of West Hollywood to design and install the necessary improvements.

**Enforcement Agency:** Los Angeles Department of Public Works; City of West Hollywood

**Monitoring Agency:** Los Angeles Department of City Planning; Los Angeles Department of Public Works; City of West Hollywood

**Monitoring Phase:** Pre-Construction

**Monitoring Frequency:** Once, prior to issuance of building permits

**Action Indicating Compliance:** Agreement with City of West Hollywood or documentation of fair-share payments

Appellant's Statements – Site Access and Neighborhood Traffic Impacts

- Site Access should be eliminated on Havenhurst Drive
- Traffic would be impacted along Fountain Avenue and along Havenhurst Drive
- A mid-block pedestrian crossing should be provided on Crescent Heights Boulevard

### *Site Access and Deliveries on Havenhurst Drive*

The Appellant requests the elimination of site access along Havenhurst Drive, and further requests that deliveries and services be required to access the project via driveways on Sunset Boulevard and Crescent Heights Boulevard. However, there is no substantial evidence or nexus to project impacts on Havenhurst Drive to support such a request. As discussed in the City of Los Angeles' letter to the City of West Hollywood dated June 21, 2016, the project site currently has an ingress/egress driveway on Havenhurst Drive under existing conditions, located at the southernmost part of the site in a similar location to that of the proposed project's condominium driveway. The existing driveway is limited to right-turn entry into the project site and right-turn only exit moves out of the project site, a condition that the project would further improve upon by providing a physical barrier to ensure that vehicles exiting from the project's Havenhurst Drive driveways do not make left-turns onto southbound Havenhurst Drive. Under existing conditions, the project site also has driveways on Sunset Boulevard and Crescent Heights Boulevard.

The project has further proposed Project Design Feature PDF-Traffic-1 (Decision Letter Condition No. 23), to minimize traffic on Havenhurst Drive, as described above.

In addition, the EIR evaluated local/residential street traffic impacts for four street segments within the City of West Hollywood. These neighborhood street segments were evaluated in conformance with the City of West Hollywood Local/Residential Street Significant Impact Criteria.

- Havenhurst Drive, between Fountain Avenue and the project site
- Fountain Avenue, between Harper Avenue and Havenhurst Drive
- Fountain Avenue, between Havenhurst Drive and Crescent Heights Boulevard
- Fountain Avenue, between Crescent Heights Boulevard and Laurel Avenue

As detailed in the EIR, the proposed project would not exceed thresholds of significance on any of the analyzed street segments, nor does the Appellant present evidence to the contrary. Absent evidence of a significant impact, there is no nexus to require the access restrictions to the public right-of-way proposed by the City of West Hollywood.

Notwithstanding the lack of significant impacts to neighborhood streets, the project has taken measures to respond to concerns on traffic in abutting residential areas on Havenhurst Drive. In addition to the Project Design Feature detailed above, the proposed project has eliminated access to commercial and retail uses from the Havenhurst Drive driveways. It should be noted that commercial uses generally have higher trip generation rates than the residential uses which would be able access the site from Havenhurst Drive under proposed conditions. With respect to the loading driveway, all vehicle maneuvers would take place within the Basement Level 2 internal loading dock and trash sorting area. As detailed in the EIR, no noise or traffic impacts are expected as a result of this driveway. In addition, as discussed in the Draft EIR Section 4.J, limited loading/unloading at the project site is limited to off-peak hours in order to further minimize impacts to Havenhurst Drive.

### *Traffic Impacts along Havenhurst Drive and Fountain Avenue*

Traffic impacts were addressed in DEIR Section 4.J, and in Section 2.B.10 of the RP-DEIR. The EIR traffic impact analysis (Appendix H to the Draft EIR, with supplemental analysis for Alternative 9 in Appendix A to the RP-DEIR) evaluated potential intersection impacts consistent with established LADOT traffic study procedures.

The May 23, 2016 City of West Hollywood letter states that intersections will be impacted and requests that the developer "to fund the upgrade of the traffic signal controller equipment, replacing existing 170 controllers with 2070 controllers, as well as fund installation of battery back-up systems for the following City of West Hollywood signalized intersections: Fountain/La Cienega, Fountain/Olive; Fountain/Sweetzer; Fountain/Crescent Heights; and Fountain/Laurel..." The intersections of Fountain/La Cienega, Fountain/Sweetzer, and

Fountain/Crescent Heights are located in the City of West Hollywood and were analyzed in the EIR in conformance with the City of West Hollywood's traffic study analysis procedures. These were determined to not result in significant intersection impacts based on the City of West Hollywood's established traffic study methodologies. The Appellant fails to provide any nexus or substantial evidence to dispute the findings of the EIR or to support requiring upgrades to the aforementioned traffic signal controllers based on project impacts. The traffic study was reviewed and approved by LADOT, inclusive of trip generation rates and the selection of intersections to be included in the analysis (see LADOT approval letter in Appendix H-5 to the Draft EIR).

In response to the Notice of Preparation, additional intersections suggested by the City of West Hollywood in their comment letter, dated October 14, 2013, were incorporated into the traffic analysis. This letter did not request an analysis of Fountain/Olive or Fountain/Laurel. In the Draft EIR, the City of West Hollywood did not request that these two intersections be analyzed, but suggested that they would be impacted, and absent any analysis requested that traffic signal controller equipment be upgraded at the aforementioned intersections. The Appellant has not provided substantial evidence to dispute the EIR's analysis or to support requiring the applicant to provide upgrades to traffic signal controllers when there are no impacts to warrant such mitigation. Please see Final EIR Response A9-12 for more information concerning the intersections of Fountain/Olive and Fountain/Laurel.

Furthermore, the Appellant also fails to provide substantial evidence that existing traffic calming measures such as "speed humps" will lead to congestion in a "With Project" scenario, or that the recommended installation of traffic signals would result in impacts to cut through traffic. Please see Final EIR Response A9-10 for more information in this regard.

#### *Mid-Block Pedestrian Crossing Should Be Provided on Crescent Heights Boulevard*

The Appellant requests that the developer upgrade the current mid-block crosswalk along Crescent Heights to a mid-block pedestrian signal, and provide visibility enhancements, such as sidewalk bulb-outs, refuge island, reflective markings, etc. This was a comment raised by the City of West Hollywood during the Draft EIR, and which was responded to in the Final EIR as Response No. A9-11. The Final EIR responded that absent evidence of a significant pedestrian-related impact, there was no nexus requiring the proposed upgrade to this mid-block pedestrian crosswalk.

In addition, in a letter dated June 21, 2016 the City of Los Angeles requested that should the City of West Hollywood have a pedestrian traffic study or similar analysis, or an established threshold above which impacts are considered to be significant under the City of West Hollywood's CEQA methodologies, this information could be incorporated so that the Lead Agency may consider a full range of feasible mitigation. To date, the Appellant has not provided any further information to support the assertion that pedestrian specifically caused by the proposed project would necessitate this street improvement, only a general and unsubstantiated statement that the project will increase pedestrian traffic in the surrounding area. There remains no reasonable nexus to impose the requested improvement on the project, and in particular on the project alone.

#### **Appellant 4: Susanne Manner, Allan Wilion, ESQ**

##### Appellant's Statements – Haul Route Impacts

- The project is illegally closing access to Havenhurst Drive during construction through a physical barrier
- The project is approving haul trucks on Saturday
- The decision approves 136,000 cubic yards of dirt, which would call for 13,600 haul trips of 10 cubic yards each

### Staff Response

The Appellant has misinterpreted Project Design Feature, PDF-Traffic-1, which restricts left-turn movements from the project site onto Havenhurst Drive. The barrier proposed by PDF-Traffic-1 will be constructed concurrently with the rest of the project, and will restrict turning movements from the project once it is complete in order to minimize traffic impacts on Havenhurst Drive during project operations. There is no proposal to close Havenhurst Drive or to block access to a public street via a “man-made bottleneck,” as suggested by the Appellant.

The Appellant correctly cites the amount of anticipated cubic yards proposed to be hauled by the project during construction. The City typically prohibits hauling on Sunday, as reflected in Condition of Approval 20.b, but permits hauling on Saturdays, as noted by the Appellant. These standard City restrictions and practices do not invalidate the conclusions of the EIR nor the Deputy Advisory Agency’s conditional approval of the project. The Haul Route was included in the Decision Letter Conditions in 20.h through k.

Further, as discussed and disclosed in Draft EIR pages 4.J-33 through 4.J-39, and RP-DEIR pages 2-41 through 2-42, construction traffic will be significant and unavoidable during the shoring and excavation phase. The Decision Letter accordingly adopted a Statement of Overriding Considerations, recognizing the significant and unavoidable impacts associated with the project.

With respect to the “Q” Condition provided by the Appellant as Appeal Exhibit 18, Q conditions are site-specific conditions imposed upon legislative actions including zone changes. This project does not include legislative action, as noted previously. Notwithstanding, the Deputy Advisory Agency included standard Construction Conditions No. 24, CM-1 through CM-21, which address similar issues as those in the cited Q conditions relative to site posting, noise, and construction equipment.

### Appellant’s Statements – Off-Menu Density Bonus Incentives

- The Off-Menu Density Bonus cannot be granted because other discretionary actions are involved
- The project does not qualify for the Off-Menu Incentive due to its distance from a transit stop
- A pro-forma must be supplied for an Off-Menu Density Bonus Incentive
- The project is ineligible for the requested Incentive because it is in Height District 1D
- A height district change is required for the increase in FAR
- The project needs a conditional use permit for an increase in density that is greater than 35%

### Staff Response

As discussed above in Staff Response to Appellant 1, the Appellant incorrectly argues that the qualification for density bonus incentives or their associated approval was granted by the Deputy Advisory Agency. The qualification of the project for such Off-Menu Density Bonus Incentives was not before the Deputy Advisory Agency, and instead are subject to review by the City Planning Commission. Please see above (pages B-3 through B-4) for a complete discussion of this issue.

### Appellant’s Statements – Street Vacation

- The project requires a street vacation.
- The project is gifting land to the developer.
- The proposed street vacation is in violation of the Streets and Highways Code.
- The request Off-Menu Incentive should not be granted because it used land from the proposed street vacation as part of its calculation, and violates the rights of current easement holders.

- The tract map is silent on the proposed street vacation.
- The traffic island is incorrectly used in the floor area ratio calculations.
- The project's FAR is inappropriately calculated using half of the adjacent roadway.

#### Staff Response

As discussed above in Staff Response to Appellants Nos. 1 and 2 (see pages B-1 through B-2, and pages B-13 through B-14), the Appellant's statements relative to the requirements for street vacation, inclusive of posting, noticing, City Council authority, and required City Engineer findings do not apply to the project because the project has not requested a street vacation. Please see above for a full discussion of this issue.

Moreover, assertions that the project's floor area ratio has been calculated using the traffic island and/or adjacent roadways are incorrect. The project's proposed floor area ratio and open space requirements have not been calculated using the traffic island or adjacent roadways. Furthermore, the language in the Hearing Notice regarding requested Off-Menu Density Bonus Incentive for "land to be set aside for street purposes" concerns how floor area ratio is calculated before or after on-site street dedications pursuant to Bureau of Engineering requirements, and is not related to street vacations nor the existing traffic island and its proposed reconfiguration, as the Appellant incorrectly asserts.

The Appellant further asserts that a street vacation would make the project inconsistent with LAFD requirements that no building or portion of a building shall be constructed more than 150 feet from the edge of a roadway of an improved street, access road, or designated fire lane. The Appellant argues that a proposed street vacation would violate this requirement. However, as discussed above, no street vacation is being requested. Furthermore, project buildings will not be constructed more than 150 feet from the edge of the roadway, inclusive of areas adjacent to the proposed traffic island reconfiguration.

#### Appellant's Statements – Environmental Leadership Development Program (ELDP):

- Alternative 9 as approved by the Advisory Agency does not qualify for ELDP status

#### Staff Response

As discussed above in Staff Response to Appellant 1, the project as proposed is still within the scope of the original criteria. Please see above (page B-7) for a complete discussion of this issue.

#### Appellant's Statements – Traffic and Transportation

- The project would exceed 50 trip limit at congested intersections.
- The proposed mitigation measure at Havenhurst and Fountain is in the City of West Hollywood and is unenforceable.
- The project would result in impacts to Havenhurst Drive and neighborhood streets.
- The project is inconsistent with Mobility Plan 2035 and does not account for increased congestion related to Mobility Plan 2035.
- Parking would be eliminated south of the project site on Havenhurst Drive, where there is a man-made bottleneck.
- City of West Hollywood comments on sewers and pedestrian crossings.
- There is no analysis of the totality of traffic impacts from the 38 related projects list.

#### Staff Response

The Appellant argues that the project would exceed a 50-trip limit at congested intersections, and thus would lead to traffic impacts. As discussed on the Decision Letter page 95, the Los Angeles County Congestion Management Program (CMP) has a 50-trip threshold at CMP intersections. The Draft EIR and RP-DEIR addressed traffic impacts in Section 4.J and Section

2.B.10 (see RP-DEIR pages 2-48 through 2-50), respectively. Impacts to CMP intersections do not exceed the 50-trip threshold, contrary to the Appellant's suggestions. Neither does the Appellant provide evidence to the contrary. Impacts in this regard would be less than significant and no mitigation is required.

The Appellant's statements relative to the proposed mitigation measure TR-1 at Havenhurst Drive being unenforceable have been addressed above in Staff Response to Appellants Nos. 1, 2 and 3. Please see above for a full discussion of this issue (pages B-5 through B-6, B-14, B-15).

As discussed in Staff Response to Appellants Nos. 1 and 3 above, impacts to neighborhood street segments, including Havenhurst Drive, were fully analyzed in the EIR and impacts were found to be less than significant. This Appellant has not provided any substantial evidence to the contrary. Please see above for a full discussion (pages B-3, B-16 through B-18).

As discussed in Staff Response to Appellants Nos. 1 and 2 above, the project was filed as a Vesting Tentative Tract prior to the adoption of the Mobility Plan 2035, and is therefore subject to the Transportation Element. Moreover, there is no "increased congestion" related to the proposals of Mobility Plan 2035 that would materially affect the conclusions of the traffic impact analysis. Please see above for a complete discussion of this issue (pages B-2, B-3, B-12 through B-13).

The Appellant argues that the impact analysis does not account for the "totality" the related projects listed in the EIR, without discussing how they reached that conclusion. However, and consistent with CEQA, the related projects list contained in Draft EIR Section 3, "General Description of Environmental Setting," was compiled based upon known and reasonably foreseeable projects at the time of the Notice of Preparation. The cumulative impacts analysis in each respective impact category, including traffic and noise, which are mentioned by the Appellant, take into account these cumulative "With Project" and "Without Project" conditions.

The Appellant's statements incorporating comments by the City of West Hollywood regarding sewer impacts, traffic impacts and the requested pedestrian crossing have been discussed above in Staff Response to Appellant No. 3, City of West Hollywood (pages B-15 through B-18).

#### Appellant's Statements – Hollywood Fault

- The project site is located on top of the Hollywood Fault

#### Staff Response

As discussed in the Draft EIR Section 4.G and RP-DEIR Section 2.B.4, Final EIR Topical Response 5 (Geology and Soils), and above in Staff Response to Appellant No. 2 (pages B-14 through B-15), the project site is not located on top of the Hollywood Fault. The trace of the Hollywood Fault is located approximately 100 feet to the northwest, and not within, the project site. The Los Angeles Department of Building and Safety Grading Division reviewed the Fault Rupture Study and issued a Soils Approval Letter dated October 19, 2015 (Appendix B to the Final EIR), and the project includes Mitigation Measure GS-1, which requires the review and approval of final construction-level plans by Building and Safety prior to the issuance of any grading permit. Impacts were determined to be less than significant. Further, the Deputy Advisory Agency included a condition in the Decision Letter that states:

Condition No. 7. "Prior to issuance of a grading or building permit, or prior to recordation of the final map, the subdivider shall make suitable arrangements to assure compliance, satisfactory to the Department of Building and Safety, Grading Division, with all the requirements and conditions contained in Inter-Departmental Letter dated October 19, 2015, Log No. 83343-02 and attached to the case file for Tract No. 72370-CN."

#### Appellant's Statements – Noise and Vibration

- Vibration, noise and air quality impacts cannot be mitigated

- Operational noise impacts would occur from alcohol consumption on amenity decks
- Construction trips and loading/unloading impacts would occur on Havenhurst Drive

#### Staff Response

The Appellant claims that construction noise and air quality cannot in fact be mitigated. As fully discussed and disclosed in the EIR and in the Decision Letter pages 139-140, construction vibration (human perception) and construction noise impacts would remain significant and unavoidable, even with the implementation of the recommended mitigation measures Noise-1 and Noise-2. Accordingly, the Deputy Advisory Agency adopted a Statement of Overriding Considerations with respect to these impacts. The Appellant asserts that construction air quality impacts would remain significant, but has not provided information to support this broad assertion. As discussed on Decision Letter pages 114-116 and supported by the quantitative analysis contained in the EIR and conducted according to established thresholds, construction-phase air quality impacts would be reduced to a less than significant level with the implementation of Mitigation Measure AQ-1.

The Appellant argues that significant noise impacts would occur from alcohol consumption on the project's private amenity decks. However, the Draft EIR and RP-DEIR fully analyzed potential operational noise impacts, including from on-site amenities, and impacts were found to be less than significant. The analysis on RP-DEIR page 2-36 demonstrates that noise from project operations, including residential amenity decks, would be below established quantitative thresholds. Furthermore, restrictions on the use of alcohol on the private amenity decks would not be appropriate or conditioned by the Deputy Advisory Agency as these by their nature are private spaces. Conditions relative to alcohol consumption on the public third floor restaurant terrace will be considered by the City Planning Commission pursuant to the requested Master Conditional Use Permit under Case No. CPC-2013-2551-MCUP-DB-SPR, and not the action taken by the Deputy Advisory Agency. Further, Project Design Features PDF-Noise-2 and PDF-Noise-3 provide additional restrictions outside amplified noise from project event areas (see Decision Letter pages 23-24).

#### Appellant's Statements – Findings and Noticing for Alternative 9

- There are no findings for Alternative 9 for the Decision Letter alternatives section.
- Alternative 9 was not duly noticed.
- Alternative 9 was not part of the EIR.

#### Appellant's Statements – Findings and Noticing for Alternative 9

The Appellant mistakenly asserts that Alternative 9 was not part of the EIR. However, the Recirculated Portions of the EIR (RP-DEIR), which was circulated for a 61-day public review from September 10, 2015 through November 9, 2015 was expressly focused on presenting and analyzing Alternative 9, Enhanced View Corridor and Additional Underground Parking Alternative. The Final EIR further included responses to all comments received on both the original project and Alternative 9.

The Hearing Notice for the May 24, 2016 joint Deputy Advisory Agency / Hearing Officer Hearing appropriately described the project as originally proposed in the Draft EIR. The action before the Deputy Advisory Agency was the certification of the EIR, inclusive of all nine (9) alternatives described therein. The Staff Report, which also made available to the public, recommended the approval of Alternative 9 (Staff Report pages 5 through 6). The recommended conditions and findings in the Staff Report were therefore reflective of Alternative 9, as opposed to the original project. The noticing was not inappropriate or a bait and switch as suggested by the Appellant, but rather a standard process related to consideration of the various alternatives described in the EIR.

The Appellant incorrectly argues that findings were not included for Alternative 9 in the Decision Letter alternatives analysis. Rather, the tract map Decision Letter page 37 expressly states:

“For purposes of these findings, “the project” evaluated in these CEQA Findings shall refer to Alternative 9 as described in the Recirculated DEIR and not the original project proposed in the Draft EIR, except as expressly noted or as context requires. Unless referring to a specific document, “EIR” shall mean the Final EIR, including the Draft EIR, the Recirculated DEIR, and the Comments and Responses document.”

The Decision Letter, and the CEQA Findings of Fact therein inclusive of the alternatives analysis, therefore refer to Alternative 9 as the project. All findings throughout the Decision Letter concerning the project are, as such, in reference to RP-DEIR Alternative 9.

#### Appellants Statements – Community Plan Consistency.

- The VTT is not consistent with the Hollywood Community Plan Housing Standards and Criteria regarding the adequacy of existing and assured circulation system and the availability of sewers, fire protection services and other public facilities.
- Streets and emergency response times are inadequate because the City of West Hollywood will not implement Mitigation Measure TR-1.
- LAFD response times at stations serving the project site are below established standards.
- The project is inconsistent with Hollywood Community Plan policies.
- The number of residential units requested is not allowed by the project site’s zoning or by the Hollywood Community Plan
- The project misrepresents its height as 15 stories, not 22 stories.

#### Staff Response

The Appellant claims that the project is inconsistent with Hollywood Community Plan Housing Standards and Criteria regarding the adequacy of existing and assured circulation system and the availability of sewers, fire protection services and other public facilities, but provides no evidence to support these assertions. Please see Staff Response to Appellant 1 for a complete discussion of emergency response times, Mitigation Measure TR-1, and consistency with the cited Hollywood Community Plan policy (pages B-4 through B-7).

The Appellant argues that the project is inconsistent with the Hollywood Community Plan because it would be 234 feet in height, not 150 feet as the Appellant states would be inferred by a height of 15 stories. The Appellant further asserts that the project therefore violates a Hollywood Community Plan provision encouraging low density residential. However, the project site is commercially zoned and has a Neighborhood Office Commercial land use designation. The project site is not designated for “low density residential,” as suggested by the Appellant. Further, the project site is zoned C4-1D, which has no height limit. Lastly, the RP-DEIR and Decision Letter, including Decision Letter pages 37 and 45 which are cited by the Appellant, and RP-DEIR page 2-1 and page 2-7 fully acknowledge and disclose the project’s maximum height of 234 feet relative to the lowest point of the project site, as measured from grade at the southwest corner along Havenhurst Drive.

The Appellant also claims that the project is inconsistent with Hollywood Community Plan policies related to the “preservation and enhancement” of residential neighborhoods. Please see Staff Response to Appellant 2 for a discussion of this same issue (pages B-11 through B-12).

The Appellant argues that the project’s proposed number of residential units is not allowed by the project site’s zoning or by the Hollywood Community Plan. Contrary to the Appellant’s statements, the proposed project’s 249 residential dwelling units is well below the 278 units permitted by right, and the mix of proposed uses is consistent with the C4-1D zone and Neighborhood Office Commercial land use designation. Please see Staff Response to Appellant 1 (pages B-6 through B-7, and page B-8) for further discussion.

## PUBLIC HEARING AND COMMUNICATIONS

The Public Hearing on this matter was held at Los Angeles City Hall in Downtown Los Angeles, Room 350, 3rd Floor, on May 24, 2016 at 9:00 A.M.

1. Present: Approximately 90 people were in attendance, including the applicant, applicant's architect, representative, and team members, residents and neighbors, representatives of the City of West Hollywood, and representatives for Council Office District 4.
2. Public Speakers: 73 public speakers. 46 spoke in support of the project; 25 in opposition to the project; and 2 with general comments and concerns.
3. The applicant, the applicant's representative, and a representative of the project's architectural firm made the following statements:
  - A summary of the proposed project and requested entitlements.
  - A summary of significant and unavoidable impacts acknowledged in the project's Final Environmental Impact Report.
  - An overview of the project's amenities.
  - Description of the architectural features of the project. The project is an ensemble of buildings that provide for a view corridor through the project site, and is designed to relate to the surrounding area. The project would provide an architecturally significant design by architect Frank Gehry.
  - The project would provide needed affordable housing.
  - The project as proposed has responded to previously expressed public concerns by providing on-site parking beyond code requirements, reducing the project's retail space, eliminating driveway access from Sunset Boulevard, and eliminating the previously proposed rooftop bar.
4. Speakers at the hearing consisted of area residents, and property and business owners.

Below is a summary of comments from speakers in support of the project:

- The project provides needed affordable housing.
- Los Angeles is undergoing a housing and homelessness crisis. The City needs more housing.
- The developer has worked with the community and made improvements to the originally proposed project.
- The project has a unique design and iconic architecture by a renowned architect, and would become a destination and amenity for the community.
- Most impacts are during construction and are short-term in nature.
- The existing strip mall and fast food use is outdated, is an eyesore, and the parking lot is unsafe.
- The City needs to build more housing, especially affordable housing.
- The City needs more housing and jobs near transit.
- Mixed-use and higher-density projects are good for the long-term growth of Los Angeles.

- The project would improve the pedestrian environment and walkability.
- Changing the traffic island would improve pedestrian safety and would provide public space.
- The project would provide open space and amenities.
- The project would provide needed jobs and economic development.

Below is a summary of comments from speakers in opposition to the project:

- The existing bank building is historic and should not be demolished.
- The existing bank building retains its integrity at local, state and national levels.
- Adaptive reuse alternatives should be considered and adopted.
- The Sunset Boulevard / Crescent Heights Boulevard intersection is at capacity and cannot handle more traffic.
- The project is too tall and too big, and is incompatible with the surrounding neighborhood.
- The project's height should be reduced.
- Projects of this size belong in Downtown Los Angeles.
- Emergency response times would be impacted.
- The project should not incorporate the traffic island, which is property of the City and is needed for traffic flow on Sunset Boulevard.
- The project's open space and FAR calculations should not include the City-owned traffic island.
- The project would increase traffic in the area and result in traffic impacts.
- The project should not be granted the off-menu incentive because it is beyond the 1,500-foot distance to a transit stop.
- The project would cause neighborhood cut-through traffic impacts.
- The project would cause impacts during construction.
- The closest transit is a bus stop and is not rail. Project residents will not take transit.

The City of West Hollywood made the following statements, and provided a letter for the record dated May 23, 2016.

- Mitigation Measure TR-1 cannot be enforced because it is within the City of West Hollywood.
- The traffic signal proposed by the mitigation will result in cut-through traffic.
- The City of West Hollywood is requesting fair-share contributions from the applicant for project-related wastewater impacts.

A representative for Council Office District 4 made the following statements, and provided a letter for the record dated May 3, 2016:

- Concerns about the height and scale of the project.
- Concerns about the proposed traffic island reconfiguration and how this would affect right turns from Sunset Boulevard to southbound Crescent Heights Boulevard.

- Concerns about the distance from transit associated with the project's Off-Menu Incentive Density Bonus entitlement request.

5. Communications Received.

- Public comments are in the case file located at City Hall. Public comments have also been continuously uploaded to the Department of City Planning website ([www.planning.lacity.org](http://www.planning.lacity.org)) in accordance with the requirements of the project's ELDP designation.