

THE SILVER LAKE HERITAGE TRUST

2568 Griffith Park Boulevard #277
Los Angeles, CA 90039
www.silverlakeheritage.org

June 27, 2022

To: CITY COUNCIL (Via Email)

Re: Case File: CPC-2020-3140-CU-MCUP-DB-SPR-HCA / ENV-2020-3141-SCPE

Council File: **22-0297**

To the CITY COUNCIL:

On June 21, 2022 the PLUM Committee improperly and erroneously approved a SCPE recommendation by the Department of City Planning (DCP).

Further, at its June 21, 2022 PLUM meeting the clerk failed to call on members of the public who patiently waited more than 3 hours to exercise their right to speak during public comment. Both the applicant and his attorney used up the public's time despite being given their own opportunity to speak, thereby preventing members of the public from speaking on this highly controversial project.

Also at its June 21, 2022 PLUM meeting, city planner Oliver Netburn informed the Committee that there are "differing opinions" in the record in regards to the property's historic significance. THE DEPARTMENT IS REQUIRED TO ERR ON THE SIDE OF CAUTION PURSUANT TO CCR 15064.5, 15064.5(3):

"Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant".

Here, the preponderance of evidence in the record proving historical significance outweighs the dearth of evidence proving otherwise.

Attached hereto as Attachment A is a copy of the letter the Silver Lake Heritage Trust submitted to PLUM, also found in council file **22-0297**. This letter outlines the issues and violations in this case.

Said letter also re-informs our elected officials that this case is currently in litigation, LASC case #: 21STCP02612. Further approvals guarantee this case will escalate into more litigation, as we and other members of the public will have no other option but to file an additional action related to the illegal approvals of the SCPE, violations of CEQA and other issues.

We also note no notice of tomorrow's City Council meeting was provided to interested parties or members of the public.

Thank you.

THE SILVER LAKE HERITAGE TRUST

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June 20, 2022

To: clerk.plumcommittee@lacity.org, oliver.netburn@lacity.org, gilbert.cedillo@lacity.org,
Councilmember.Harris-Dawson@lacity.org, Councilmember.blumenfield@lacity.org,
Councilmember.lee@lacity.org, Councilmember.rodriquez@lacity.org

Re: Case File: CPC-2020-3140-CU-MCUP-DB-SPR-HCA / ENV-2020-3141-SCPE
Council File: **22-0297**

To the PLUM Committee:

CURRENT LITIGATION

The City and the applicants for this project are being sued over multiple violations that have taken place throughout the planning process directly related to this project, including the improper CEQA exemption granted by the Department of City Planning (DCP). This project is currently being litigated in the Los Angeles Superior Court, Case# 21STCP02612.

Oliver Netburn, the DCP planner assigned to this case, was informed of the litigation at the remote hearing held by the DCP on March 16, 2022. Any additional approvals related to this project are premature and further interpose deeper, costly and avoidable litigation.

FAILURE TO COMPLY:

The DCP's recommendation to City Council, in paragraph 2, states:

"the proposed project.....qualifies as a transit priority project that is declared to be a Sustainable Communities Project and is therefore exempt from CEQA, in accordance with PRC Section 21155.1."

The recommendation to approve the proposed project as a SCPE at this site is erroneous and flawed. The overwhelming evidence in the record proves **Taix French Restaurant is indeed a historic resource**. This is widely accepted and confirmed by the City of Los Angeles' Survey LA, the LA Conservancy, the Cultural Heritage Commission, multiple private historic consultants, and the public at large. As such, on its face, this project is ineligible for SCPE and clearly mandates CEQA review.

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REQUIREMENTS FOR A SUSTAINABLE COMMUNITY PROJECT (SCPE)

Public Resources Code Sec §21155.1(a)(5.) requires Implementation of the Sustainable Communities Strategy **cannot** have a significant effect on historical resources pursuant to Section 21084.1.

PRC §21084.1. specifies:

“A project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. For purposes of this section, an historical resource is a resource listed in, **or determined to be eligible for listing in**, the California Register of Historical Resources. Historical resources included in a local register of historical resources, as defined in subdivision (k) of Section 5020.1, or deemed significant pursuant to criteria set forth in subdivision (g) of Section 5024.1, are presumed to be historically or culturally significant for purposes of this section, unless the preponderance of the evidence demonstrates that the resource is not historically or culturally significant. **The fact that a resource is not listed in, or determined to be eligible for listing in, the California Register of Historical Resources, not included in a local register of historical resources, or not deemed significant pursuant to criteria set forth in subdivision (g) of Section 5024.1 shall not preclude a lead agency from determining whether the resource may be an historical resource for purposes of this section.”**

As cited in the Planning Department recommendation report on page 3, Public Resources Code (PRC) 21155.1 outlines the criteria for SCPE exemptions. In item 5, PRC specifically states that **SCPE requirements are met when a transit priority project “does not have a significant effect on historical resources pursuant to Section 21084.1.”**

The DCP has again disregarded the preponderance of evidence as required under PRC 21082.2, which **requires substantial evidence to include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.** All of which exist in the record, proving the historic and cultural significance exists. **CEQA prohibits the use of a Categorical Exemption for a project which may cause a substantial adverse change in the significance of a historical resource.**

As the lead agency, the DCP is required to make its determination as to whether a project may have a significant effect on the environment **based on substantial evidence in light of the whole record** pursuant to PRC 21082.2.(a).

PRC §21082.2. states:

(a) The lead agency shall determine whether a project may have a significant effect on the environment based on substantial evidence in light of the whole record.

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(d) If there is substantial evidence, in light of the whole record before the lead agency, that a project may have a significant effect on the environment, an environmental impact report shall be prepared.

PRC §21081.5. states:

“In making the findings required by paragraph (3) of subdivision (a) of Section 21081, the public agency **shall base its findings on substantial evidence in the record.**”

EVIDENCE IN THE RECORD INCLUDES:

The DCP is required to apply ALL of the evidence that exists in the record, concluding Taix French Restaurant **IS** a historic resource - NOT salvage items removed from the historic resource itself.

Current evidence in the record ignored by the DCP includes:

1. 2019 Historic Resource Assessment prepared by the applicant's historian Kathryn McGee:
 - “The Taix Restaurant was identified in Survey LA, the City of Los Angeles’ recently completed citywide historic resource survey, as potentially “individually eligible for local listing or designation through survey evaluation” as a “long-standing commercial presence in a community.” (page 1)
 - “Generally, a resource shall be considered by the lead agency to be “historically significant” if the resource meets the criteria for listing on the California Register (Pub Res Code SS5024.1, Title 14 CCR, Section 4852).” (page 6)
 - “*Relationship to this report:* Because the Taix Restaurant was identified in SurveyLA, a local historic resource survey meeting the requirements Section 5024.1(g) of the Public Resources Code (SurveyLA), and **for the reasons stated in this report, it is presumed to be historically or culturally significant. Therefore, the Taix Restaurant appears to qualify as an historical resource under CEQA.**” (page 7)
 - “Even at the time, the restaurant was seen as a significant establishment. In 1963, Taix Restaurant was described in the Los Angeles Times as a 35-year-old “eating landmark.”⁷³ One 1964” (page 26)

It should also be noted for inclusion in the record, the 2019 Historic Resource Assessment prepared by Kathryn McGee dated October 2019 is a “revision” of the original “February 2019” Historic Assessment which the DCP claims they are not in possession of (May 9, 2022 email from Beatrice Pacheco, Chief Clerk Department of City Planning). We are inclined to believe McGee’s *original* historic assessment contains even more evidence of

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Taix's historic significance the applicant's do not want made available in the public record & are withholding said evidence.

2. Cultural Heritage Commission's Findings January 26, 2021:

- "Determined that the property conforms with the definition of a Monument pursuant to Section 22.171.7 of the Los Angeles Administrative Code"
- "Recommended that the City Council consider Taix French Restaurant for inclusion in the list of Historic-Cultural Monuments"

3. Catherine Gudis, Ph.D. Associate Professor of History / Director, Public History Program Teresa and Byron Pollitt Endowed Term Chair for Interdisciplinary Research and Learning in the Humanities and Social Sciences June 1, 2021 letter:

- "There is no question that Taix is historic. The City's staff and CHC has claimed it; SurveyLA identified it as such; the developers Holland Partner Group even acknowledge Taix as a historic resource; and other autonomous surveys by the LA Conservancy claim it is so."
- "...Historic Cultural Monument nomination, to limit landmarking to a few select scraps of Taix Restaurant. You moved to decimate the site despite the vote of our esteemed and well regarded Cultural Heritage Commission and City Office of Historic Preservation, which voted unanimously for Historic Cultural Monument status for the building and signs at large."

4. Chatten-Brown, Carstens & Minter LLP July 12, 2021 letter:

- Additionally, **all expert evidence** in the City's records determined that the Taix Restaurant building is an historic resource (page 2)

5. Historic Resources Group, January 16, 2019 Preliminary Assessment Report (Commissioned by the LA Conservancy):

- "It is significant as a long-standing Echo Park restaurant that is an important commercial institution in the community, and the long-term home of the second generation of Taix Restaurant, originally established in Los Angeles in 1927 and at the current location since 1962." (page 18).
- "Therefore, the building retains integrity of materials as it relates to **the building's ability to convey its significance** as the long-term home of the restaurant." (page 18)

6. August 24, 2020 Significance Statement by Historian Charlie Fisher:

- "...city's most iconic and beloved local businesses, as well as one of the last vestiges of historic Frenchtown." (page 8)

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7. January 18, 2021 statement from Daniel Paul, a Federally qualified Architectural Historian:
 - “As the CHC themselves have professed, this significance is conveyed through the total property itself. This including its interiors as articulated above, as acknowledged by the CHC after two hearings plus a site visit, and as I stated in **my own supplemental HCM analysis.**” (page 6)
 - “...it meets, it’s a continental-dining interior with European theming and expressive of French cuisine all of those together. (page 10)
8. December 17, 2020 CHC hearing, Director of Office of Historic Resources Ken Bernstein:
 - “Again the staff recommendation is we do feel it’s fairly clear and has been **confirmed multiple times that it does meet criteria.**” (page 46)

The record clearly includes **an abundance of evidence** demonstrating the property’s historic significance. Therefore the DCP recommendation report fails to comply with Public Resources Code sections 21081.5, 21082.2, 21155.1.. The DCP recommendation report also violates the City’s General Plan and Silver Lake / Echo Park / Elysian Valley Community Plan.

[The Secretary of the Interior’s Standards for Rehabilitation](#)¹ REQUIRES THE FOLLOWING and does NOT allow alteration or demolition of a historic resource:

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. **The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.**
3. Each property shall be recognized as a physical record of its time, place, and use. **Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.**

We request the PLUM Committee reject this SCPE determination and comply with Public Resources Code sections and other relevant State and local laws currently ignored by the DCP.

Sincerely,

The Silver Lake Heritage Trust

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¹ This is a hyperlink with information on the webpage to be included in the Administrative Record
June 20, 2022 SLHT Letter of Opposition to SCPE recommendation to PLUM Committee re TAI

