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Cc: Dan Wright <Dan@robertsilversteinlaw.com>; Esther Kornfeld <Esther@robertsilversteinlaw.com>; Robert Silverstein <Robert@robertsilversteinlaw.com>
Subject: The Silverstein Law Firm | Demand for New Advisory Agency Public Hearing re Hollywood Center, Including re Project Final EIR; Case Nos. ENV-2018-2116-EIR, CPC-2018-2114-DB-MCUP-SPR, CPC-2018-2115-DA, and VTT-82152 ; SCH 2018051002
Attachments: 9-11-20 [SCAN] Letter to City Planning (Nguyen) re Demand for New Advisory Agency Hearing re Project and Project FEIR.PDF

Dear Ms. Nguyen:

Please see attached for inclusion in the above-referenced record. Please confirm receipt, and respond to the letter accordingly.

Thank you.

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September 11, 2020

VIA EMAIL vince.bertoni@lacity.org;
mindy.nguyen@lacity.org

Vincent Bertoni, Planning Director
Mindy Nguyen, City Planner
City of Los Angeles, Department of City Planning
221 North Figueroa Street, Suite 1350
Los Angeles, CA 90012

Re: Demand for New Advisory Agency Public Hearing re Hollywood Center,
Including re Project Final EIR; Case Nos. ENV-2018-2116-EIR, CPC-
2018-2114-DB-MCUP-SPR, CPC-2018-2115-DA, and VTT-82152 ;
SCH 2018051002

Dear Mr. Bertoni and Ms. Nguyen:

I. INTRODUCTION.

This firm and the undersigned represent StopTheMillenniumHollywood.com. Please keep this office on the list of interested persons to receive timely notice of all hearings, votes and determinations related to the proposed Hollywood Center Project (“Project”).

Pursuant to Public Resources Code Section 21167(f), please provide a copy of each and every notice issued by the City in connection with this Project. We adopt and incorporate by reference all Project objections raised by all others during the environmental review and land use entitlement processes for the Project.

II. THE ADVISORY AGENCY/HEARING OFFICER JOINT PUBLIC HEARING WAS A SHAM CALCULATED TO DEPRIVE THE PUBLIC OF AN ABILITY TO COMMENT – THE CITY MUST HOLD A NEW ADVISORY AGENCY/HEARING OFFICER HEARING.

The City claims, including based on its hearing notice, to have taken public testimony on the Final EIR (“FEIR”) at the August 26, 2020 joint public hearing

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conducted by the Deputy Advisory Agency and Hearing Officer on behalf of the City Planning Commission (“CPC”). Yet the circumstances of the joint public hearing demonstrate that the City orchestrated the timing of the hearing to preclude any public testimony on the FEIR as part of taking testimony on the Vesting Tentative Tract Map (“VTT”) application or any other issues. This denied the public meaningful opportunity to comment on critical aspects of the applications.

At the time of the August 26, 2020 hearing, the FEIR had not been published. This circumstance alone is a severe departure from the City’s established practice of publishing FEIRs (or Addenda or Errata) well in advance of any Advisory Agency hearing, delegated hearing on behalf of the CPC or joint hearing. In fact, a survey of recent EIRs prepared by the City is attached as **Exhibit 1** and reveals that the City is, in fact, singling out opposition to the Hollywood Center mega-development for the City’s abusive manipulation of process: ***not one other development has held its required Advisory Agency/Hearing Officer public hearing prior to publication of the relevant environmental document.***

At the conclusion of the August 26, 2020 hearing, after forceful procedural objections from members of the public that they had no substantive comment without seeing the FEIR, the City closed the public testimony portion. Apparently to create the artifice of trying to meet the bare minimum legal standards while effectively denying the ability to meaningfully comment on the EIR, the City recommended that the Advisory Agency take the case under advisement until the Final EIR had been available for 10 days. Nonetheless, the City’s procedures violate the hearing and due process requirements of CEQA and the City Charter.

Although the public had no inkling of what the FEIR would say, the City as lead agency had been working on it at least since June 1, 2020, and knew full well what it would publicly say, once the FEIR was released shortly after the August 26, 2020 hearing. The City’s attitude that it can determine what is and is not relevant for the public to know under CEQA is inconsistent with CEQA’s full disclosure requirements. The City “*miss[es] the critical point that the public must be equally informed.*” Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 404 (ital. in original). The public is equally entitled to information about a project that the agency has, and is just as entitled to examine, question, and probe that information. Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn. (1986) 42 Cal.3d 929, 936; Environmental Protection Information Center v. California Dept. of

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Forestry (2008) 44 Cal.4th 459, 486. The City's highly irregular conduct deprived the public of the ability to comment on the VTT and other aspects of the Project with the FEIR in mind and in hand.

A necessary pre-condition to the public's ability to meaningfully participate in a public hearing is the disclosure of relevant information upon which to comment. Despite – or perhaps because of – this impairment of public comment, the City held the August 26, 2020 joint public hearing prior to the release of the FEIR. Without access to the FEIR, the public had no understanding how the City had considered the hundreds of pages of laboriously-crafted comment letters submitted on the DEIR. The City must notice a new Advisory Agency/Hearing Officer public hearing for the Project.

Although the FEIR was just days from being published at the time of the joint public hearing (it was published September 3, 2020), the August 26, 2020 hearing notice included an enigmatic project description that raised more questions than answers, including:

- *Why had the City noticed both the Project and Alternative 8 for hearing?*
- *Why did the Project abandon Measure JJJ and instead pursue a State Density Bonus?*
- *Why did the new Project Description mention only Very Low Income units?*

These questions are so fundamental to the Project that a proper hearing satisfying due process requirements also was not conducted. Informed public participation requires that the public be given sufficient information about a project so that it does not need to guess whether its comments are applicable.

Far from being an honest broker in the CEQA process, the City is contorting its normal process to obstruct informed participation.

In addition, the CPC's ability to delegate its hearing responsibilities pursuant to Charter Section 560 entails that the same information shall be made available to the public during the delegated hearing as would be available to the CPC as the decision-maker or recommending body. In this case, the public had a legally incomplete record

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upon which to comment, nullifying the purpose of the public hearing to enable the public to comment on all matters which they would have been able to comment on if the CPC itself held the hearing. Because the CPC, as initial decision-maker on the Density Bonus case, would have had a Final EIR before it for consideration, the City improperly delegated the hearing with an insufficient record.

Finally, the hearing officer arbitrarily limited all public comments to a maximum of two minutes, even though the officer is constitutionally required to entertain all reasonable comments. The City's arbitrary limitation on public comment thereby violated due process rights and the obligations of the hearing officer under the City Charter.

III. CONCLUSION.

For the reasons stated herein, the City must schedule and hold a new Advisory Agency/Hearing Officer public hearing prior to any action on the VTTM and other entitlements, or this matter proceeding to the CPC.

Very truly yours,

/s/ Robert P. Silverstein
ROBERT P. SILVERSTEIN
FOR
THE SILVERSTEIN LAW FIRM, APC

RPS:vl
Encl.

EXHIBIT 1

Survey of City Policy on FEIR Publication Prior to Hearing

Case Number	Development	Was FEIR Published Prior to Hearing?
ENV-2018-2116-EIR	Hollywood Center Project	No Joint AA/CPC Hearing Officer Hearing: August 26, 2020 FEIR Release: September 3, 2020
ENV-2017-5091-EIR	Sunset Gower Studios	Yes Joint AA/CPC Hearing Officer Hearing: September 16, 2020 FEIR Release: August 26, 2020
ENV-2014-4706-EIR	6220 Yucca Project	Yes Joint AA/CPC Hearing Officer Hearing: August 19, 2020 FEIR Release: August 7, 2020
ENV-2016-3177-EIR	Hollywood and Wilcox Project	Yes Joint AA/CPC Hearing Officer Hearing: August 12, 2020 FEIR Release: July 31, 2020
ENV-2016-4321-EIR	Venice Place Project	Yes Zoning Administration Hearing: August 1, 2019 FEIR Release: June 28, 2019
ENV-2016-4676-EIR	Times Mirror Square Project	Yes Joint AA/CPC Hearing Officer Hearing: May 14, 2020 FEIR Release: September 20, 2019 (Errata March 2020)
ENV-2016-4630-EIR	1045 Olive Project	Yes Joint AA/CPC Hearing Officer Hearing: January 15, 2020 FEIR Release: December 8, 2019