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From: Khalatian, Edgar
Sent: Friday, October 28, 2016 3:45 PM
To: Sharon.Dickinson@lacity.org
Cc: Luciralia Ibarra; Sarah Molina-Pearson; paloma perez; Kallick, Spencer B.
Subject: The Reef; CF-16-1058, CF-16-1058-S2, 16-1058-S3, [MB-AME.FID1110862]
Attachments: Letter to PLUM Re_ Conditions of Approval (722132743_1).pdf; Letter to City Council Re_VTTM Appeal (722111088_1).pdf

Sharon,

Attached are two letters related to the aforementioned council files, which are scheduled to be heard by the PLUM Committee on Tuesday, November 1, 2016. Please add to the Council file.

Thanks much.

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Los Angeles City Council
200 North Spring Street
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Re: The Reef Project (Case No. VTT-72914; CPC-
2014-1771-GPA-VZC-SN-VCU-MCUP-CUX-
ZV-SPR-MS; CPC-2014-1772-DA; ENV-2014-
1773-EIR

Honorable Members of the Los Angeles City Council:

We are submitting this letter on behalf of our client, PHR LA Mart, LLC (the “**Applicant**”) in response to United Neighbors in Defense Against Displacement’s (“**UNIDAD**”) September 19, 2016 appeal (the “**Appeal**”) of the actions of the City of Los Angeles Planning Commission (the “**Planning Commission**”) on the above referenced project. The Appeal relates to the August 11, 2016 actions of the Planning Commission, which confirmed the Advisory Agency’s certification of the environmental impact report (“**EIR**”) and adoption of the Mitigation Monitoring Program (the “**MMP**”) and the Statement of Overriding Considerations. The Appeal also relates to the Planning Commission’s denial in part and grant in part the Applicant’s appeal to Vesting Tentative Tract Map No. VTT-72914 (the “**VTTM**”) and adoption of the Findings and Conditions for The Reef Project, which is located at 1900 Broadway (the “**Project**”).

The Applicant submits this letter to assist the City of Los Angeles (“**City**”) in reviewing the merits of the Appeal. None of the arguments raised in the Appeal identify significant new information, unexamined significant impacts, or any other circumstances that suggest the City’s certification of the EIR, adoption of the MMP, the Statement of Overriding Considerations or the Findings and Conditions, approval of the VTTM or denial of UNIDAD’s appeal was improper. The Appeal simply presents UNIDAD’s disagreement with the conclusions stated in the Findings for the VTTM and the EIR, and fails to present any legitimate reason to disapprove the VTTM or the MMP, the Statement of Overriding Considerations, or the Findings and Conditions, or to decertify the EIR, or otherwise grant the Appeal.

The Appeal wrongly contends that the analysis of Project is insufficient under the California Environmental Quality Act (“**CEQA**”) and that the findings for both the EIR and the VTTM are deficient; however, none of UNIDAD’s contentions have any merit. Many of the rebuttals to the arguments raised in the Appeal can be found in the very thorough EIR, including the responses to comments contained in the Final EIR (the “**FEIR**”) that the City certified.

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The Appeal incorporates UNIDAD and Public Counsel's same written comments previously made to the Draft EIR (the "DEIR"). The FEIR includes detailed responses to those comments. Consequently, this letter does not address every issue and question raised by the Appeal since the responses to the comments have already covered those issues. Instead, the focus of this letter is to primarily dispute the main contentions raised in the Appeal. Accordingly, in response to those contentions, the Applicant asserts the following:

I. THE SUBDIVISION MAP ACT FINDINGS ARE SUPPORTED BY SUBSTANTIAL EVIDENCE.

A. The Project is not fatally inconsistent or incompatible with the City's General Plan, Southeast Los Angeles Community Plan, or any other applicable planning documents.

The Appeal restates UNIDAD's contention that the findings for the approval of the VTTM and the EIR are not supported by substantial evidence because it disagrees with the City's analysis of consistency with applicable land use laws. In support of this argument, UNIDAD makes several factually incorrect statements, misstates the purpose or goal of a policy, and/or fails to differentiate between Citywide goals and goals applicable to individual projects.

UNIDAD's first erroneous contention is that the Project cannot be consistent with the Southeast Los Angeles Community Plan (the "Community Plan") Objective 1-2 because it will generate trips and, therefore, cannot meet the Objective's goal of reducing trips. This is, simply put, a strange mischaracterization of the Objective which reads as follows: "To locate *new housing* in a manner that reduces vehicular trips and makes it accessible to services and facilities." (emphasis added.) Of course, any new housing will generate new trips. The Objective seeks to encourage new housing near transit to reduce the vehicular trips generated by the new housing. As discussed in the DEIR IV.J-52, the Project is consistent with this Objective because it provides housing units and mixed-use development within close proximity of a regional transportation hub and a multitude of public transit options. Moreover, the Project is centrally located to downtown Los Angeles, the L.A. Live Complex, Staples Center, the Convention Center, USC, and other major employment centers, services and facilities all accessible via public transportation or within walking or bicycling distance.

Rather than read Objective 1-2 as written, UNIDAD attempts to dispute the finding of compliance by alleging that only with significant affordable housing can a project satisfy Objective 1-2 because lower income residents are more likely to use public transit. However, as fully explained in Response to Comment 9-35 (FEIR Page III-129 and III-130), the study relied on by the commenter, Public Counsel, shows that the location of housing in transit areas results in a reduction in vehicle miles traveled, vehicle ownership, and household vehicle trips per day over all income groups. Therefore, UNIDAD is both incorrect in its interpretation of Objective 1-2 and its conclusion that the Project is inconsistent with the Objective.

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UNIDAD also fails to understand that many policies do not deal with an individual project but instead are designed to guide policy makers. As such, the policies enumerated in the Appeal, specifically Policy 11-2.3, 1-5.2 and 2-1.4 of the Community Plan, do not create mandatory obligations for the Project and, therefore, cannot be found to be inconsistent with the Project.

Additionally, in alleging inconsistency with specific Community Plan policies, the Appeal fails to accurately describe the policy or its purpose through selectively citing clauses of a policy without putting the policy in context with the goal it seeks to achieve. For example, Policy 11-2.3 is part of the circulation element of the Community Plan and is located under the heading of Public Transportation. To further the use of public transportation, Objective 11-2 seeks to increase the work trips and non-work trips made on public transit. The City is striving to achieve this objective through various policies, including Policy 11-2.3, which seeks to have the City maximize opportunities for affordable housing and pedestrian access adjacent to rail stations by establishing Transit Oriented Districts (“TODs”), and through incentives and guidelines encouraging mixed-use and pedestrian oriented development within TODs. Policy 11-2.3 does not mandate affordable housing in every residential project located within a TOD. Moreover, the Project is consistent with this City Objective and Policy since the Project proposes to build a mixed-use and pedestrian oriented development within a designated TOD. Similarly, Policy 1-5.2 seeks to further Objective 1-5, which is part of the group of objectives and policies under Goal 1 that strives for a “safe, secure and high quality residential environment for *all economic, age and ethnic segments* of the community” (emphasis added). Objective 1-5 seeks to achieve this goal by ensuring the provision of adequate housing for all persons regardless of income, age, or ethnic background. In furtherance of Goal 1 and Objective 1-5, Policy 1-5.2 seeks to ensure that new housing opportunities minimize displacement of the residents. As is fully discussed in the EIR (see e.g., DEIR pages IV-A-9, IV.L-9 and IV.L-10), there are no residents on the Project site. The Project will not remove residential development, it will create new housing and will add residentially-oriented amenities to the Property and the neighborhood. Thus, the Project will not cause the displacement of any residents and, therefore, the Project is consistent with Policy 1-5.2, as well as the Objective and Goal leading to that Policy. (See Section I.F below regarding the Appeal’s contention that the Project will create indirect displacement in all of South Los Angeles.)

Finally Policy 2-1.4 seeks to further Objective 2-1 which states that the City’s objective is to conserve and strengthen viable commercial development. Policy 2-1.4 accordingly strives to ensure the viability of existing neighborhood stores, which support the needs of local residents and are compatible with the neighborhood through re-designating to a Neighborhood District land use category, some properties which were previously zoned and planned highway commercial and which include the type of uses identified in the policy. Even though the Project is not within a Neighborhood District, the Project is consistent with Policy 2-1.4, and Objective 2-1 underlying the Policy, in that it does not remove any existing neighborhood stores. In fact, the Project includes commercial space to accommodate small community stores and businesses. In addition to retaining the existing commercial operations in The Reef, the Project will provide

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new commercial, retail and restaurant space thereby increasing the employment and business opportunities in the area. The Project would include a pharmacy, grocery store and other community-serving uses, in addition to restaurant and specialty retail uses, available to the public and new residents. Therefore, the Project will not only provide opportunities for new and existing local businesses, it will increase the economic activity in the area, which will benefit all businesses, old and new, in the area.

In addition, CEQA does not require that a project be completely consistent with all relevant General Plan policies (*Sequoiah Hills Homowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 717). Nonetheless, the Appeal asserts that there are other General Plan policies¹ dealing with affordable housing that the Project fails to address. However, these are policies that apply to the City's agencies, policy makers and decision makers, and generally to the provision of affordable housing throughout the City. These policies promote development of affordable housing throughout the City, but do not mandate the inclusion of affordable housing units in any individual development project. If affordable housing were a mandate, there would be no need for the various incentive programs the City provides to encourage developers to include such non-mandatory components in their residential projects. Thus, alleging that a failure to provide affordable housing makes the Project *per se* inconsistent with the General Plan, or Community Plan, is an incorrect statement bolstered only by the UNIDAD's selective and misleading citations to various General Plan and Community Plan policies.

B. The Project is not inconsistent with the General Plan or other Land Use Policies for failure to request a Density Bonus.

UNIDAD contends that the Project is somehow inconsistent with the General Plan and other land use policies because the Applicant has failed to take advantage of *voluntary* incentives offered by the City for the provision of affordable housing. It is unclear how UNIDAD conflates a voluntary program of *incentives* into a mandatory program providing the only means to increase density on private property. Nor does the Appeal provide any clarity on this issue; instead it continues to argue that the use of existing laws violate the spirit of the City's attempts to promote the construction of additional affordable housing by providing a series of incentives to make this completely voluntary activity more financially attractive to developers. Clearly, if the City had intended that certain land use approvals would only be available with an application for a Density Bonus incentive, it would have amended its laws to reflect such a desire. That is not what the City has chosen to do, and no amount of bewildering contortion of the precise wording of the laws, goals, and policies negate a developers right to apply for existing land use entitlements.

The Project does not propose to use the Density Bonus Program in its land use entitlements. The Applicant has applied for land use approvals consistent with existing Los Angeles Municipal

¹ The Appeal contains a footnote with a list of General Plan policies and programs which Appellants claim are not addressed properly in the EIR. See Response to Comments 9-22, FEIR pages III-119-120.

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Code (“**LAMC**”) provisions, including the Greater Downtown Housing Incentive Area Ordinance, which do not require the use of the voluntary Density Bonus Program. These LAMC provisions specifically allow for changes in land use designation to permit residential uses and changes to height district designations to permit higher density development. Nonetheless, the Applicant is negotiating a Development Agreement with the City that will include an affordable housing component as one of the community benefits offered as consideration for the Development Agreement. In fact, the Planning Commission has required that the Project include 5 percent for Low Income Households and 5 percent for workforce housing.

However, UNIDAD argues that the amount of affordable housing which is now part of the Project is not sufficient to meet the City’s goals of promoting development of more affordable housing through incentive programs. However, as in the prior appeal and comments to the DEIR, the Appeal fails to provide a legal nexus for requiring, rather than encouraging, the construction of affordable housing units in any particular development.

C. The Project site is physically suitable for the proposed type of development.

UNIDAD continues to contend that the VTTM should be denied because the Project site is not physically suitable for the type of development being proposed. UNIDAD erroneously states that the City had no basis for making the finding that the Project site is suitable because of an alleged failure to consider the site’s zoning history, the proposed Reef Transit-Oriented Sign District (the “**Sign District**”) in close proximity to major freeways, and the impacts of luxury housing on neighboring rental housing stock. As analyzed in the EIR, and discussed below, the City did consider all of these factors. The only basis for UNIDAD’s contentions is that they disagree with the considered opinion of the City.

The Subdivision Map Act’s requirement that the City make a finding that a project site is physically suitable for the type of development proposed refers to the physical characteristics of the site. As is clear from the extensive analysis in the EIR, including the Initial Study, Appendix I-1, the Project site is relatively flat and located within an urbanized area and is not located on a slope or in an area with stability or erosion issues or in a fault/rupture study zone. Also, the zoning history, the proposed Sign District, and alleged impacts to the neighboring housing stock do not reflect any physical condition which would prohibit the City’s finding of physical suitability. The EIR provides a detailed analysis of the Project’s compatibility with its location which includes the existing The Reef building, which will be retained, and the existing commercial, institutional and residential use in the immediate vicinity. (See DEIR page IV.J-34.) The Appellant’s concern about the Project’s impact on the neighboring rental housing stock is not a physical aspect of the Project Site. Nonetheless, the Appellant makes a baseless assertion that the Project is providing “luxury housing” without defining what constitutes luxury housing. Rents for the Project’s residential component are purely speculative at this point and do not account for the Project’s mix of housing units.

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D. The Project site is physically suitable for the proposed density of development.

There is substantial evidence to support the City's finding that the Project is suitable for the proposed density of development. Again, as in the case of the inconsistency arguments, the Appeal selectively cites from the City's Findings of Fact (Subdivision Map Act) to claim that the City was only considering the nearby educational institutions and apartments. Contrary to that assertion, the Findings of Fact include a discussion of the entirety of the vicinity surrounding the Project site, including the nearby office, institutional, commercial and residential uses and the developments in South Park (Planning Staff Report pages 115-116).

As fully set forth in the EIR, the Project is surrounded by a mix of commercial, institutional and residential uses. The Project site vicinity is highly urbanized and not just compatible with the immediately adjacent uses, but with the area northwest of the Project site in the South Park neighborhood. This neighborhood features mixed-use housing and office projects similar in density to that proposed for the Project. Moreover, as noted in the DEIR (pages IV.J-34 and IV.J-35), urban growth associated with downtown Los Angeles is moving from the downtown core to the south, towards the Project site and surrounding areas. Of the 82 related projects discussed in the EIR, 24, approximately 30 percent, are residential or mixed-use projects located south of Olympic Boulevard within 0.8 miles from the Project site, with eight of those 24 located south of Pico Boulevard within one-half mile of the Project Site. Accordingly, the Project represents an appropriate project in an appropriate location with appropriate density that reflects its proximity to public transit. The City's Findings of Fact are, therefore, supported by substantial evidence as set forth in the EIR.

E. The design of the subdivision and the Project are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

Again, the Appeal is based on an erroneous interpretation, and selective citation, of required Subdivision Map Act findings. The Subdivision Map Act requires that the City make a finding that the design of the subdivision and improvements are not likely to harm fish or wildlife or their habitat. (California Government Code Section 66474(e).) There is no requirement, as alleged in the Appeal, that the City must deny approval of any tentative map if the Project has significant and unavoidable impacts in other environmental areas, such as aesthetics, air quality, or transportation. In fact, CEQA recognizes that some projects may cause significant and unavoidable environmental impacts in these study categories, and provides for the procedures to mitigate those impacts to the extent possible and, if not mitigated to a less than significant level, to require a statement of overriding considerations if the project will nonetheless be approved. (14 Cal. Code Regs. §§ 15043, 15093) By failing to include the entire sentence regarding the finding that the City must make, UNIDAD reaches the unsustainable position that no project with any significant impacts can be approved rather than the required finding regarding fish and

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wildlife. UNIDAD attempts to substantiate this argument by reference to the comments to the DEIR they submitted as well as those submitted by Public Counsel. However, each of those comments was addressed in the FEIR, pages III-107 through III-137, and none of those comments allege that the Project would have a significant and unavoidable impact on fish or wildlife or their habitat. Accordingly, UNIDAD has presented no evidence that the City's findings are unsubstantiated or incorrect.

F. The design of the subdivision and the Project are not likely to cause serious public health problems.

The Appeal once again contends that the City's findings were deficient as to the likelihood to cause serious health problems because the City failed to consider the alleged health impacts of displacement. The Appeal presents no new evidence not already submitted in its comments to the DEIR. This issue is thoroughly discussed in the FEIR in the response to comments (see, Response to Comment 10-8, commencing on page III-237.) The City's finding appropriately found that the design of Project would not be likely to cause serious public health problems because the development is required to be connected to the City's sanitary sewer system where it will be appropriately treated. There is nothing else inherent about the Project or the use of the Project site that would result in a serious public health problem.

However, UNIDAD attempts to expand the clear meaning of this required finding to include a potential indirect harm to public health due to the alleged displacement of residents and businesses which allegedly would occur because the Project might result in improving the neighborhood and raising property values in the process. This potential, speculative, indirect impact is not sufficient to justify a finding that the design of the Project would cause serious public health problems. In fact, the FEIR, (Response to Comment 10-8, pages III-237 through III-241), thoroughly reviewed the claims made by UNIDAD, and appropriately concluded that the Project will not result in any direct displacement of residents or businesses because there are no residences on site now and the Project will provide continuing and new space for local businesses and new employment opportunities for local residents.

There is also zero evidence that the Project will result in the indirect displacement of any residents, let alone the 40,000 people the Appeal claims will be subject to moderate to very high risk for financial strain and/or displacement from the Project's impacts on neighborhood housing prices. These assertions are based on assumptions and generalizations that overstate the already speculative conclusions of a health study that encompasses an area far larger than the Project vicinity. (See FEIR, Response to Comment 9-23, pages III-120 and 121, and Response to Comment 10-8, pages III-238 through III-240.) The issue of disruption of social networks is also addressed in the FEIR. There are no residences on the Project site. The Project site is composed of The Reef building, which was constructed in 1958, empty warehouses and surface parking lots. The potential disruption of social networks and environment and economic stress on nearby residents are speculative and not physical impacts upon the environment as a result of the Project

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which could lead to serious public health issues. (Id, page III-240.) Thus, rather than being tone deaf, without merit, and not supported by the evidence, as claimed in the Appeal, the City thoroughly analyzed the health report submitted to the City and thoughtfully responded to UNIDAD's comments. The conclusion reached in the City's Finding of Fact is, therefore, fully supported by substantial evidence.

II. THE EIR AND CEQA FINDINGS ARE SUPPORTED BY SUBSTANTIAL EVIDENCE.

A. The EIR's conclusions regarding Project aesthetics, including signage, are supported by substantial evidence.

Contrary to UNIDAD's contention, the Project's height, size, and the number and types of buildings it will contain are compatible with the neighborhood. The Appeal argues that the Project is not compatible because the Project is larger than any other project proposed for South Los Angeles. However, that is not the appropriate basis for determining if a project impacts the visual quality of the immediate area or is incompatible with respect to surrounding development. The appropriate thresholds of significance for aesthetic impacts are thoroughly discussed in Section IV.B.1 of the DEIR commencing on page IV.B.1-15. This analysis includes looking at the immediate area of the project, not the over 51 square miles and 28 neighborhoods that comprise South Los Angeles. Height and massing, as well as architectural and urban design, are discussed in detail at pages IV.B.1-22 through 27 of the DEIR. This analysis appropriately concludes that even with an increased visual prominence, the Project would not be out of character with nearby downtown Los Angeles, or with other development surrounding the Project Site. Instead, the Project would replace the existing underutilized surface parking lots with an urban-scale, transit-oriented project that is reflective of the expected visual character of the area as it develops in the future in accordance with adopted land use plans, including regional plans, the General Plan Framework, the current Southeast Los Angeles Community Plan, the Draft/Proposed Southeast Los Angeles Community Plan, and the Council 9 Redevelopment Plan, among others, all of which envision further development concentration in transit station areas in general, and in this area of the City in particular, in the future.

In addition, the EIR adequately and thoroughly addressed the Project impacts related to the proposed Sign District. Moreover, the signage analyzed in the EIR was substantially more than would be permitted in the proposed Sign District ordinance. Since the EIR was prepared, changes have been incorporated into the Project's signage program (the "**Reduced Signage Program**"). These changes would not result in new significant environmental effects, or substantial increases in the severity of environmental effects that were previously disclosed in the EIR. The total proposed signage has been reduced by 164,789 square feet in size, from 234,067 square feet to 69,278 square feet.

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Other changes have also been included, which are designed to decrease the impacts of the Project's signage program compared to the original proposal. The number of large signs permitted by the Reduced Signage Program would be reduced from six to three, and all three signs would be located on The Reef Building. The previously proposed signs on the north and east facades of the North Tower, and the north façade of the South Tower would not be permitted under the Reduced Signage Program. No Vertical Sign Zone 3 signage would be permitted on the Project Site, except on The Reef building and the hotel building.

Under the Reduced Signage Program, the large signs that would be permitted on The Reef would be modified as follows:

- Reef Building
 - North Elevation – 24,202 sq.ft. to 13,887 sq.ft. (43% reduction)
 - East Elevation – 23,050 sq.ft. to 13,665 sq.ft. (41% reduction)
 - West Elevation – 23,050 sq.ft. to 13,665 sq.ft. (41% reduction)

In addition, Vertical Sign Zone 3 signage on the hotel building would be reduced from 14,520 square feet to a maximum of 8,580 square feet, a 41% reduction compared to the Draft EIR analysis.

The Appeal provides no new evidence showing that the signage analysis in the EIR was incorrect. It merely disagrees with its conclusion, a conclusion that is supported by detailed analysis. UNIDAD objects to the EIR's response to comments submitted by Public Counsel. Specifically, they object to responding to a repetitive comment by cross-referencing previous responses to the same issue. While this might represent a disagreement as to the format of the responses, it does present new evidence (or any evidence for that matter) that the conclusions of the EIR are incorrect.

As for the argument that the Project either violates or undermines City signage ordinances, including prohibitions against freeway facing signs, UNIDAD once again inaccurately interprets the relevant ordinances. As to freeway facing signs, the full citation of the applicable LAMC provision shows that not all signs within 2,000 feet of a freeway are prohibited. LAMC Section 14.4.6 prohibits the construction of signs within 2,000 feet of a freeway, "unless the Department of Building and Safety has first determined that the sign will not be viewed primarily from a main travelled roadway of a freeway, or an on-ramp/off-ramp." As discussed in Response to Comment 9-5, the proposed signage would not be viewed primarily from the adjacent freeways, and would not pose a hazard to driver safety as defined by state law. Nonetheless, the Appeal incorrectly claims that the EIR determined that the signs would be "primarily viewable" from the nearby freeways. The EIR determined exactly the opposite after careful analysis of the views from the relevant freeways in both directions and discussion of State guidelines contained in the California Motor Vehicle Code Section 21466.5. (See DEIR page IV-B.2-17, FEIR and pages III-108 through III-110.) Accordingly, the EIR provides substantial evidence to support its

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conclusions and findings while the Appeal provides no additional evidence to dispute the findings.

The Appeal also seeks to challenge the EIR's findings by making the completely speculative claim that approval of the Project's proposed Sign District will jeopardize the City's position in future litigation challenging the City's signage ordinances. Not only is this contention based on pure speculation, it does not address an adverse environmental impact of the Project and, therefore, it fails to provide substantial evidence contradicting the analysis in the EIR.

Additionally, the Appeal takes issue with the response provided to a comment submitted by Public Counsel, asserting that the response does not adequately address public health issues associated with excessive artificial light. However, Response to Comment 9-6 does not dismiss the concerns raised by the comment, rather it provides a detailed analysis of one of the studies cited by the commenter and cites to the study's own language that "any related health effects [to nighttime light] are unknown." (FEIR, Response to Comment 9-6, page III-112.) The response goes much further analyzing the commenter's concerns and concluding that the DEIR evaluates the specific characteristics of the Sign District and, based upon the established standards related to lighting in the City, the Project would not have the negative impacts expressed by the commenter. Specifically, as discussed in the DEIR (page IV.B.2-12), the Project has been designed to result in lighting levels that do not exceed 2.0 footcandles at adjacent offsite light sensitive receptors. Therefore, the EIR adequately analyzes the light and glare impacts of the proposed Project signage.

B. The Project will not result in indirect displacement and the findings of the Health Impact Report were taken into consideration.

As discussed in Section I.F, above, the FEIR thoroughly reviewed the information provided in the Health Impact Report and the comments to the DEIR regarding displacement and appropriately concluded that the Project would not result in any direct or indirect displacement or health impacts related to any such displacement. The Appeal merely disagrees with this conclusion including the detailed analysis of why the Health Study included a study area that is removed from the Project site and, therefore, is not applicable to any analysis of the area surrounding the Project Site; the area which would be the most likely to be effected by indirect impacts of development. In fact, as explained in the FEIR, page III-238, the Project site is not the same as the nearly 75 percent of the Study Area analyzed in the Health Impact Report. Contrary to the assertion in the Health Study and the Appeal, the Project Site and surrounding area have characteristics in common with downtown Los Angeles with higher percentage of housing units per building than the housing in the majority of the census tracts within the Study Area (see Tables III-1 and III-2). Furthermore, the extension of possible effects from the Project to a two mile radius, crossing two freeways, as was done in the Health Study and relied upon by the Appeal, is speculative at best.

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Finally, contrary to the assertion in the Appeal that the Project has a “potential for displacement of existing residents and businesses”, there are no existing residents on the Project Site and no existing businesses which will be displaced. Therefore, the Appeal’s argument must be limited to indirect, potential displacement, based on a Health Study which includes disparate neighborhoods and speculative conclusions. CEQA does not require the analysis of purely speculative potential impacts. Accordingly, the EIR properly analyzed the potential displacement impacts of the Project and the FEIR fully analyzed and responded to the comments presented to the City and appropriately concluded that the Project would not displace residents or local businesses. The Appeal presents no new evidence to dispute that conclusion.

C. The Project’s potential growth-inducing impacts and cumulative impacts are fully analyzed in the EIR.

Contrary to the assertion in the Appeal, the EIR thoroughly analyzed both the cumulative impacts and the growth-inducing impacts of the Project. Each individual section on the EIR includes an analysis of cumulative impacts of the Project on that particular discussion topic; that is, aesthetics, (including visual quality, light and glare and shade and shadow), air quality, biological resources, cultural responses, (including historic resources, archaeological resources and paleontological resources), geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, population, housing and employment, public services, (including fire protection, police protection, schools, parks and recreation and libraries), transportation, and utilities, (including sewer, water, solid waste, electricity and natural gas). Moreover, the EIR includes a section on the growth inducing impacts of the Project in section V, beginning at page V-2. This section does discuss the increase in both employees and residents over existing conditions and explains why this increase will result in a less than significant impact. The Appeal contains no evidence to dispute any of these analyses.

D. The Project includes affordable housing.

The Appeal also requests that the City the Project to address the Citywide affordable housing crises. However, the City may not impose conditions on a project that are not caused or contributed to by the Project. As has been discussed, the Project Site contains no housing units and construction of the Project would not displace any existing residents. Therefore, there is no nexus to impose a requirement to construct affordable housing as part of the entitlement process.

However, the Applicant and the City have negotiated a Development Agreement that will require 5 percent of the Project’s apartment units be set aside for Very Low Income Households. In addition, the Applicant must contribute \$15 million to the City’s Affordable Housing Trust Fund. Nonetheless, the request for inclusion of additional affordable housing is not a grounds for appeal of the entitlements approved by the Planning Commission and, accordingly, not a proper ground of appeal at this time.

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E. CEQA does not require an environmental justice analysis.

CEQA, unlike the National Environmental Policy Act, does not require an EIR to include an environmental justice section. CEQA Guidelines Section 15131 specifically states that “economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes” caused by a proposed project’s impact on economic or social issues. That is, an analysis of economic or social changes is relevant only to show that a proposed project would cause economic or social changes and that such project-induced changes would in turn result in physical damage to the environment. Further, CEQA Guidelines Section 15382 defines a significant effect on the environment to mean: “...a substantial, or potentially substantial adverse change in any physical conditions within the area affected by the project including air, water, mineral, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.” Nonetheless, the EIR does discuss potential for displacement and the Responses to Comments do discuss the potential for indirect displacement raised by UNIDAD. (See e.g., FEIR, Response to Comment 10-8, pages III-237 through III-214.)

Thus, the FEIR thoroughly analyzed the health report and UNIDAD’s comments and concluded that it would be speculative to infer that the Project would result in indirect displacement of housing units or people. The provision of affordable housing within the Project is, therefore, not required to mitigate an environmental impact of the Project. Nor is the Project responsible for causing or addressing the affordable housing shortfalls in the City. The Project site does not now have, and to our knowledge, has never had, residences and, consequently, the Project is not responsible for displacing anyone from the site nor for the general need for more affordable housing in the City. Nonetheless, as noted above, the Applicant is negotiating a Development Agreement which will include community benefits including provisions related to affordable housing.²

Moreover, an environmental justice analysis is utilized to consider whether a low income community would suffer from disproportionate impacts as compared to a similar impact experienced from projects in higher income communities. As discussed in the FEIR (Response to Comment 10-31, page III-249), the impacts of this Project are typical of those associated with urban development, regardless of income. The Project impacts regarding aesthetics, including light and shade or shadow, traffic, traffic noise and air quality, are associated with new development in residential areas throughout the City, or experienced by all residents in the South Coast Air Basin. Accordingly, the impacts of the Project would not be disproportionately

² UNIDAD also contends that the EIR is fatally flawed because it disagrees with the conclusions reached in the EIR that the Project is compatible with the surrounding community and because they generally disagree with the signage district provisions. These issues are fully analyzed in the EIR, Section IV.B. Thus, while the Appeal asserts a difference of opinion, it does not present evidence disputing the adequacy of the EIR or the City’s findings.

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experienced by a low income community, and no environmental justice effects would be associated with the Project.

F. The EIR does not contain inaccuracies or improper deferral of of impact analysis or mitigation measures.

The Appeal alleges that the Project description and characterizations are not supported by substantial evidence because the Project includes a Design Guideline and Land Use Equivalency Program (the “**Program**”). However, all of the known impacts of utilization of this program are addressed in the EIR (see, DEIR, page II-36 and II-37.) The Project described in the EIR is the Project the Applicant wishes to develop. No changes are contemplated and would not be requested unless market fluctuations or site conditions dictate the need for modification. However, to protect against changes that might be contrary to the detailed analysis in the EIR, the Program is structured so that any changes would require independent environmental review. Rather than an attempt to impermissibly defer review, this protection ensures that no new environment impacts can occur without review and approval by the City. There are no changes to the Project which could be analyzed now since there is no current intention to development anything other than what has been proposed. The sole purpose of this Program is to provide flexibility, if needed, for future events, if any, which are unknown at this time. This does not change the description of the Project nor allow the Project to be changed without a full environmental review should there be a desire in the future to make adjustments. The Program not only complies with prior City practices, it exceeds the requirements of those prior approvals by providing for additional environmental review if the Applicant wishes to make changes after the Project is approved. The Program is, therefore, in full compliance with the letter and the spirit of CEQA.³

G. The Sign District approved by the Planning Commission is encompassed within the Sign District analyzed in the EIR.

The Sign District, as modified and approved by the Planning Commission, is adequately covered by the analysis of the proposed Sign District in the EIR since the newly approved parameters of the Sign District reduce the permitted signage analyzed in the EIR.

Since the EIR was prepared, changes have been incorporated into the Project’s signage program in the form of the Reduced Signage Package. These changes would not result in new significant environmental effects, or substantial increases in the severity of environmental effects that were previously disclosed in the EIR. The total proposed signage has been reduced by 164,789 square feet in size, from 234,067 square feet to 69,278 square feet.

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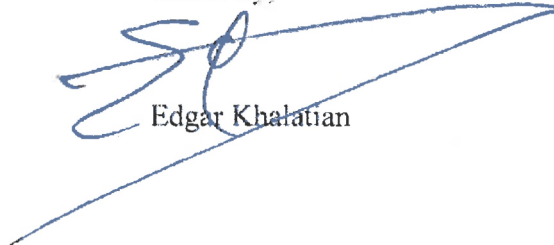
Other changes have also been included, which are designed to decrease the impacts of the Project's signage program compared to the original proposal. The number of large signs permitted by the Reduced Signage Program would be reduced from six to three, and all three signs would be located on The Reef Building. The previously proposed signs on the north and east facades of the North Tower, and the north façade of the South Tower would not be permitted under the Reduced Signage Program. No Vertical Sign Zone 3 signage would be permitted on the Project Site, except on The Reef building and the hotel building.

Modifications to signage as contained in the Reduced Signage Program would not result in any new significant impacts, or substantial increase in the severity of previously identified impacts. As discussed above, the Reduced Signage Program would lessen the impacts. Accordingly, recirculation of the EIR to address the changes in the Project's signage program is not required.

III. CONCLUSION

For all the foregoing reasons, and due to the detailed analysis of these issues in the EIR, and the substantial evidence in the EIR that supports the City's Findings of Fact, and Statement of Overriding Consideration, the Applicant respectfully requests that the Appeal be denied.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Edgar Khalatian', is written over a horizontal line. The signature is stylized with a large 'E' and a long, sweeping tail.

Edgar Khalatian

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October 28, 2016

Los Angeles City Council
Planning and Land Use Management Committee
200 North Spring Street
Los Angeles, California 90012

Re: The Reef Project (Case Nos. VTT-72914; CPC
-2014-1771-GPA-VZC-SN-VCU-MCUP-
CUX-ZV-SPR-MS; CPC-2014-1772-DA;
ENV-2014-1773-EIR)

Honorable Committee Members:

We are submitting this letter on behalf of our client, PHR LA Mart, LLC (the "**Applicant**"), in connection with The Reef Project, which is located at 1900 Broadway (the "**Project**"). The Project is scheduled to be heard by the City Council's Planning and Land Use Management (the "**PLUM**") Committee on November 1, 2016.

On September 9, 2016, the City Planning Commission issued three Letters of Determination for the Project: 1) Letter of Determination VTT-72914 (the "**VTT LOD**"); 2) Letter of Determination CPC-2014-1771-GPA-VZC-SN-VCU-MCUP-CUX-ZV-SPR-MS (the "**CPC LOD**"); and 3) Letter of Determination CPC-2014-1772-DA (the "**DA LOD**") (collectively, the "**Letters of Determination**"). The Letters of Determination contained Conditions of Approval and Mitigation Monitoring Program measures. We respectfully request that City Council revise the Conditions of Approval and Mitigation Monitoring Program measures as outlined below.

I. CPC LOD Page F-63; DA LOD Page F-8; VTT LOD Page 51

B. Air Quality

[...]

2. Violation of Air Quality Standards or Substantial Contribution to Air Quality Violations

[...]

Mass Daily Operational Emissions (Except VOC and NO_x): The nearest sensitive receptors to the project site are the residents of the Rutland Apartments building located across the East Block of the project site approximately 100 feet north on Washington Boulevard. The closest schools are the Santee Education Complex and Frida Kahlo Continuation High School, approximately one block east of the project site. With the exception of VOC and NO_x operational emissions, mass daily operational emissions are less than significant because they do

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not exceed the SCAQMD thresholds of significance. Therefore, impacts to these sensitive receptors are would be less than significant.

Explanation: This correction is requested because mass daily operational emissions are not evaluated relative to sensitive receptors. Instead, they are evaluated under SCAQMD thresholds of significance.

II. CPC LOD Page F-83; DA LOD Page F-28; VTT LOD Page 76

1. Mitigation Measures

The City finds that Mitigation Measures MM-NOI-1, MM-NOI-2, MM-NOI-3 and MM-NOI-4, which are incorporated into the project and incorporated into these Findings as fully set forth herein, reduce the potentially significant impacts related to construction noise to less than significant levels. In addition, MM-NOI-2 was amended to require the use of solar power generators to offset the noise generated by reducing energy consumption. These mitigation measures were taken into account in the analysis of potential impacts.

Explanation: This revision is requested because the mitigation measure, as drafted, is infeasible. It is infeasible to use plug-in electrical or solar power generators for the construction equipment necessary to construct the Project. In addition, this mitigation measure was not included in the draft or final EIR. However, the Project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices.

III. CPC LOD Page F-86; DA LOD Page F-32; VTT LOD Page 80

Mass Daily Operational Emissions (VOC and NOx only): The nearest sensitive receptors to the project site are the residents of the Rutland Apartments building located across Washington Boulevard from the East Block, approximately 100 feet north of the Project Site. The closest schools to the project site are the Santee Education Complex and Frida Kahlo Continuation High School located approximately one block east. VOC and NOx operational emissions are significant and unavoidable at these sites. With the exception of VOC and NOx operational emissions, mass daily operational emissions are less than significant because they do not exceed the SCAQMD thresholds of significance. VOC and NOx mass daily operation emissions would exceed the SCAQMD thresholds of significance.

Note: This revision is requested because mass daily operational emissions are not evaluated relative to sensitive receptors. Instead, they are evaluated under SCAQMD thresholds of significance.

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IV. CPC LOD Pages Q-8 – Q-9; DA LOD Pages MMP-3 – MMP-4; VTT LOD Pages 13-14

PDF-AES-3 The proposed lighting displays, calculated cumulatively with all project generated lighting, shall have a maximum lumen output that shall not exceed the light intensity level of 2.0 footcandles or more at any sensitive receptor. The proposed lighting displays (at all levels) shall have a maximum lumen output that does not exceed the maximum levels as shown in Table IV.B-2.

Explanation: This revision is requested to be consistent with the Reef Transit-Oriented Sign District Ordinance.

V. CPC LOD Page Q-10; DA LOD Page MMP-5; VTT LOD Page 15

MM-AES-2 Operating hours for lighted Limited Animation I and Controlled Refresh I signage within Vertical Sign Zone 3 in Sign Zones B, C, D and E shall be limited to 7:00 a.m. to 10:00 p.m. Operating hours for lighted Limited Animation I and Controlled Refresh I signage within Vertical Sign Zone 3 in Sign Zone A shall be limited to 7:00 a.m. to 11:00 p.m., Monday through Thursday, and 7:00 a.m. to 12:00 a.m., Saturday and Sunday.

Explanation: This revision is requested to be consistent with the Reef Transit-Oriented Sign District Ordinance.

VI. CPC LOD Page Q-15; DA LOD Page MMP-10; VTT LOD Pages 20-21

MM-NOI-2 All construction equipment engines shall be properly tuned and muffled according to manufacturer's specifications. The project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices and shall include the use of plug-in electrical or solar-powered generators only.

Explanation: This revision is requested because the mitigation measure, as drafted, is infeasible. It is infeasible to use plug-in electrical or solar power generators for the construction equipment necessary to construct the Project. In addition, this mitigation measure was not included in the draft or final EIR. However, the Project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices.

VII. CPC LOD Page Q-17; DA LOD Page MMP-12; VTT LOD Pages 23

PDF-TR-1 The project design includes the following features to improve pedestrian facilities and to provide a safe and walkable pedestrian environment, to increase the number of walking trips, and provide for on-site facilities to reduce the need to make vehicle trips off-site.

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- Provide sidewalks fronting the site according to the Downtown Street Standards.
- Improve sidewalks adjacent to and within the project according to Section 3, Part A of the Downtown Design Guide.
- Add pedestrian amenities such as: shade, benches, pedestrian-scale lighting, etc.
- Provide mid-block paseos, pedestrian plazas/courtyards, and elevated terrace walkways as detailed in the Project Description.
- Provide a variety of land uses (mixed use) within the project, as set forth in the Project Description.
- Provide pedestrian-scale retail commercial uses along street frontages.
- Provide on-site facilities such as ATM machines, cafeterias, and convenience shopping.
- Install additional safety measures (such as caution signage for bicyclists and pedestrians) near driveways and access points.
- Provide a bike valet at the hotel to serve all project visitors.

Explanation: This revision is requested to further clarify the Downtown Design Guide Section and Part applicable to the sidewalk improvements.

VIII. CPC LOD Pages Q-24 – Q-25; DA LOD Pages MMP-19 – MMP-20; VTT LOD Pages 32-33

MM-TR-12 Vehicle trip reduction measures are proposed to encourage the use of non-auto modes and reduce vehicle trips. These measures shall be implemented as each parcel of the Project Site is developed. The financial contribution to LADOT for the Mobility Hub shall be implemented when Project development has occurred to reach 40% of the total project PM peak hour trips. The financial contribution to the City's Bicycle Trust Fund should be implemented when Project development has occurred to reach 50% of the total project PM peak hour trips. These measures include the following:

- Provide sidewalk bike racks on the Project Site, including areas near bus stops.
- Coordinate with LADOT to provide physical space (approximately 1,000 square feet rent free in a strategic location visible to the public) for a Mobility Hub/Bikeshare Station at the Project Site that could include space for:
 - Secure, long-term parking;
 - Maintenance and repair, and/or potential small Bicycle Store; and/or
 - Area for bike share
- Make a one-time financial contribution of \$250,000 to the City of Los Angeles Department of Transportation, the monies to be used in the implementation of the Mobility Hub on the site of the Project.
- Make a one-time financial contribution of \$250,000 to the City's Bicycle Trust Fund, the monies to be used to improve bicycle facilities in the area of the Project.

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- Participate in a Car-Share Program, and provide a minimum of 10 (ten) off-street car share parking spaces in the Project's parking garage.
- Facilitate rideshare through an on-site transportation coordinator.
- Facilitate carpools and vanpools for project employees, students, etc., by providing priority locations for carpool and vanpool parking.
- Provide on-site facility with information on car-sharing, vanpools, taxis (e.g., kiosk, concierge, or transportation office).
- Provide emergency or late-night ride homes for transit users, or carpoolers, who reasonably and unexpectedly leave work early or late and can't take bus/train/carpool.

A preliminary TDM program, which includes but is not limited to the program listed above, should be prepared and provided for DOT review, prior to the issuance of the first building permit for this project and a final TDM program approved by DOT is required prior to the issuance of the first certificate of occupancy for the project. The "transit enhancements" listed in MM-TR-13 also include some traditional TDM measures including financial incentive programs that should be included in the project's ultimate TDM plan.

Explanation: These revisions are requested to ensure consistency between the Mitigation Monitoring Program and the Los Angeles Department of Transportation's Transportation Study Assessment, dated June 19, 2015.

IX. CPC LOD Page Q-25; DA LOD Page MMP-20; VTT LOD Page 33

MM-TR-13 The project shall incorporate the following mitigation measures to encourage the use of transit and reduce vehicle trips. These measures shall be implemented as each parcel of the project site is developed. The financial contribution to LADOT for the DASH Bus shall be implemented at the first occupancy of development on the East Block of the project.

- Provide transit information center/concierge/store/kiosks on-site (include sale of transit passes).
- Provide Encourage bus shelters in area of the project site, as determined by Metro.
- Unbundle parking from housing cost.
- Implement parking cash-out programs for project land uses as appropriate.
- Make a one-time financial contribution of \$500,000 to LADOT for the purchase of one DASH bus, to facilitate modifying slightly the route of Route D to include the project site. LADOT to pay for the operating costs of the vehicle.

Explanation: These revisions are requested to ensure consistency between the Mitigation Monitoring Program and the Los Angeles Department of Transportation's Transportation Study Assessment dated June 19, 2015 because only Metro can provide bus shelters.

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X. CPC LOD Page T-3

3. Street Improvements

The following improvements must be either constructed prior to recordation of the final map or that the construction be suitably guaranteed:

a. Improve Washington Boulevard being dedicated and adjoining the tract by the construction of an additional concrete sidewalk within the newly dedicated area to complete a full-width concrete sidewalk with tree wells including any necessary removal and reconstruction of the existing improvements satisfactory to the City Engineer.

ba. Improve all the dedicated corner cuts by placing additional concrete for sidewalk area purposes including any necessary removal and reconstruction of the existing improvements satisfactory to the City Engineer.

Explanation: This revision is requested because it is in conflict with Q Condition A.1(a)vi on CPC LOD Page Q-1, which required "continuous landscaped parkways." It is not feasible to construct "continuous landscaped parkways" and "full-width concrete sidewalk with tree wells" (see above).

We appreciate your consideration of our request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Edgar Khalatian', with a long, sweeping horizontal stroke extending to the right.

Edgar Khalatian