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Planning and Land Use Management Committee
Los Angeles City Hall
200 N. Spring St., Room 340
Los Angeles, CA 90012
Attn: Candy Rosales – PLUM Legislative Assistant
Email: clerk.plumcommittee@lacity.org

Re: Council File No.: 25-1518 - Appeal of Building and Safety Commission's Approval of Demolition Permit for Barry Building Located at 11973 San Vicente Boulevard

Dear Committee Members:

As land use counsel for the owner of the subject property located at 11973 San Vicente Boulevard (“Subject Property”) and applicant (“Applicant”) for a permit to demolish (the “Demo Permit”) the two-story former commercial building on the Subject Property commonly referred to as the “Barry Building.” I am sending this letter to respond to the letter submitted by the legal counsel for the appellant Angelenos for Historic Preservation (“Appellant”) dated February 17, 2026 (“Appellant’s February 17th Submittal”) made in support of Appellants’ appeal (“Appeal”) of the Safety Commissioners’ approval of the Demo Permit.¹

While the bulk of Appellant’s February 17th Submittal is its claim that the project description and alternatives analysis in the EIR is invalid because the parcels near the Subject Property were not considered (a claim addressed in detail in Section IV of this letter), the Appellant also makes other arguments in support of its appeal. Since those other arguments can be readily addressed, this letter addresses those other arguments first.

I. Appellant’s New Expert Reports Do Not Address the Key Issues Relevant to the LADBS’ Certification of the EIR and Adoption of the Statement of Overriding Considerations

¹ The letter is being submitted pursuant to Los Angeles Municipal Code Chapter 1A, Section 13B.11.1.F.8.

Although this matter has been pending since November 2020 when the City published the Notice of Preparation of the Draft EIR (which EIR was published in February 2023), Appellant now submits two new expert reports. However, those experts fail to address the key issues concerning LADBS certification of the EIR and adoption of a Statement of Overriding Considerations (SOC). One key issue concerning those matters is the economic feasibility of rehabilitating the Barry Building on the parcel that it is located. The Appellant's new declaration from an architect (Exhibit K to the February 17th submittal) addresses this issue only in a single paragraph, namely paragraph 21. (The remainder of the architect's declaration discusses other nearby parcels, an issue addressed in Section IV of this letter). In that one-sentence paragraph, the architect states that "I have analyzed the costs in Hill International Cost Estimates and in Appraisals referenced by LADBS in their Letter of Determination, and have documented extreme overstatement of costs and mark-ups led to a conclusion of economic infeasibility." Yet the architect provides absolutely no details or evidence to support that conclusory opinion. CEQA is clear that unsubstantiated opinion cannot constitute substantial evidence. (Refer to CEQA Guideline 15384(a).)

Appellant's second expert is a structural engineer, who opines on the work necessary to comply with the City's Soft Story Ordinance. However, like the last structural expert who provided an opinion to the Appellant, this expert also fails to address all of the other seismic deficiencies in the Barry Building. (Refer to the enclosure dated January 14, 2026 to the Applicant's letter dated January 20, 2026, which enclosure is a letter from the EIR's structural expert confirming that the Appellant's first structural engineer's report did not evaluate all of these seismic deficiencies in the Barry Building.) Indeed, Appellant's new structural engineer appears to concur with the analysis of Englekirk, (who was the structural engineer who provided the technical reports that were the basis for the analysis in the EIR). Specifically, this new structural engineer states at page 3 of his new report that "It should be noted that we do not disagree with the recommendations provided by Englekirk...."

Instead, this structural engineer, as well as the Appellant's attorney, is focused on their erroneous opinion that the seismic work that is outside of the scope of the Soft Story Ordinance is irrelevant to the legal validity of LADBS's certification of the EIR for a permit to demolish the Barry building because such work is "voluntary." However, whether that work is required by the Soft Story Ordinance or not, it is not disputed by any of the Appellant's experts that the Barry Building has seismic deficiencies beyond the south wing (that is the subject of the Soft Story Ordinance) and that those seismic deficiencies render the building a public hazard for anyone who would occupy it. Both applicable law as well as the public interest of the community calls for the work necessary to eliminate those seismic deficiencies before any person could occupy or work in the building. Since the work to do so renders the rehabilitation of the Barry Building economically infeasible, LADBS properly certified the EIR, adopted the SoC and should issue the demolition permit.

This structural engineer also points to the California Historic Building Code (CHBC) and how that Code allows for the relaxation of certain seismic standards for historic buildings. Yet a technical report provided in the EIR addressed the use of the CHBC and concluded that "based on the level of overstress, it is our opinion that the same conclusion and retrofit recommendations

will apply.” (Refer to technical appendix G in the Final EIR at page 7.) Again, that analysis from Englekirk evaluated all of the seismic deficiencies in the Barry Building even using the CHBC and not only the deficiencies in the south wing of the Barry Building.

Accordingly, Appellant’s two new expert reports do not provide evidence, let alone substantial evidence, addressing the relevant issues in this matter.²

II. Appellant’s Claim of Missing Information is Factually Untrue

Despite the wealth of technical evidence supporting the LADBS Letter of Determination (LoD) and the Board’s denial of the appeal of the LoD, Appellant asserts throughout its February 17th submittal that information is still missing. That accusation is completely unfounded. First, the Applicant addressed that fallacy in its letters to PLUM dated February 13 and 19, 2026.

Appellant’s claim that specific information is missing is also unfounded. For example, Appellant claims that the economic infeasibility reports submitted by the Applicant did not take into account tax credits available potentially under the Mills Act. However, that potential tax credit was accounted for in the economic report prepared by CBRE dated November 2024. As LADBS’s CEQA findings so noted at page 24, “CBRE prepared an appraisal report for the Applicant considering the value of the rehabilitated Barry Building, complying with the California Historic Building Code per this scenario. CBRE compared similar recently sold properties and found that the price per square foot ranged from approximately \$469 to \$1,045. Excluding high and low extremes, CBRE determined the average price per square foot of comparable properties is approximately \$630. CBRE used Hill’s cost analysis of the minimum rehabilitation work required (\$15,438,389) and reduced it by 20% to assume availability of a 20% rehabilitation tax credit. This assumption resulted in CBRE’s estimate of cost to renovate the property at approximately \$865 per square foot. This reduced cost is conservatively low as it does not include any indirect costs (which CBRE estimates could add 10-20%). CBRE’s estimated cost of rehabilitation of \$865 per square foot significantly exceeds the market price of the renovated property at \$630 per square foot.

Based on the assumptions provided, CBRE determined that the resulting value of rehabilitating the Barry Building is approximately negative \$3 million (excluding indirect costs). As a result, CBRE determined that the property has no (or negative) market value.”

Appellant’s next claims that information concerning the economic infeasibility of the alternatives was omitted from the EIR. However, the City informed the general public in the Draft EIR that environmental review documents prepared under CEQA do not address economic or financial matters, such as the economic feasibility or infeasibility of alternatives. (Draft EIR, p. V-1.) The City repeated that legal position in the Responses to Comments in the Final EIR. (Refer,

² Further, even if Appellant’s experts do eventually provide evidence addressing these relevant issues, we note that it is a well-established principle under CEQA that a disagreement among experts is not the basis for invalidating an EIR. Refer to CEQA Guideline 15151.

for example, to Response to Comment A3-6.) In its February 17th submittal, Appellant's counsel provides no CEQA case law to the contrary.

Appellant next claims that the City has not prepared the "reuse" report called for by City Code. Section 22.171.14 (b) of the City Administrative Code provides as follows:

"(b) Standards for Issuance of a Permit for the Demolition or Relocation of a Site, Building or Structure Designated a Monument. The Commission shall base its determination on the approval of a permit for the demolition or removal of any Monument on the following:

1. A report regarding the structural soundness of the building or structure and its suitability for continued use, renovation, restoration or rehabilitation from a licensed engineer or architect who meets the Secretary of the Interior's Profession Qualification Standards as established by the Code of Federal Regulations, 36 CFR Part 61. This report shall be based on the Secretary of the Interior's Standards for Architectural and Engineering Documentation with Guideline."

All of the substantive analysis required by Section 22.171.14 was already provided in technical reports in the EIR, specifically, technical appendices C, G, H-2, 3, 4, 7 and 9 of the Draft EIR. Further, the historic resource consultant whose technical reports are included in the EIR (John Locascio of Historic Resource Group) is a licensed architect who meets the Secretary of the Interior's Profession Qualification Standards. (Refer to Draft EIR, Appendix C-1, Appendix B thereto.) Accordingly, his reports concerning the character defining features of the building that are in the EIR meet the standard in the City's Administrative Code Section 22.171.14. Appellant's February 17th Submittal fails to address these technical reports in the EIR and how they provide the substantive analysis required by Administrative Code Section 22.171.14.

Appellant's final accusation of information missing from the EIR concerns information about the parcels adjacent to and near the Subject Property. However, for the reasons detailed in Section IV of this letter, that information is not required under CEQA for the EIR for the requested demolition permit. Further, we note that information concerning those other parcels is information available to the general public. Indeed, the primary members of the Appellant, Robert and Ziggy Blue, and their former attorney (Corin Kahn), both provided that information in their letters commenting on the Draft EIR. (Refer to Response to Comments B1-4 and B2-8, and pages 29 through 49 of Appendix A to the Final EIR.) Obviously when the Final ER was made available to the general public when it was published in September 2023, all of that public information concerning these other parcels was once again made available to the public.³

III. Recent Break-in at the Barry Building and Appellant's Untrue Claim as to the Property Owner's Neglect of the Property

As others opposing demolition have done in the past, Appellant's counsel in his February 17th Submittal contends that the Applicant and property owner have neglected the Barry Building

³ Appellant also claims in its February 17th Submittal that the area of the Subject Property provided in the Draft EIR was slightly different than the description in the NOP. However, there is no dispute

and such alleged neglect is a contributing cause to the cost to correct the seismic deficiencies and rehabilitate the building. But like those other project opponents, Appellant's counsel ignores the evidence. First, the details of the owner's ongoing maintenance activities were detailed in Appendix O to the Final EIR. Nobody has disputed the fact that that maintenance is ongoing. Further, a structural expert has opined that the seismic deficiencies in the Barry Building are completely unrelated to any issue of maintenance. (Refer to technical appendix I in the Final EIR.)

We also note that despite those maintenance efforts, the Subject Property, like other properties in the general area, has been subject to vandals breaking into the property, including break-ins in 2024 and 2025. (Refer, e.g., to police incident report number 2405303000001939.) We note that, as the SOC also notes, that the attractive nuisance posed by the vacant Barry Building would be eliminated by its demolition, and any concern about a vacant lot being created is mitigated by the fact that a landscape buffer would be created at the property in accordance with the applicable provisions of the Specific Plan. (Refer to Response to Comment B1-9 in the Final EIR.)

IV. Appellant's Legally Incorrect Claims Based on the Surrounding Parcels

Appellant's final two claims are both based on parcels adjacent to and nearby the Subject Property. Some of those parcels are owned by the same limited liability company (LLC) that owns the subject property, while a different LLC holds title to the remainder of those parcels. The Appellant claims that the EIR is deficient because (1) its project description is inadequate because it "piecemealed" the project by not including any future development that may occur on the other parcels, and (2) the EIR should have included a preservation alternative that accounted for a potential new project on those other parcels. Both of these claims fail as a matter of law.

A. Piecemealing

In its February 17th Submittal, Appellant fails to state the legal test under CEQA that controls claims of "piecemealing." As stated in Response to Comment No. A3-2 in the Final EIR, "The commentor refers to the 'piecemealing' doctrine under CEQA. Under that doctrine, 'an EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects.'" (Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal. 3d 376, 396.)¹ Improper piecemealing occurs when: (i) the purpose of the reviewed project is to be the "first step" toward future development; and (ii) the reviewed project "legally compels or practically presumes completion of another action." (Banning Ranch Conservancy v. City of Newport Beach (2012) 211 Cal.App.4th 1209, 1223.) Under the piecemealing doctrine, "the

that the area of the Subject Property is correctly provided in the Draft EIR, and a primary purpose of the Notice of Preparation process is to allow the public and other agencies to comment on the scope of the environmental analysis to be provided in an EIR. Accordingly, corrections made in a draft EIR akin to the one pointed out by the Appellant are common. But such corrections do not invalidate the EIR.

facts of each case will determine whether and to what extent an EIR must analyze future expansion or other action.” (Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal. 3d 376, 396.) “[W]here future development is unspecified and uncertain, no purpose can be served by requiring an EIR to engage in sheer speculation as to future environmental consequences.” (Laurel Heights, 47 Cal. 3d at 395.) A lead agency is not required under CEQA to evaluate future uses of a property that is being sold if a specific use is not “reasonably foreseeable.” (See Flanders Foundation v. City of Carmel-by-the-Sea (2012) 202 Cal App. 4th 603, 615.) There must be a factual basis for concluding that two projects must be considered together. (Save Round Valley Alliance v. County of Inyo (2007) 157 Cal.App.4th 1437.) The factual basis must be supported by substantial evidence, which does not include speculation or unsubstantiated opinion. (CEQA Guideline 15384.).”

As stated in the Final EIR, and confirmed in Appendices B-1, B-2 and B-3, the Applicant and property owner has represented under penalty of perjury that there is no larger project either for the Subject Property or any of the surrounding parcels. Instead, the Applicant has repeatedly stated that its sole intention is to demolish the seismically unsound Barry Building and then work to sell all of the vacant parcels to a third party. The Applicant has stated that it is not under any agreement with any third party to sell any of those parcels. For all of these reasons, it would be completely speculative as to what type of development may occur on some or all of those other parcels after the Barry Building is demolished and the Applicant and the other LLC can sell the parcels.

In his February 17th submittal, Appellant’s counsel argues that the LLC that owns the Subject Property has common ownership or management with the LLC that owns the other parcels, and therefore that assemblage of such vacant land must be for a future project that needs to be evaluated in the subject EIR. But whether there is overlap in the ownership and management of these LLCs is irrelevant because the Appellant’s assertion of a future project is based on sheer speculation. CEQA is quite clear that the mere sale of land by a private party, in and of itself, does not trigger environmental review under CEQA.⁴ For example, with respect to a project to be carried out by a private party, CEQA Section 21065(c) defines such a private “project” only as “an activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.” Here the Applicant has represented that it has not made any such application for such an entitlement, a representation confirmed by the City in the Final EIR. (See Response to Comment A3-2.)

B. Alternatives Analysis in the EIR

For the first time, Appellant asserts a claim that the alternatives analysis in the EIR is deficient. In the Appellant’s July 2025 dated appeal of LADBS’ LoD, the Appellant makes no reference at all to the alternatives analysis in the EIR. In the Applicant’s letter dated July 22, 2025 that responded to that original appeal letter, the Applicant pointed out that the Appellant was not objecting to the alternatives analysis in the EIR. The Appellant never took issue with that statement

⁴ One can only imagine how the purchase and sale of property between private parties would be forever stalled if environmental review under CEQA would first have to occur.

by the Applicant, either in writing or in testimony at the hearing held by the Board of Building and Safety Commissioners. Further, Appellant's document initiating this CEQA appeal from the Board's decision also makes no reference to the alternatives analysis in the EIR. Since the City Council is acting as an appellate body and reviewing the legal adequacy of the Board's decision, it should only focus on the legal and factual issues presented to the Board in connection with that original appeal. Since the Appellant did not raise any claim concerning the alternatives analysis in the EIR in those prior appeal proceedings, the Council should reject the Appellant's attempt to challenge the alternatives analysis in the EIR at this late stage. For the Appellant to make this eleventh-hour claim is simply untimely and too late.

Appellant also ignores the legal test governing the adequacy of alternatives analysis in EIR's. First, CEQA Guideline 15126.6(a) through (c) expressly provides that the alternatives analysis should focus on the project's significant impact. In the instant case, the only significant impact is to historical resources. Therefore, the EIR evaluated four different preservation alternatives. Notably, no one, not even the Appellant, has identified a different preservation alternative that would rehabilitate the Barry Building on the Subject Property in an economically feasible way.

Instead, Appellant now claims that the EIR should have evaluated an alternative that contemplated an entirely new development project that would be built on the surrounding parcels, which may make it economically more feasible to rehabilitate the Barry Building on the Subject Property. That new claim fails for a number of legal reasons. First, the Appellant ignores the legal test governing the range of alternatives that must be evaluated in an EIR. CEQA Guideline 15126.6(f) provides that "the range of alternatives required in an EIR is governed by a 'rule of reason' that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. ... The range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decision making." The lead agency's selection of a range of alternatives "will be upheld, **unless the challenger demonstrates "that the alternatives are manifestly unreasonable** and that they do not contribute to a reasonable range of alternatives." (*California Native Plant Society v. City of Santa Cruz*, (2009) 177 Cal. App. 4th 957 (citing to *Federation of Hillside and Canyon Associations v. City of Los Angeles* (2000) 83 Cal. App. 4th 1252, 1265.))

It is clearly unreasonable to require the Applicant to have to undertake the entitlement and development process for constructing an entirely new project on parcels entirely separate from the parcel on which the Barry Building is located. That unreasonableness is manifested by the fact that a number of those other parcels are owned by a different LLC than the LLC that owns the property on which the Barry Building is located. Whether there is overlap in the ownership and management of those two LLC's is irrelevant. That other LLC is still considered to be a separate legal entity and not part of the pending application for a permit to demolish the Barry Building. There is simply no case law, and the Appellant does not cite to any, that holds that an EIR must evaluate an alternative for an entirely different project on entirely different parcels owned by a separate legal entity that is not the applicant. Such an interpretation of CEQA and its requirement for EIRs to evaluate a reasonable range of alternatives would greatly and unnecessarily expand the scope of CEQA. The

City Council should reject Appellant's invitation to unduly broaden the scope of alternatives analysis in EIR's.

V. Conclusion

The EIR process for demolition of this vacant two-story retail building has gone on for over 5 years. The wealth of technical evidence supporting LADBS' decision to certify the EIR and adopt the SOC is overwhelming. We urge the City Council to deny Appellant's appeal.

Sincerely,

A handwritten signature in blue ink, appearing to read "Edward J. Casey", with a long, sweeping horizontal stroke extending to the right.

Edward J. Casey

cc: Craig Bullock, Planning Director, Council District 11
(craig.bullock@lacity.org) - *via email only*
Jason McCrea, City Planner at Department of City Planning
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