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June 20, 2022

Hon. Chair Marqueece Harris-Dawson
Members of the Planning and Land Use Management (PLUM) Committee
200 N. Spring Street, Rm. 272
Los Angeles, CA 90012
councilmember.harris-dawson@lacity.org
Attn: Leyla Campos, Legis. Asst. (clerk.plumcommittee@lacity.org)

**Re: Council File: 22-0297, June 21, 2022 Hearing Date, Agenda Item 13, Case
No. ENV-2020-3141-SCPE, 1911-1931 West Sunset Boulevard and 1910-2018
West Reservoir Street**

Dear Chair Harris-Dawson and Honorable Members of the PLUM Committee:

On behalf of the Los Angeles Conservancy, we object to the City's proposed reliance on a sustainable communities project (SCPE) exemption to environmental review under the California Environmental Quality Act (CEQA) for a mixed-use development at the current site of the historic Taix restaurant. We previously provided comments to the Planning Department detailing the impropriety of relying on a SCPE because this exemption is only allowed when the City can affirmatively demonstrate that the project would not have an adverse impact on a historic resource. (See attached June 12, 2021 letter.) Because the proposed mixed-use project would demolish the historic Taix restaurant and provides no guarantee that the Taix business will be included in the new construction, a significant impact to this historic resource would occur and must be assessed in environmental review.

The City's SCPE analysis has tried, but failed, to support a claim that there would be no impact to the historic Taix restaurant. First, despite the attempt by the SCPE analysis to consider only the business itself to be historic, there is a significant amount of expert analysis detailing the historic significance of the physical Taix building and site including: SurveyLA's finding that Taix qualifies as a local historic resource; the Historic Cultural Monument (HCM) nomination for Taix prepared by expert Charles Fisher; the expert report of Daniel Paul supporting the HCM; the findings of the City's Cultural Heritage Commission recommending Taix be listed as an HCM; expert report prepared

by Historic Resources Group on behalf of the LA Conservancy; and even the report prepared by the applicant's expert, Kathryn McGee.

The SCPE analysis provides a misleading and incomplete discussion of several expert opinions in an attempt to brush the substantial evidence of the site's historic significance under the rug. The SCPE analysis inaccurately claims that the Cultural Heritage Commission's findings did not determine the interior or exterior of the building to be historic, when in fact the findings include the following conclusion:

Although the property has experienced some interior and exterior alterations since Taix relocated to the subject property in 1962, all changes are associated with the restaurant's growth over time and are compatible with the original continental dining design intent. **Therefore, the subject property retains a high level of integrity of location, design, setting, materials, workmanship, feeling, and association to convey its significance.**

Although not addressed by the SCPE analysis, expert Daniel Paul found that "Taix' continental dining interior reaffirms this notable cultural context, and there is a documented connection between the continental dining interior and French restaurants across the national landscape over the postwar period. Taix is Los Angeles' last intact expression of this linkage."

The SCPE analysis also provides a misleading and incomplete description of the findings of Historic Resources Group (HRG), pointing to an out of context discussion of legacy businesses. What HRG actually found was the alterations to the Taix building were made during the period of significance, thus allowing it to maintain required integrity for its commercial identity. "[T]he building retains integrity of design as it relates to the building's ability to convey its significance as the long-term home of the restaurant."

The McGee Report also concluded that the building itself and large portions of the interior are significant and contributing features to the site's historic significance.

The SCPE analysis relies heavily on a single report prepared in support of the currently proposed project, not prepared in assessing the site's historic significance for listing as an HCM. This report, prepared by GPA, relies on the limited HCM listing of character defining features, just two signs and a bar top, to determine whether the project would have an impact on the listed features. Since the HCM listing was specifically tailored to allow this specific project instead of basing its determination on substantial

evidence regarding the full historic significance of the site, a conclusion that the project is compliant with that HCM is not adequate to show a lack of impacts to a historic resource.

This also implicates the flaw of the entire process surrounding the historic designation and this project thus far; it has been a results driven assessment instead of a good faith analysis of the historic significance of Taix. When a developer proposes a project on a site that has been publicly identified as historic, here through the 2014 SurveyLA determination, they should design a project to avoid the identified resource or be required to address impacts to this historic resource in environmental review. The City should not attempt to circumvent these requirements. The overwhelming amount of expert evidence in the record before you demonstrate the historic significance of the Taix building. The demolition of this historic building will clearly have a significant impact to historic resource, preventing reliance on a SCPE. (Pub. Resources Code §21155.1(a)(5).)

Moreover, even under the City's theory that Taix is only significant as a legacy business separate from its building and location, the City has failed to demonstrate the project would not have a significant impact on this legacy business. There are no conditions of approval requiring that a Taix restaurant be include in the project. Demolition of the current restaurant and construction of the project will require Taix to remain close for a significant length of time, likely at least two years. There is no assessment of whether Taix would be able to reopen after such a lengthy closure. The applicant's attorney has cited to the Bob Baker Marionette Theater as an example of the City allowing a project with a "legacy business" to continue, but that is not an accurate depiction of the facts. The Bob Baker Marionette Theater was required to leave its historic location because the developer of the new project was unable to successful incorporate the theater into the development and the Theater was unable to remain closed during the lengthy construction period. The City has failed to support a claim that this project would have not have a similar impact to the historic legacy business Taix.

Further, the City's consideration of the SCPE analysis prior to consideration of the project runs counter to the requirements of CEQA. The SCPE analysis is considering a project that could change through the project approval process. For example, as proposed the project is seeking six incentives along with a density bonus of 51%. However, the City's density bonus ordinance limits such projects to a maximum of three incentives. "[T]he separation of the approval function from the review and consideration of the environmental assessment" fails to serve CEQA's basic public and decision maker purposes. (*POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4th 681, 731.) Instead, if the City fails to require preparation of an environmental review document for the project, it must at least consider the SCPE analysis concurrently with the project approvals.

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Thank you for your time and consideration in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Minter", is positioned above the printed name.

Amy Minter

Enclosure: June 12, 2021 Letter to Planning re Taix



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July 12, 2021

Via Email

Vince Bertoni
Director of Planning
City of Los Angeles
200 N. Spring Street, Suite 525
Los Angeles, CA 90012
vince.bertoni@lacity.org

Re: Proposed Project (Taix), 1911 West Sunset Boulevard

Dear Mr. Bertoni:

On behalf of the Los Angeles Conservancy, we provide these comments regarding proposed development at the site of Taix Restaurant at 1911 West Sunset Boulevard. It is our understanding that the City is considering approving a large mixed-use development at this site based upon a sustainable communities project exemption (SCPE) for a transit priority project. A SCPE is only available for projects in limited circumstances when specific findings can be made because reliance on a SCPE means that no environmental review under the California Environmental Quality Act (CEQA) would be conducted for the project. (Pub. Resources Code § 21151.1.) Any project that demolishes the Taix Restaurant would have an adverse impact on an historic resource, preventing reliance on a SCPE. Thus, we urge the City require any project at this site to preserve this historic resource or require the applicant to conduct environmental review.

CEQA allows for an exemption from environmental review for transit priority projects only if the City makes a number of findings regarding the project site, its lack of impacts and the ability of the project to provide affordable housing. For purposes of this letter, we focus on one finding that the City must be able to make to rely on a SCPE, but

cannot here: “The transit priority project does not have a significant effect on historical resources pursuant to Section 21084.1.” (Pub. Resources Code § 21155.1, subd. (a)(5).) All substantial evidence before the City demonstrates that Taix Restaurant is a historical resource pursuant to Public Resources Code section 21084.1. First, because Taix Restaurant was identified as eligible for local designation by Survey LA, it is a presumptive historic resource, meaning it must be considered a historic resource for CEQA purposes unless a preponderance of evidence demonstrates it is not historically or culturally significant. Additionally, all expert evidence in the City’s records determined that the Taix Restaurant building is an historic resource. This includes:

- January 26, 2021 expert findings of the City’s Cultural Heritage Commission;
- Historic Cultural Monument (HCM) nomination packet prepared by qualified experts Charles Fisher and Daniel Paul on behalf of the Silver Lake Heritage Trust;
- Historic Resources Group’s January 16, 2019 expert report prepared on behalf of the Los Angeles Conservancy;
- October 2019 Historic Resource Assessment by Kathryn McGee on behalf of the site owner.¹

There is no expert or other substantial evidence in the record that refutes these determinations of historic significance for Taix Restaurant. Thus, even under a discretionary standard, the City has no discretion to consider the Taix Restaurant building is not a historic resource pursuant to CEQA.

The City Council recently designated Taix Restaurant as a HCM as a legacy business. While the City Council designation for Taix Restaurant is limited to only two signs and a bar top, this determination was not based on a finding that the remainder of the site fails to meet the designation criteria. Instead, this determination was made on a solely economic basis upon a request by Councilmember O’Farrell that the Cultural Heritage Commission findings be revised because “The designation, however, should not be an impediment to Taix’s ability to evolve...” (May 4, 2021 letter from Mitch O’Farrell to PLUM Committee.) The findings adopted by the City Council were similarly based on economic considerations, not historic resource expertise. Thus, for CEQA purposes, the

¹ This assessment did find that some rooms within the building were noncontributing features, but the building itself and large portions of the interior were found to be significant and contributing.

City Council's limitation on the HCM do not counter the significant amounts of expert and other substantial evidence identifying the Taix Restaurant building as an historic resource.

Because the replacement project being consider for this site would demolish Taix Restaurant, the project would have a significant impact on an historic resource, preventing reliance on a SCPE to avoid CEQA review. (See CEQA Guidelines §15064.5 [“[s]ubstantial adverse change in the significance of an historical resource means physical demolition”].) Moreover, even under the limited HCM designation, the project would have an adverse impact on an historic resource. Taix Restaurant was determined to be a historic legacy restaurant. The project may include a smaller space for the restaurant once it is completed, but there is no legal agreement in place to ensure Taix returns and no guarantee that the restaurant would be able to survive without space in the interim while the project is being constructed. Similar proposals to reincorporate a legacy business into new construction at the historic site after demolition have been unsuccessful.² Thus, impacts to this historic legacy business also prevent reliance on a SCPE.

For these reasons, we urge the City to make the correct determination that a SCPE is not applicable to the project. To determine otherwise would mean that the City Council's limitations to the HCM designation for economic reasons have improperly pre-committed the City to a specific project. CEQA requires that environmental review occur before momentum becomes unstoppable and alternatives to a project become foreclosed. (*Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116.) Whether a project is economically feasible should be determined through the environmental review process, after findings have been made that there are no feasible alternatives that would reduce or eliminate impacts to this historic resource.

Thank you for your time and consideration in this matter.

Sincerely,



Amy Minter

² For example, a new project at the historic site of the Bob Baker Marionette Theater was unable to successful incorporate this legacy business into the new construction.

Vince Bertoni
July 12, 2021
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