

March 4, 2013

Beachwood Canyon Neighborhood Association  
2751 Westshire Drive  
Los Angeles, CA 90068

Los Angeles City Planning Commission  
c/o City of Los Angeles Planning Department  
Department's Public Offices, Figueroa Plaza  
201 N. Figueroa Street, 4th Floor  
Los Angeles, CA 90012

RE: Case No.: Vesting Tentative Tract Map No. 71837-CN  
CEQA No.: ENV 2011-0675-EIR

Project Location: 1720-1770 N. Vine St.; 1745-1753 N. Vine St.;  
1746-1770 N Ivar St.; 1733-1741 Argyle Ave.; 6236-6334 Yucca St.,  
Hollywood.

Appeal of: Advisory Agency's Determination Letter for Vesting Tentative Tract Map No.  
71837-CN

We appeal the decision of the Advisory Agency on the following grievances:

I. Failure to Include Economic Feasibility Analysis of Project Alternatives in  
Administrative Record Before Start of Public Comment Period

The FEIR states:

Comment No. 09-79

"With respect to a 3:1 FAR project being infeasible in this area of Hollywood, this finding cannot be supported by substantial evidence. Several other projects in the area have been built at less than 3:1 FAR (e.g., the Jefferson at Hollywood Project on Highland and Yucca, the Hollywood Tower Terrace Project at Franklin and Gower). Given the presence of multiple buildings in the area built at less than a 3:1 FAR, some of them quite recent, the DEIR must provide financial data to support its finding of infeasibility. Financial data is critical to evaluate whether an alternative is truly infeasible or merely less profitable, since CEQA does not permit an alternative to be rejected on profitability grounds. See *Citizens of Goleta Valley v. Board of Supervisors* (1988) 197 Cal.App.3d 1167, 1181 ("The fact that an alternative may be ... less profitable is not sufficient to show that the alternative is financially infeasible."). The DEIR must provide specific evidence to support its finding of infeasibility. For example, in vacating an inadequate EIR and requiring the University of California to re-start the CEQA process, the Court stated that the University must "explain in meaningful detail in a new EIR a range of alternatives to the project and, if [found] to be infeasible, the reasons and facts that...support its conclusion." *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 406. In short, the DEIR's statement that

anything less than 3:1 would be infeasible is completely conclusory, and must be supported with specific evidence and financial information.”

Response to Comment No. 09-79

“In fact, in 2012 the Court of Appeal of California held that there is no requirement that the economic feasibility analysis be included in a Final EIR – much less a Draft EIR – so long as it was included in the administrative record.”

“The court in *Flanders*, however, explained that the plaintiff’s reliance on *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376 was misplaced because financial feasibility evidence was ultimately available for review before final consideration of the project. Therefore, it is clear that economic feasibility evidence is not required to be in the Draft EIR, as asserted in the comment. Here, the administrative record for the Project will contain adequate financial feasibility evidence regarding Project Alternatives prior to final consideration of the Project by the decision makers.”

It is not an open process and violates the public comment requirement of CEQA if the financial feasibility evidence is added to the administrative record only when it is presented to the decision makers for final consideration. Withholding the financial feasibility evidence from the administrative record during the DEIR and FEIR period denies the public the opportunity to have a reasonable period of time to examine and comment on it and to participate in the CEQA process. The evidence that the Planning Department claims that they used to reach their conclusion must be added to the administrative record and available for public inspection and comment at the time that the Planning Department concluded that the Project Alternative was infeasible and before the close of the public comment period. An open process cannot operate on an Alice in Wonderland "Sentence first—verdict afterwards" methodology.

The DEIR needs to be recirculated with the financial feasibility evidence for each of the project alternatives added to the administrative record prior to the start of the DEIR public comment period.

## II. Failure to Include a Downsizing Alternative in the DEIR as a Reasonable Alternative

The idea that a less than 3:1 FAR is infeasible is not only untrue, it is preposterous since the majority of businesses and residences in Los Angeles are less than 3:1 FAR and are financially successful. There are many such businesses a block away from the project location. Joseph's restaurant, across the street from the project location, and Enterprise Rent a Car, on the project site, are successful at 0.5:1 FAR and at 0.25:1 FAR respectively. Since a 0.25:1 FAR business is feasible at the project location a Downsizing Alternative should have been included in the DEIR as a reasonable alternative. A high FAR alone is not an assurance of viability since the TOD projects at Hollywood and Western, Hollywood and Vine and Hollywood and Highland are all

financial failures. Hollywood and Western cannot lease the retail space next to the Metro entrance after 10 years of operation. Hollywood and Vine has only sold 20 of the 143 condos after 4 years of operation. Hollywood and Highland lost \$450 million upon sale to a new owner. Thus, there is no evidence, as the FEIR claims, that only a high FAR project can produce the benefits listed in the Statement of Overriding Considerations.

The DEIR needs to be recirculated with the inclusion of a Downsizing Alternative as a reasonable alternative.

### III. Failure to Use Actual Transit Mode Usage Evidence to Determine Vehicle Trip Generation

The FEIR states:

Response to Comment No. 09-42

“Given the proximity to the Hollywood/Vine Metro Red Line Transit Station, high transit usage is expected. The Red Line Transit Station provides connections to the Metro rail system and many bus lines. Further, the high cost of parking will encourage use of transit and other modes, such as bicycling, carpooling and walk-in. Additionally, the mixed-use nature of the Project and surrounding area will reduce vehicle trip generation. The TDM program will further encourage the use of alternative modes. The promoted alternatives to driving alone include ride-sharing, bicycling, work-at-home and telecommunication, as well as transit.”

There is almost no usage of the bicycle lanes in Los Angeles and Metro ridership is far below expectations. The high-income residents who would occupy the very expensive condos in TOD projects are less likely to use mass transit because, according to the US Census American Communities Survey, mass transit in Los Angeles takes 1.73 times longer than individual cars. The TDM mass transit model ignores the fact that time is a commodity and the value lost in individual productivity outweighs any potential gain from the use of mass transit. This is why corporate leaders spend hundreds of thousands of dollars a year to maintain private jets to fly coast to coast rather than take 5 days to ride a Greyhound bus.

The DEIR needs to be recirculated using actual transit mode data instead of TDM expectations to determine the vehicle trip generation that the project will add.

### IV. Failure to Use Maximum Build out in Traffic Study and to Study Cut-through Traffic in Residential Areas

The FEIR states:

Response to Comment No. 09-50

“A variety of mitigation measures were considered during the Traffic Study process. The measures considered included modifications to the lane configurations at individual intersections. Those measures were not considered feasible due to secondary impacts on the sidewalk width or on-street parking supply, with one exception. After the potential measures were evaluated, due to secondary impacts, most of the significantly impacted intersections were determined to have no feasible mitigation measures.”

Response to Comment No. 18-3

“It should be noted that the Draft EIR contains a comprehensive discussion of potential traffic and public safety impacts in Sections IV.K, Transportation and IV.J, Public Services. These section assess the Project potential impacts given the existing conditions (including street and intersection capacities) surrounding the Project Site.”

The traffic mitigations offered are inadequate because they are relative to “the existing conditions” rather than to the maximum build-out under either the old 3:1 FAR or new 4.5:1 FAR Hollywood Community Plans and “most of the significantly impacted intersections were determined to have no feasible mitigation measures”. By-right development that would follow an approval of this FEIR would overwhelm the meager mitigations offered in this FEIR.

The traffic study fails to address the increase in cut-through traffic in the surrounding residential areas, such as the Beachwood Drive, Canyon Lake Drive, Tahoe Drive, Lake Hollywood drive route between Hollywood and Burbank, that would result from the traffic congestion around the project. The DEIR needs to critically address cut-through traffic and its impact on residential street segments.

The DEIR needs to be recirculated for a traffic study that is redone relative to the maximum build-out under both the old 3:1 FAR and new 4.5:1 FAR Hollywood Community Plans and which includes cut-through traffic in the surrounding residential areas.

#### V. Failure to Use Maximum Build out in Study of Impacts on Infrastructure

The same inadequacy specified in Grievance IV exists for all of the other infrastructure elements, such as emergency services, sewer, gas, water, and electricity because they are relative to “the existing conditions”. They should all be studied relative to the maximum build-out rather than the current build-out.

The DEIR needs to be recirculated with studies of the impact of the project on all of the infrastructure elements, including those listed above, relative to the maximum build-out under both the old 3:1 FAR and new 4.5:1 FAR Hollywood Community Plans.

We also appeal on the grievances stated in the appeal by Annie Geoghan included here as Attachment 1.

We reserve the right to submit additional comments and objections regarding the Advisory Agency's approval of the Vesting Tentative Tract Map and environmental Findings through the close of the administrative proceedings related to the project.

Thank you for your time and consideration of this matter.

George Abrahams, Director  
Beachwood Canyon Neighborhood Association