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Via Hand Delivery

City Planning Commission

City of Los Angeles

200 North Spring St.

Los Angeles, 90012

Re: 8150 Sunset Boulevard Mixed-Use Project; Case No. VTT-72370-CN-1A; ENV-2013-2552-EIR

Honorable Commissioners,

On behalf of the Los Angeles Conservancy, we provide these comments regarding the proposed 8150 Sunset Boulevard Mixed-Use Project. As set forth in our previous comment letters, the Conservancy has long recognized the historic significance of the Lytton Savings building located on this site and the need to preserve this important resource. The proposal before you instead calls for the wholesale demolition of this resource, and thus we object.

The version of the Project approved by the City's Deputy Advisory Agency, referred to in the environmental impact report as Alternative 9, includes demolition of the Lytton Savings building and the construction of 65,000 square feet of commercial space, 249 residential units with 28 affordable units, along with subterranean and semi-subterranean parking (the "Project" or "Alternative 9"). The environmental impact report (EIR) for the Project acknowledges that the demolition of the Lytton Savings building would result in a significant adverse impact to a historic resource. Feasible preservation alternatives exist that would incorporate the historic Lytton Savings building into a similarly sized mixed-use development. Thus, approval of the Project as proposed would violate the substantive mandate of the California Environmental Quality Act (CEQA).

I. Preservation Alternatives Would Eliminate Significant Historical Resource Impacts.

CEQA prohibits approval of projects with significant adverse environmental impacts if there are feasible alternatives or mitigation measures that would reduce or eliminate those impacts. (Pub. Resources Code § 21002; Guidelines § 15021(a)(2).)

As proposed, the Project would result in a significant adverse historical resources impact due to the demolition of the historic Lytton Savings building.

The draft and recirculated draft EIR (DEIR and RDEIR, respectively) prepared for this Project included Alternative 5-Bank Preservation Alternative and Alternative 6-Reduced Height Bank Preservation Alternative, both of which would eliminate the Project's significant historical resources impact by preserving the Lytton Savings building and adaptively reusing it as part of the project. The Conservancy also worked closely with the project proponent to develop a revised version of the original project proposal that would incorporate Lytton Savings, while meeting the proponent's goals.

II. The City Lacks Evidentiary Support For Rejection of Preservation Alternatives.

When an agency seeks to approve a project despite the significant impacts the project would have on the environment, the agency must adopt a statement of overriding considerations. (Pub. Res. Code § 21081.) A statement of overriding considerations must include specific finding, supported by substantial evidence, that “[t]here is no feasible way to lessen or avoid the significant effect...” (CEQA Guidelines §§ 15043, 15093(b).) Although a statement of overriding considerations is a policy statement, it must still be supported by substantial evidence. (*Woodward Park Homeowners, supra*, 150 Cal. App. 4th at 718.) A less impactful alternative can only be rejected if it is “truly infeasible.” (*City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal.4th 341, 369.)

The Preservation Alternatives would also meet the project objectives and are legally, economically, and technically feasible. The City lacks the necessary evidentiary support to reject the less impactful Preservation Alternatives as infeasible.

A. The Preservation Alternatives Would Meet the Majority of the Project Objectives.

It is well settled that “[i]f there are feasible alternatives or feasible mitigation measures that would accomplish *most* of the objectives of a project and substantially lessen the significant environmental effects of a project subject to CEQA, the project may not be approved without incorporating those measures.” (*Center for Biological Diversity, Inc. v. FPL Group, Inc.* (2008) 166 Cal.App.4th 1349, 1371 fn 19, citation to (Pub. Resources Code §§ 21000(g), 21002, CEQA Guidelines § 15091); see also CEQA Guidelines § 15126.6(b).) Alternatives are not required to meet all project objectives, and in reality it “is virtually a given that the alternatives to a project will not attain all of the project's objectives.” (*Watsonville Pilots Ass'n v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1087.)

The DEIR and RDEIR set out 15 project objectives. The DEIR found that Preservation Alternatives 5 and 6 both would fully meet 12 of these objectives and would partially meet the remaining three objectives. The objectives the Preservation Alternatives would only partially meet are those relating to commercial uses, since the Preservation Alternatives contain a substantial amount of commercial space, but less commercial space than the project as it was originally proposed in the DEIR. (DEIR pp. 5-146 to 5-148.) The originally proposed project had 111,339 square feet of commercial space. The currently proposed Project has 65,000 square feet of commercial space, which is nearly equivalent to the 62,231 square feet of commercial space included in the Preservation Alternatives.

The RDEIR, which included an analysis of the new Alternative 9, the currently proposed Project, likewise concluded that the Preservation Alternatives would fully meet 12 project objectives and partial meet the remaining three objectives. The RDEIR made the exact same finding with regards to the currently proposed Project. (RDEIR pp. 2-69 to 2-70.)

The City now proposes contrary findings to support a determination that the Preservation Alternatives are infeasible. The cases relied upon in the City's Findings do not support its conflicting determination regarding the Preservation Alternatives ability to meet project objectives. (City's Findings p. F-118.) The City's citation to *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1 to support this reversal is misleading. In that case, the County of San Diego did not reach conflicting determinations in an EIR and in required CEQA findings. Instead, the case found that both the final EIR and the county's CEQA findings rejecting mitigation measures that would result in the need for winery operators to obtain other discretionary permits were infeasible because they were in direct contravention of the project objective to permit certain wineries by-right without discretionary approval. The City's Findings also rely on trial court decision (*Los Angeles Conservancy v. City of West Hollywood*, Case No. BS151056) for support. A trial court decision has no precedential value and should not be relied upon to overcome decades of CEQA case law. Additionally, this decision is not final because it is currently before the Court of Appeal. Moreover, the trial court decision did not address a city making conflicting determinations in an EIR and CEQA findings regarding a project's ability to meet project objectives.

Here, substantial evidence does not exist to establish findings contrary to those stated in the DEIR and RDEIR. The City's Findings claim the Preservation Alternatives would not meet the following objectives:

- Redevelop and revitalize an aging and underutilized commercial site and surface parking lot with a more efficient and economically viable mix of residential and commercial uses.

- Build upon the existing vitality and diversity of uses in Hollywood by providing a vibrant urban living development along a major arterial and transit corridor.
- Provide high-quality commercial uses to serve residents of the westernmost area of Hollywood in a manner that contributes to a synergy of uses and enhances the character of the area.
- Create a development that complements and improves the visual character of the westernmost area of Hollywood and promotes quality living spaces that effectively connect with the surrounding urban environment through high quality architectural design and detail.
- Enhance pedestrian activity and neighborhood commercial street life in the westernmost area of Hollywood.
- Provide an attractive retail face along street frontages.

The DEIR and RDEIR both found the Preservation Alternatives would fully meet all but one of these objectives. The only exception is the objective to “Provide high-quality commercial uses...”, which the DEIR and RDEIR found the Preservation Alternatives would only partially meet due to the reduction in commercial square footage as compared to the originally proposed project. The RDEIR found that Alternative 9 would only partially meet this objective as well.

With regard to the remaining objectives identified in the City’s Findings, the DEIR’s assessment of the Preservation Alternatives’ aesthetic and land use impacts demonstrates that it carefully considered these alternatives ability to achieve project objectives and that determination is fully supported. Whereas the City’s Findings make a vague claim about the need for undefined gateway architecture as a basis for its determination that the Preservation Alternatives not meeting the project objectives, the DEIR found the Preservation Alternatives to contain “high quality architectural design” providing aesthetic benefits. (DEIR pp. 5-116; 5-154.) The City’s Findings provide no reason why preservation of a distinctive historic resource and integration of this resource into a well-designed project would not serve as a gateway development.

The City’s Findings also claim that public comments raised concerns regarding the massing and design of the alternatives. The City’s Findings fail to provide an example of comments objecting to the Preservation Alternatives and their ability to meet design objectives. We reviewed the public comments submitted on the RDEIR and failed to find a single comment objecting to the Preservation Alternatives and/or their design. The City cannot rely on this false claim to support a finding that the Preservation Alternatives are infeasible.

The City’s Findings also claim both the Preservation Alternatives are monolithic in design, a claim fully contradicted by the DEIR’s description of the varying heights and elements that would be included in these alternatives. (DEIR pp. 5-111 [building heights would range from two to 16 stories], 5-149.) Alternative 5 was found to “provide a

stepped profile and articulation (contrast between taller and shorter components)” and Alternative 6 “would provide a prominent visual contrast between the taller tower components” and the other loft and retail components. (DEIR pp. 5-116, 5-154.)

The DEIR also found the Preservation Alternatives to be consistent with applicable design guidelines and that they would provide visual improvements, “which would incorporate elements of pedestrian scale.” (DEIR pp. 5-131, 5-169.) The Preservation Alternatives would “link pedestrians to a landscaped plaza, extend the pedestrian environment to retail businesses and residential access points within the Project Site, and include numerous design features to enhance the neighborhood character and pedestrian environment.” (DEIR pp. 5-130, 5-168.) Further, under these alternatives, the historic Lytton Savings building includes a “glazed north wall that provides a visual connection to the street front and unique roof design.” (DEIR p. 5-154.) This detailed assessment supports the DEIR’s findings that the Preservation Alternatives would meet the project objectives identified above, and contrary to the claims in the unsupported City’s Findings, would be pedestrian friendly.

The vague and unsupported claims in the City’s Findings do not provide the necessary evidentiary support to reject the less impactful Preservation Alternatives. This is particularly true given the detailed statements included in the DEIR assessing these alternatives ability to meet the project objectives, aesthetic impacts and compliance with applicable land use plans.

B. Alternative 9 Is Designed to Mitigate Impacts Found to be Less Than Significant.

Alternative 9 was designed to address concerns raised by the public regarding aesthetics impacts associated with visual quality and air quality impacts resulting from aboveground parking. CEQA requires the development of alternatives to address a project’s significant adverse impacts. (CEQA Guidelines § 15126.6(a).) The DEIR, RDEIR and the City’s Findings all found that the originally proposed project and the Preservation Alternatives would have less than significant aesthetic and operational air quality impacts. Thus, development of an alternative to reduce these impacts is unnecessary and not in keeping with CEQA’s requirements.

In contrast, the Preservation Alternatives would eliminate the significant and unavoidable historic resource impacts associated with the Project. Rejecting these less impactful alternatives as infeasible because they do not reduce other less than significant impacts would be in violation of CEQA.

Additionally, the vague statements included in the City’s Findings regarding massing and design were not comments raised by the public regarding the Preservation Alternatives. The only concerns regarding the design and massing of the Preservation

Alternatives were raised in a self-serving letter submitted by the Project architect. This does not constitute substantial evidence to support findings to reject the Preservation Alternatives. “[T]he willingness or unwillingness of a project proponent to accept an otherwise feasible alternative is not a relevant consideration.” (*Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437 at 1460, fn. 10; see also *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 602.) That the Project proponent’s architect would prefer to start from a clean slate at this site and not integrate the historic Lytton Savings building is not a relevant factor in determining the feasibility of the Preservation Alternatives.

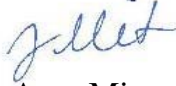
C. Economic Feasibility of Preservation Alternatives.

The Project proponent submitted a June 7, 2016 letter claiming the Preservation Alternatives would add substantial expense to the Project. This letter fails to provide any evidentiary support for this claim, including a comparison of Project and Preservation Alternative costs. Comparative data and analysis is required before an alternative could be considered economically infeasible. (*Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal. App. 4th 587, 599.) Further, the “fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project.” (*Citizens of Goleta Valley v. Board of Supervisors* (1988) 197 Cal.App.3d 1167, 1181.) No such showing has been made and thus any claim of economic infeasibility is unsupported.

Conclusion

The Conservancy again strongly urges the City to select an alternative to the Project that would preserve and adaptively reuse the historic Lytton Savings building. The Preservation Alternatives would eliminate the significant historic resource impacts, would fully meet the majority of the project objectives and partial meet the remaining few, and are otherwise feasible. For these reasons, the approval of a project that does not include preservation would violate CEQA.

Thank you for your time and consideration in this matter.

Sincerely,

Amy Minter