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September 22, 2020

VIA ELECTRONIC UPLOAD

City of Los Angeles Dept. of City Planning
221 N. Figueroa St., Suite 1350
Los Angeles, CA 90012

Re: Justifications of Appeal for Vesting Tentative Tract for Hollywood Center Project (VTT-82152)

To Whom It May Concern:

This firm represents the Federation of Hillside and Canyon Associations, Inc. ("Federation" or "Appellant"). The Federation is a 501(c)(3) organization that was founded in 1952 and represents 44 homeowner and resident associations with approximately 250,000 constituents spanning the Santa Monica Mountains. This letter outlines the justifications for the appeal of the Vesting Tentative Tract for the Hollywood Center Project ("Project"), which was approved by the Advisory Agency on September 14, 2020[1]. The Federation brings this appeal because its hillside members will be directly impacted by the Project.

1. The Project is Likely to Cause Substantial Environmental Damage

As noted in the Letter of Determination issued by the Advisory Agency, one of the required findings under the Subdivision Map Act is as follows: "The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat." There is ample evidence in the record that the Project will cause "substantial environmental damage." The Advisory Agency therefore erred when it concluded that this required finding could be made.

[1] Appellant notes that the Letter of Determination erroneously states that the deadline for filing an appeal is September 23, 2020. However, the applicable local laws provide for a 10-day appeal period and thus the correct appeal deadline is September 24, 2020. This is a clear violation of the City Charter and municipal code (Charter 557 & 563 and various LAMC sections).

Several member organizations and other community groups expressed concern that the Draft Environmental Impact Report ("DEIR") was inadequate in determining that impacts on police and fire services will not be significant. The Beachwood Canyon Neighborhood Association was extremely concerned, due to its proximity to brush and wildland areas of the eastern Santa Monica Mountains, that emergency response times will be negatively impacted by the Project and current evacuation planning for their community will no longer be adequate due to the project. Neither the DEIR not the FEIR adequately addressed those issues adequately.

Moreover, the submission made by United Neighborhoods for Los Angeles raised the concern that the population estimates used by the DEIR were inaccurate. The City has variously used 165,000 and 300,000 as the population number for this part of the City. Any public services impacted by this broad discrepancy should have been addressed in the Final EIR to allow members of the public and City decision makers to understand the significant project impacts to police, fire, and other services.

Additionally, transportation planning for the project clearly raises potentially significant environmental impacts, and Appellant's affected members and other community organizations do not believe they were adequately addressed. There are several impacted intersections with significant impacts, on- and off-ramps to the 101 Freeway are significantly impacted, and as a traffic report submitted by KOA on behalf of member Oaks Homeowners Association shows, there are at least two projects that were listed on the cumulative impact list for the DEIR whose contributions to the roadway analysis were apparently elided, causing that analysis to be insufficient. The FEIR does not rectify these deficiencies. Beachwood Canyon Neighborhood Association also noted there is already parking overflow in the lower part of its canyon neighborhood from existing projects, and their local expert opinion is that this project will exacerbate parking demand and cause an even greater impact than at current. This will especially be true during the project construction period when it is unclear where temporary parking for the Capitol Records building and parking lot will be located. The EIR for the Project should have been revised to address these concerns.

Further, many of Appellant's member organizations are understandably concerned that the City is repeating the catastrophic mistake of allowing residential and other structures to be built directly atop an existing earthquake fault with this new project iteration. Appellant believes the information provided in the EIR regarding this issue was inadequate to conclude that it is safe to allow construction of massive buildings atop the fault zone. Since the previous project at this site by the same developer should be considered as part of the record of this case, Appellant draws the City's attention to any and all objections made with respect to the earthquake fault zone issue in that record, and also to any comments that may be submitted by others on this topic now.

Also, several of Appellant's members raised the concern that the environmental documents shared with the public are corrupted and illegible and they have therefore been unable to understand the record sufficient to make intelligible comments. In particular, we note that all

of the plates in the Appendix G-1 related to project-site Geology are corrupted and unclear. On this basis alone, the EIR should have been corrected and recirculated since the earthquake issue above relies heavily on this appendix.

The Federation also contends that the City has violated CEQA by conducting a public hearing for the Project without completion and publication of the Final Environmental Impact Report for the Project. As the staff recommendation report for the vesting tentative tract map case noted, the Final EIR was held back to address a late-submitted letter from the California Geological Survey (CGS). The CGS letter was not some minor or technical land use issue, it related to a matter of significant public safety. The letter reports to the City that on May 8, 2020, the United States Geological Survey "issued a new, peer-reviewed analysis of the Hollywood Fault zone in the immediate area of [the project]." The peer-reviewed analysis found: (1) new earthquake traces not identified in the existing environmental document's appendix G, (2) that it is highly likely that an active fault strand crosses the project site, and (3) that neither the 2014 earthquake trench nor other investigative techniques are adequate to clear the project site of active faults. (Sr. Eng. Geologist Hernandez/ Sup. Eng. Geologist McCrink, CGS, project comment letter to Mindy Nyugen, July 16, 2020.) In light of the extremely serious nature of the CGS findings, an additional exploratory trench is being required by the Los Angeles Department of Building and Safety. (Recommendation Report, p. 32.)

Conducting the public hearing for the Project **before** the entire environmental record was complete robbed members of the public of the ability to make meaningful comment on the project. This is assuredly not the CEQA process envisioned by California's legislature or courts "to demonstrate to the public that it is being protected." (*See* 14 Cal. Code of Regs. § 15003, citing leading CEQA cases.) Our California Supreme Court has held that the environmental review process is intended "to demonstrate to an apprehensive citizenry that the [City] has, in fact, analyzed and considered the ecological implications of its action." An EIR "is a document of accountability . . . protect[ing] not only the environment but also informed self-government." *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376, 392.

Angelenos are deservedly apprehensive about the environmental review process in Los Angeles due to the terrible corruption in our City government, and also due to the City's business-as-usual approach to planning and land use decision-making, even while we are at the height of the worst public health emergency in the modern era. The City's citizens are right to be extremely apprehensive about this project.

Finally, the Federation contends that the City engaged in deferred environmental analysis and mitigation when it added a condition requiring additional exploratory trenching in light of the letter received by the California Geological Survey. Conditioning a project on another agency's future review of environmental impacts, without evidence of the likelihood of effective mitigation by the other agency, is insufficient to support a determination by the lead agency that

potentially significant impacts will be mitigated. *Sundstrom v. Cnty. of Mendocino* (1988) 202 Cal.App.3d 296. Further, requiring formulation of mitigation measures at a future time violates the rule that members of the public and other agencies must be given an opportunity to review mitigation measures before a project is approved. PRC § 21080, subd. (c)(2)). See *League for Protection of Oakland Architectural & Historic Resources v. City of Oakland (*1997) 52 Cal.App.4th 896; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1396; *Quall Botanical Ganlens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1605, fn. 4; *Oro Fino Gold Mining Corp. v. Cnty. of El Dorado* (1990) 225 Cal.App.3d 872, 884; *Sundstrom v. Cnty. of Mendocino*, supra, 202 Cal.App.3d at p. 306, (condition requiring that mitigation measures recommended by future study to be conducted by civil engineer evaluating possible soil stability, erosion, sediment, and flooding impacts was improper). Moreover, a condition that requires implementation of mitigation measures to be recommended in a future study may conflict the requirement that project plans incorporate mitigation measures before a proposed negative declaration is released for public review. PRC § 21080, subd. (c)(2); 14 Cal Code Regs § 15070(b)(1). Studies conducted after a project's approval do not guarantee an adequate inquiry into environmental effects. Such a mitigation measure would effectively be exempt from public and governmental scrutiny.

2. <u>The Map and Subdivision are Inconsistent with General and Specific Plan</u>

Two other required finding that must be made under the Subdivision Map Act are as follows: (1) "The proposed map is inconsistent with applicable general and specific plans," and (2) "The design and improvements of the proposed subdivision are consistent with applicable general and specific plans." The Advisory Agency erred when it determined that both of these required findings could be made for the Project.

The Project is not consistent with the Hollywood Community Plan. It requests an almost 7:1 Floor Area Ratio, when the local planning permits at most a 6:1 ratio. Appellant's members have expressed concern that the calculations used to determine the actual Floor Area Ratio do not comply with normal City procedures. Neither the DEIR nor the FEIR made the process by which the City determined the FAR clear.

In addition, member organizations pointed out that the D Limitations currently imposed at the site were improperly removed, since they were put in place as an environmental mitigation. This required further study and consideration by the City in the EIR prepared by the City to ensure the City and applicant were complying with all legal requirements.

3. <u>The Project is Likely to Cause Serious Public Health Problems and the Site is Physically Unsuitable for the Density Proposed</u>

Two other required finding that must be made under the Subdivision Map Act are as follows: (1) "The design of the subdivision and the proposed improvements are not likely to cause serious public health problems ," and (2) "The site is physically suitable for the proposed density of development." The Advisory Agency erred when it determined that both of these

required findings could be made for the Project.

As explained above, there is substantial evidence in the record that the Project sits atop an active fault. The Legislature long ago determined such development was inherently dangerous under the Alquist-Priolo Act. Locating the Project directly atop an active fault in direct violation of the Act is likely to cause serious public health problem when that fault ruptures. It is a question of when – not if – an earthquake occurs. Moreover, the presence of the fault renders the site physically unsuitable for the proposed development.

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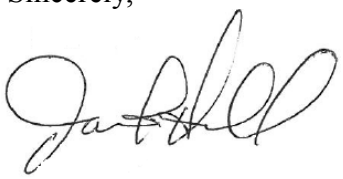
Conclusion

For the aforementioned reasons, the appeal of the Vesting Tentative Tract should be granted. Please note that Appellant reserves the right to supplement the bases of this appeal. I may be contacted at 310-982-1760 or at jamie.hall@channellawgroup.com if you have any questions, comments or concerns.

Sincerely,



Jamie T. Hall