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August 18, 2014

John D'Amico, Mayor
and Members of the City Council
City of West Hollywood

via email: council@weho.org

Subject: August 18 Agenda Item 3A
Melrose Triangle Project/Jones Dog & Cat Hospital
9080 Santa Monica Boulevard
Consideration of EIR Certification and Project Approval

Dear Mayor D'Amico and Councilmembers:

On behalf of the Los Angeles Conservancy, I am writing to request that this Council require revision of the EIR analysis of alternatives before considering approval of demolition of the historic Jones Dog & Cat Hospital.

By way of introduction, my law practice is focused on public interest environmental law and in particular the application of CEQA to historic resources statewide. Among the published environmental decisions of this office are *Friends of Sierra Madre v. City of Sierra Madre*, *Lincoln Place Tenants Association v. City of Los Angeles*, *League for Protection v. City of Oakland*, *Stanislaus Natural Heritage Project v. County of Stanislaus*, *The Pocket Protectors v. City of Sacramento*, *Architectural Heritage Association v. County of Monterey*, *Preservation Action Council v. City of San Jose*, *Galante Vineyards v. Monterey Peninsula Water Management District*, and *Sierra Club v. County of Sonoma*.

The EIR considers only a vaguely-described preservation alternative that would prevent demolition of the Jones Dog & Cat Hospital. *CEQA requires more* to give this Council an adequate basis upon which to exercise its land use discretion. While the alternative accomplishes most project objectives and reduces environmental impacts, thus achieving preferred-alternative status, the Council is asked to find it infeasible. The main reason is specious: that project objectives may not be accomplished *to the same degree* as the proposed project.

CEQA contains not only procedural requirements but a substantive mandate that requires agencies to disapprove projects with significant environmental effects if there are “feasible” alternatives that can substantially lessen or avoid those effects. (*E.g.*, Pub. Resources Code, § 21002; *County of San Diego v. Grossmont-Cuyamaca Community College District* (2006) 141 Cal.App.4th 86, p. 98.) “Feasible” is defined as “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” (Pub. Resources Code, § 21061.1.)

Factors that may result in less than a maximum return do not equate to infeasibility of an EIR project alternative. (CEQA Guidelines [14 Cal. Code Regs.] § 15126.6, subd.(b); *Citizens of Goleta Valley v. Board of Supervisors* (1990) 197 Cal.App.3d 1167, p. 1181; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, p. 736; *Save Round Valley v. County of Inyo* (2007) 157 Cal.App.4th 1437, pp. 1461-1462.)

Preservation Action Council v. City of San Jose (2006) 141 Cal.App.4th 1336 is among the cases that mandate a city’s consideration of the feasibility of smaller, less-profitable project alternatives that could reduce environmental impacts, regardless of disfavor with the project applicant. A finding of CEQA “feasibility” solely requires economic viability.

For this project, the vague proffered problems with the preservation alternative relating to cohesive site design or accomplishment of redevelopment potential may well be solvable. Compliance with CEQA requires further development of that alternative to its assess feasibility and provide a good-faith effort at full disclosure. Please take the time to do so. A project may well be achieved that adaptively reuses one of the City’s unique historic resources.

Thank you very much for your consideration.

Sincerely,


Susan Brandt-Hawley