From:	Mindy Nguyen <Mindy.Nguyen@lacity.org>
Sent time:	10/13/2020 12:22:50 PM
To:	Planning CPC <CPC@lacity.org>
Subject:	Correspondence from Jim McQuiston re: Agenda Items 7-9
Attachments:	McQuiston Assoc_10 13 20.pdf

Hello,

Please see attached letter. Mr. McQuiston does not have email access, and the letter is addressed to the City Planning Commission, so I wanted to make sure that it gets included in the 48hr Correspondence.

Thank you,

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LOS ANGELES CITY PLANNING

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E-NEWS

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City Planning Commission Item ___
October 15, 2020
VTT 82152-1A
CPC 2018-2114 & 2115

STATEMENT of J.H. McQUISTON on
PROPOSED MILLENIUM PROJECT in ACTIVE FAULT AREA

Honorable Commissioners:

This Project and its Process are not in accordance with Law and Constitution. Points of objection are set forth here in brief.

1. City Violates US Const Amts I and XIV, and Calif Const Art 1 Sec 7

McQuiston alleges that A T & T, McQuiston's telephone-line supplier, said to him that to participate in the "poll" process, conducted by this Commission and affecting his safety and well-being, costs McQuiston at least **$320, or $1.00 per minute of his telephone time when McQuiston uses AT&T to connect to the Commission for its hearing. That has actually occurred before.**

This "Poll tax", as it may be defined, eliminates his participation in City hearings; it is a totally unnecessary cost for appropriate alternative City process, even in this time of Covid.

McQuiston has a Constitutional Right to petition the City for redress of grievances, and to participate in "polls" related to City redress, without paying for admission to City hearings. City must devise another process.

McQuiston demands the City to remove this cost-barrier to Constitutional-process, and repeal any matter which required for public participation any such fees, even if the fees were paid to a third party.

McQuiston paid fees to AT&T for VTT and CPC related to this project and to the project at 6220 Yucca St.

2. **This Matter Should Be at the Central Area Planning Commission, not the City Planning Commission**

It is not an airport, or a terminal, or a transportation hub. IT IS NOT AFFECTING THE ENTIRE CITY BUT ONLY THE LOCAL AREA. The EIR even alleges it does not affect City's environment. Charter Sec 555 & 558 notwithstanding, this project doesn't want more than unlawful "spot zoning".

The proper approach is per Charter Sec 565, delegation of such local Hollywood matters to the Central Area Planning Commission by the City Planning Commission, per the City's sacred promise given the Hollywood secessionists a short time ago and written into the Charter in1999 to keep Los Angeles whole.

This Commission has sent issues to the local Planning Commission before this time. **It failed to respond to McQuiston's request to do so regarding 6220 Yucca last month.**

Please do not renege again on the City's sacred promise in the Charter.

3. A Hearing on this Project was conducted before the paper to be discussed was published

Sections 65804 (c) and (d) of the California Government Code **require all papers relating to a project be available for a reasonable time to the public before hearing on them is conducted**. Prohibitions in Government Code apply to all Charter Cities per California Constitution.

The Notice of Public Hearing for this project's EIR falsely-stated the "Final EIR, dated August 2020" was released to the public **when in fact it was not released** and there was **no intention to release it in accordance with Sections 65804 (c) and (d)** before the August hearing took place, and the 1500-page Final EIR was not

released until September after the hearing was over.

This Notice was sent to McQuiston by United States Mail. The false statement above is a violation of United States Code regarding Mail Fraud and False Statements.. The penalty for such false statement is set forth in the Crimes Title in the United States Code and is invoked often by US Attorneys.

The hearing **should not have** been held, because Notice of the crime was given timely to the Planning Department. This Commission **may not consider any part of that hearing conducted August 26, 2020, and the hearing's determination mailed**[1] Sept 14, 2020, which states therein that it reviewed and considered the "Final EIR, dated September 3, 2020"

It is also a violation of law for this Commission to review or incorporate any of that determination.

4. The Planner and Planning Department made assertions unsubstantiated by factual proof of validity

Planners entreat this Commission to believe the Proposal is safe for inhabitants, workers, and passers-by. Their offer of proof is that the City Building Code **will insure** safety, and they allege also there is no Hollywood Fault in the area of the proposed development. **Yet, the Developer's investigator, in the Application, wrote regarding Site Stability:**

> "There is **possibility of damage * * *** if **moderate to strong shaking occurs as a result of a large earthquake."**

Regarding Building Code safety , we know that the City Building Code did not stop destruction in quakes past, destruction of buildings far lighter and more quake-worthy and farther away from a Fault System like Raymond-Hollywood which has been investigated by and according to State Law and determined to be Active. We know even hospitals designed to Code crumbled. We know in Hollywood buildings built to Code were badly-damaged or destroyed by distant quakes. We finally know there have been at least 3 quakes this year that severely damaged the Yucca Argyle area.

Neither Developer nor Planners offered EVIDENCE PROVING an existing building, built to Code and exactly like those proposed, WITHSTOOD QUAKES OF THE MAGNITUDE PREDICTED for the Hollywood Fault, if built directly on that Fault.[2]

Yet they expect Commissioners to believe there is not a BANKRUPTCY-MAGNITUDE destiny for the City without substantial and uncontrovertible proof that NO PROPERTY, LIVES, NOR INJURIES will occur if the Project goes-forth *where planned by the Developer*[3]

And, the Planning Dept in its 1500 page ERA-defense, by unproven assertions therein, tried to dismiss comments by alleging the commentators' proven facts were somehow not as reliable as Planning's unproven assertions.

Some examples of incorrect assertions in the 1500-page Final EIR are included below. Because this Statement is required to be limited to only 10 pages per Planning's written demand, it cannot be all-inclusive.

This Commission may reject the Final EIR as being fatally-devoid of necessary truthful content.

5. Planners misread Alquist-Priolo Section 2621.7

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[1] The approval date was not recorded in its approval letter.

[2] Namely, a magnitude of **30 FEET of GROUND MOVEMENT, 6 feet of extensive shaking, an acceleration of 1 to 2 "g" (32 ft/sec/sec)**. Far larger than City's Building & Safety Code protects against.

[3] The probable cost to City per §2621.8 PRC will be at least **7 Billion,418 Million, 158 Thousand, 200 Dollars, per Statement in the project file the agency overlooked. The People should control allowing or declining the risk.**

Part of Alquist-Priolo specifically-deals with some cities in Northern California, and Los Angeles is not permitted those processes. The two Cases relied-upon by Planners dealt with one of those identified cities, namely Berkeley. **As a result, the Planner's discussion in the Final EIR based on Berkeley Court Case citations are inapplicable to this Project.**

Alquist-Priolo for Los Angeles is quite specific:

1. **The rules shall be set by and under control of the State board (§ 2621.5(c));**
2. **There is a severe penalty for a city or county failing to obey the rules set by that board** (§2621.8);
3. The board shall publish **"active fault zone" maps detailed enough to indicate whether a project would lie in a forbidden location for it (§2622)**;
4. When a preliminary map is issued, there shall be a **notice-and-90-day comment period plus hearing,** and **all affected parties shall be permitted to submit their comments (§§2622(b));**
5. After reviewing comments the **Board and State Geologist shall decide** which parts of the State shall be included in the final, "official" maps **(§2622(b));**
6. If a map is "official", **development therein must obey the rules set forth by the Board for active fault zones (§§2621.5(b), 2623(a), and §3600 et seq Title 14 Div 2 Ergs);**
7. Within the zone and distance the Board establishes, **no new construction except "(A) Single-family wood-frame or steel-frame dwellings** to be built on parcels of land for which **geologic reports have been approved** pursuant to paragraph (1), **or (B) A single-family wood-frame or steel-frame dwelling not exceeding two stories when that dwelling is not part of a development of four or more dwellings**" is allowed without a city's incurring liability **(§2621.6)**;
8. But a City or County **accepting the risk of liability for damages** may waive the rules **(§2621.8), and**
9. The City or County may enact **prohibitions more stringent** than the rules **(§2624).**[4]

Contrarily, Planners said in the Final EIR that the City had the power to say whether or not an active fault exists. **But per Alquist Priolo law and regulations above, only the Board and State Geologist have that power.**

Thus the City's basis for denying an active fault lies in the parcels intended for this project is a falsehood.

6. Only the Board, not Alquist Priolo, limits "active faults" to the period since the Holocene era

The Legislature is not trained in seismology, so it gave the power to enact rules to the Board and the State Geologist per §§2621.5(c) and 2622, as they were the State's qualified experts.

The Board decided to concentrate on faults which were "active" since Holocene era, because California has "hundreds of potentially active faults" to evaluate and rate. The Board said in Special Publication 42, C2 p 73:

> "Beginning with the maps of January 1, 1977, **all faults zoned meet the criteria of 'sufficiently active and well-defined'"**

The zone encompassing this Project was issued as "official" in 2018, and it forbids this project. Although **the Developer artfully-managed to avoid finding Holocene-or-later faulting activity,**[5] that does not mean anything legally. The Board said in §C2:

> "Holocene surface displacement may be directly observable or inferred; **it need not be present**

[4] The "waiver request" language in §2621.7 for Oakland and Berkeley may have caused Planning to believe it may get a waiver even for a map clearly enacted as "official". But the project is not waiver-class per §2621 and 90-day time for adjustment is long-past. Now is the time for the City to abide the map's prohibited areas or else to accept the liability and proceed.. The object of Alquist-Priolo is to increase safety, and the City should promote safety first. *See* §2625.1(a): " The Legislature declares that this chapter is **intended to provide policies and criteria to assist cities, counties, and state agencies in the exercise of their responsibility to prohibit the location of developments and structures for human occupancy across the trace of active faults**. Further, it is the intent of this chapter to **provide the citizens of the state with increased safety and to minimize the loss of life** during and immediately following earthquakes by facilitating seismic retrofitting to strengthen buildings, including historical buildings, against ground shaking. (*Emphasis added*)

[5] A geologist (in file) who viewed borings saw evidence of faulting which the Developer's geologist didn't report as pertinent.

everywhere along a fault to qualify that fault for zoning."

Therefore there is not a scintilla of doubt that this Project is in a zone legally defined as "active" and subject to restrictions set forth in §2621.6 , even per the Board's limitation on the definition of "active".

7. By using the Board's rule for "active", Developer and Planning must also admit the fault's existence

Only the Board proposed to limit Alquist Priolo law to faulting subsequent to the Holocene era. Evidence present even in the Developer's artfully-chosen samples would class the area as "active fault" per §2621.

Once the Developer and Planning **adopted the Board's ruling on timing,** which "amended" Alquist Priolo's plain language, **they both must admit the Board's finding after notice and comment that the parcels proposed for the project are in an "active fault" region.**

So the project as proposed may not be constructed unless the City agrees to assume all liability for the project's damages to people and property caused by seismic activity.

This step the City has not agreed to take, and prediction of damage-vulnerability makes it unlikely that a financially and public-safety conscious city like Los Angeles would agree to take that perilous step.

Thus the EIR did not properly-examine the geologic impact on the City's environment.

8. EIR failed to analyze the impact of very heavy buildings placed next to very light buildings

At Caltech McQuiston's Civil Engineering professor had worked on the conversion of the old "ridge route" road from Los Angeles to Bakersfield into a highway that could be reasonably-traveled. The work required large quantities of material to be cut off hills and filled into valleys. But **what happened was that the weight of the fill sank the valley portions and raised the hill portions** by geologic response, something no calculations were able to predict.

Similarly, when a very heavy building is placed next to a very light building, the weight of the heavy building disturbs the ground under the lighter one, thereby disrupting the integrity of the lighter one and perhaps destroying its safety for occupancy.

The LAMC addresses this issue partly by prohibiting widely-disparate heights between nearby-buildings.[6]

However, in the vicinity of this project, there are buildings of importance to the City which were built on shallow footings, but which will abut deep excavations for project's parking or other uses. Differential-weight will be a threat to a shallow-footed building like the Pantages theatre, for example.

Also, a fault is not confined like a railroad track to a single repetitious line. It goes where at the moment the crust is weakest. A crust strengthened by concrete may divert the fault to a point of plain dirt or asphalt, but the fault may have no alternative but to plow through the weakest part in the concrete of a building or footing.

If the project diverts the fault damage to the Pantages, for example, **the City will have to pay for the damage.**

The Hollywood Fault is not vertically-oriented, so its "active zone"was made wide, as permitted by specific authorization in §2622(a). Where the Fault breaks the surface depends on factors which may appear or disappear due to temporary ground conditions. Thus the line of the fault if it previously-broke the surface will be totally unimportant at this moment. But removing the areas now devoted to surface-parking means there will be environmental damage elsewhere in large earthquakes. The Red Line at Hollywood Blvd could be destroyed.

Alquist Priolo protection is obviously not meant for small earthquakes; its intent as set forth above is to limit deaths and injuries, so it is meant to lessen the danger of substantial ones.

[6] *See, e.g,* LAMC §12.21.1.

Thus the EIR should have analyzed the possible paths for large earthquakes and determine if the project construction making a barrier to surface movement will cause damage to become severe under shallow-rooted but important existing structures and also the Red Line important to the Hollywood environment.

Because it did not, the EIR is defective and dangerous to approve.

9. The EIR failed to set forth the obvious alternative to this project

The Hollywood Plan part of the General Plan has a substantial shortage of Local and Community parks. Land available for parks in Hollywood is disappearing as large parking lots, the only obvious candidates for 5-acre parks[7] left in the Plan, are being put to development of buildings.nasmuch as the 4-plus acre may not be legally used as the developer wanted, the City could buy or trade for other property based on the worth of the land as on an active fault.[8] The surrounding population would then get what the General Plan requires: one acre of local park per 1000 people and one acre of community park per 1000 people.

Presently the Hollywood Plan segment of the General Plan is deficient in both types of parks. According to the General Plan, the Hollywood segment **requires 105 more 5–acre parks to meet the General Plan requirement.**

This Commission should insist on such an alternative. A money payment in lieu of land for parks is no solution whatsoever.

10. Approving this project would be another City violation of the Order to obey the Government Code

California ordered cities to cease their haphazard zoning practices. Because the City failed to obey State law regarding making and keeping Plans, in §65860(d) the Legislature ordered Los Angeles specifically to do what all other California cities were required to do regarding haphazard construction unrelated to its zoning.

When Los Angeles sued the State, claiming it was unconstitutional for the State to order Los Angeles to obey State law, the Court of Appeal in ***City of Los Angeles v. State of California*, 138 Cal.App.3d 526 (1982) said Los Angeles may not continue haphazard projects conflicting with its General Plan and zoning and Code.**

Los Angeles still continues even with this project to engage in inviting or soliciting projects really-haphazardly, without properly restricting them to Los Angeles' General Plan, its zoning, and its extensive restrictions in its Municipal Code.

Los Angeles' Planning Department costs taxpayers over 52.8 MILLION DOLLARS YEARLY; its General Plan is routinely ignored during approval of the many haphazard construction projects. The highly-paid City Planners' diligent work to develop each part of City's General Plan is TRASHED.

IF THE GENERAL PLAN CONTINUES TO BE ROUTINELY IGNORED BY APPROVAL BODIES, CITY IS "UNLAWFULLY WASTING DOLLARS"; so it should eliminate the Department or stop waste.

THE PURPOSE OF THE PLANNING COMMISSIONERS IS TO STOP UNLAWFUL PROJECTS, AND QUICKLY. For any other purpose there is no need for the Charter to set forth a bevy of private citizens to watch over developments proposed in the City.[9]

The City Charter sets forth fixed terms for City commissioners, but Mayors by **demanding an undated resignation, before the commissioner will be appointed,** defeats the purpose of having civilian commissioners to watch over the acts of City personnel.

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[7] Parks & Recreation needs 5 acres to build a place where a recreation director may conduct an ongoing menu of various activities daily.

[8] The present owner of the parcels was required to be notified about the Alquist Presley development restrictions, which reduced the value of the land before the owner bought the land.

[9] The Government Code does not demand employing private City Commissioners for due process in such matters.

The necessity for watching over development projects is paramount. Commissioners may be intimidated by their undated resignations and fail to perform properly their paramount task, withholding approval if a project is non-conforming to the General Plan, the City zoning, or the Municipal Code.

Commissioners have been "fired" by Mayors when they did not approve nonconforming projects, **but some got reinstated because the public objected to firing real "watchdogs". Planners won't feel so intimidated if they instead get Commission support when they are called to defend denying projects disobeying the General Plan, zoning, and Municipal Code** against those who intend to ignore those laws and approve them.

If that condition will be the new rule, developers will know not to ask for unlawful benefits, Planners will devote more time to the General Plan and make it better, and the City will become better as the result.

It is time for the City to stop being contemptuous of Courts' opinions, like for example the Order from the Court in *Los Angeles v State of California.*

It is time for Commissioners to deliver the City from outlaw behavior.

If Commissioners fail their Charter-intended oversight mission, people will die unnecessarily. Like in this case.

Respectfully submitted,

J. H. McQuiston, P.E.

c:Interested parties