

**DEPARTMENT OF
CITY PLANNING**

COMMISSION OFFICE
(213) 978-1300

CITY PLANNING COMMISSION

SAMANTHA MILLMAN
PRESIDENT

CAROLINE CHOE
VICE-PRESIDENT

DAVID H. J. AMBROZ
HELEN LEUNG

KAREN MACK

DANA M. PERLMAN

YVETTE LOPEZ-LEDESMA

AJAY RELAN

JENNA HORNSTOCK

**CITY OF LOS ANGELES
CALIFORNIA**



ERIC GARCETTI
MAYOR

EXECUTIVE OFFICES

200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801
(213) 978-1271

VINCENT P. BERTONI, AICP
DIRECTOR

KEVIN J. KELLER, AICP
EXECUTIVE OFFICER

SHANA M.M. BONSTIN
DEPUTY DIRECTOR

ARTHI L. VARMA, AICP
DEPUTY DIRECTOR

LISA M. WEBBER, AICP
DEPUTY DIRECTOR

VACANT
DEPUTY DIRECTOR

March 3, 2021

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Dear Honorable Members:

APPEAL FOR A PROPOSED PROJECT AT 135 - 153 West Avenue 34; CASE NO. ENV-2016-273-MND-REC1; COUNCIL FILE NO. 21-0024

The proposed project is the construction of a new, five-story, mixed-use building with 468 dwelling units, including 66 dwelling units set aside for Very Low Income Households and 16,395 square feet of commercial space. The development will provide a total of 222 studio, 152 one-bedroom, and 94 two-bedroom dwelling units, a total of 49,152 square feet of open space for residents, and two (2) levels of subterranean parking across the entire site.

At its meeting on October 8, the Los Angeles City Planning Commission (CPC) denied an appeal of the proposed project, including a finding that the project was previously assessed in Mitigated Negative Declaration Case No. ENV-2016-273-MND, adopted on August 22, 2017; and pursuant to CEQA Guidelines 15162 and 15164, as supported by the Addendum dated December 2019 no major revisions are required to the Mitigated Negative Declaration; and no subsequent EIR or negative declaration is required for approval of the project.

As a result of the CPC's action, the both the entitlements and the CEQA clearance are final and not further appealable, and as such the CEQA appeal filed Michael Hayden has been terminated and requires not further action from the Los Angeles City Council.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning

Oliver Netburn
City Planner

DEPARTMENT OF
CITY PLANNING

COMMISSION OFFICE
(213) 978-1300

CITY PLANNING COMMISSION

SAMANTHA MILLMAN
PRESIDENT

CAROLINE CHOE
VICE-PRESIDENT

DAVID H. J. AMBROZ
HELEN LEUNG

KAREN MACK

DANA M. PERLMAN
YVETTE LOPEZ-LEDESMA

AJAY RELAN

JENNA HORNSTOCK

CITY OF LOS ANGELES
CALIFORNIA



ERIC GARCETTI
MAYOR

EXECUTIVE OFFICES
200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801
(213) 978-1271

VINCENT P. BERTONI, AICP
DIRECTOR

KEVIN J. KELLER, AICP
EXECUTIVE OFFICER

SHANA M.M. BONSTIN
DEPUTY DIRECTOR

ARTHI L. VARMA, AICP
DEPUTY DIRECTOR

LISA M. WEBBER, AICP
DEPUTY DIRECTOR

VACANT
DEPUTY DIRECTOR

February 26, 2021

Michael Hayden
Lincoln Heights Community Coalition
134 West Avenue 34
Los Angeles, CA 90031

SUBJECT: RETURN OF APPEAL OF ENV-2016-273-MND-REC1-1A FILED ON JANUARY 5,
2021

Dear Mr. Hayden,

Please be advised that the Planning Department has determined that the above appeal of ENV-2016-273-MND-REC1-1A was not filed in conformance with Los Angeles Municipal Code (LAMC) Section 11.5.13.

An appeal of a California Environmental Quality Act (CEQA) clearance as stated in the LAMC Section 11.5.13 can only be filed if a non-elected decision-making body makes a determination for a project that is not further appealable, within the specified filing period. Additionally, pursuant to CEQA Guidelines Section 15162 an addendum and CEQA findings are not further appealable. The associated MND was adopted on August 22, 2017. As such, an addendum to the adopted MND is not further appealable.

Please inform the Planning Department if you would like your appeal documents to be returned to you by first class mail. You are entitled to a full refund of the \$109.47 appeal fee paid (Invoice No. 69365). You can access the refund claim form from the City Clerk's website (<http://cerk.lacity.org>).

If you have any questions regarding this issue, please call Michelle Carter at 213-978-1262 or email michelle.carter@lacity.org.

Sincerely,

Heather Bleemers
Senior City Planner
Expedited Processing Section

cc: Gerald Gubatan – Council District 1

March 16, 2021

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Dear Honorable Members:

APPEAL FOR A PROPOSED PROJECT AT 135 - 153 West Avenue 34; CASE NO. ENV-2016-273-MND-REC1; COUNCIL FILE NO. 21-0024

After spending the past year fighting to defend our neighborhood's collective health and safety from unchecked abuses by developers, aided by the Department of City Planning, we only today became aware of a letter addressed to your Committee from City Planning, dated March 3, which incorrectly claimed that the Lincoln Heights Community Coalition's CEQA appeal of DIR-2019-6048-TOC-SPR-WDI-1A / ENV-2016-273-MND-REC1-1A "has been terminated and requires not further action from the Los Angeles City Council." This comes after a letter to us from City Planning filled with misrepresentations of the law dated February 26 which made the erroneous claim that our appeal was "not filed in conformance with Los Angeles Municipal Code." These letters are a blatant and illegal attempt to silence our Coalition, the Lincoln Heights Neighborhood Council, and thousands of Lincoln Heights residents whose lives and health will be negatively impacted by City Planning's reckless attempts to circumvent the California Environmental Quality Act.

We are appealing a 468-unit residential project planned adjacent to the site of the former Welch's Dry Cleaning disaster, to be built on a property that has never been tested for pollution, despite lying directly in the path of a well-documented toxic plume that has been flowing for as long as 100 years from the bordering property. We are not endeavoring to stop this project, but only to enforce the proper environmental assessment and testing required under the law first, which so far has not been conducted.

City Planning is either misinformed or abusively dismissive of the law. Their Feb. 26 letter cites LAMC Section 11.5.13 to argue that our Feb 5, 2021 appeal application missed the 15-day deadline by some 1,265 days, as the original (and we should mention grossly inadequate) MND was originally approved in 2017. LAMC Section 11.5.13 actually states that a decision-maker's "determination may be appealed to the City Council provided the appeal is filed within 15 days of the project approval becoming final ." This project's final approval was issued on December 22, 2020, and then our appeal was filed on January 4, 2021, following guidance from City Planner Oliver Netburn. As the appeal deadline is tied to the project approval, not to the environmental review, our appeal application was submitted in conformance with the law. We would point out that the December 22 Determination Letter also adopted the MND and the Addendum, and this is a CEQA determination for which you must allow an administrative appeal pursuant to both the Municipal Code 11.5.13 and CEQA. We have multiple correspondences with the City Clerk's

office and with City Planning, including with City Planner Oliver Netburn, confirming the deadline for this appeal application as January 6, 2020, and confirming the application's successful filing and payment soon thereafter.

City Planning's February 26 letter makes the false claim that "pursuant to CEQA Guidelines Section 15162 an addendum and CEQA findings are not further appealable." Their March 3 letter to your Committee makes the spurious argument that "As a result of the CPC's action [in hearing our appeal], both the entitlements and the CEQA clearance are final and not further appealable." If this were true, the PLUM Committee could never hear CEQA appeals, as such appeals can only be made to your committee after other avenues have been exhausted, such as presenting an appeal to CPC, as we did.

Curiously, City Planning's Feb. 26 letter highlights a critical section of the California Environmental Quality Act. CEQA Section 15162 actually makes no mention of addendums or appeals. Instead, it requires that a new environmental review shall be prepared if "The project will have one or more significant effects not discussed in the previous EIR or negative declaration." As we have repeatedly demonstrated, the MND for this project omits the plenitude of publicly available evidence that toxic waste was dumped unchecked for 70 years on the border of this property, and is carried by the water table directly through the property, on which the developers plan to excavate a 2-level subterranean parking lot. The developers plan to remove 90,000 cubic-yards of soil, so far without any agreement for testing, soil remediation, or disposal of the soil at a facility appropriate for polluted soil. Excavation poses the risk of carcinogenic VOCs and polluted soil escaping into the air breathed by neighboring residents, workers, and Hillside Elementary School students and staff across the street. These same VOCs pose a risk of vapor intrusion into the new construction, endangering the construction workers and future building occupants. The vapors from Welch's caused well-documented illness in our neighborhood in the past, and we do not wish to repeat this exposure. None of these risks are assessed in the MND, which was based on an erroneous Phase 1 that mischaracterized the potential for contamination with scientifically flawed arguments, as confirmed by DTSC. On this point alone (although there are many more points which we will present in our appeal) a new environmental review is required under the exact sections of city and state law which City Planning cites in their letters.

City Planning's attempt to subvert their own accountability, and their attempt to persuade the PLUM Committee to forfeit their authority on this matter is a corrosion of public trust, and furthers the environmental racism that already afflicts our neighborhood, which suffers one of the highest pollution burdens in Los Angeles. The PLUM Committee must act in accordance with the law and hear our neighborhood's concerns about the dangers this project invites unless adequate environmental review is conducted.

We are reaching out to government offices at the City, County, and State level to alert them of this attempted subversion of our neighborhood's due process rights under the law. We are paying attention, and we look forward to vigorously defending Lincoln Heights' collective health

and safety before the Planning and Land Use Management Committee at an appeal hearing soon.

Sincerely,
The Lincoln Heights Community Coalition

From The Lincoln Heights Community Coalition
March 16, 2021

**SUBJECT: Proposed Residential Project at 135 – 153 West Avenue 34; Case No.
Env-2016-2173-MND-Rec1; Council File No. 21-0024**

This letter is to notify you that the Los Angeles City authorized legal documents of your Mitigated Negative Declarations (MND) prepared for the proposed development project known as Avenue 34 Apartments, A 34, R Cap Ave. 34, Pinyon Project, at the following address: 3401-3437 Pasadena Ave & 123-167 W. Ave. 34, Los Angeles, CA, 90031

THE ABOVE LISTED DOCUMENTS ARE INADEQUATE, INSUFFICIENT, INCOMPLETE AND INCORRECT!

These documents violate California Environmental Quality Act (CEQA) because they ignore the CA Public Resources Code which codifies the statewide policy of environmental protections mandated by this law. Every proposed project must by law be considered carefully by decision makers to consider the environmental impacts that will result from their decisions. Health and Safety considerations of residents have been ignored. In a rush to approve this project.

Mitigation measures cannot result in an insignificant impact on adults and children residing in this area. Check-lists that do not consider the existing cumulative pollution here is an attempt to cover up what is factual and ignore known information presented by L.A. City, L.A. County, and CA State documents that have focused on this area.

The irreparable irreversible damage that this proposed project can create are ignored in the Los Angeles environmental review assessment document (MND) that purports to be factual and honest.

THESE AREAS OF GLARING FAILURES WE WILL THOROUGHLY EXAMINE WITH FACTS. SOME AREAS THAT WILL BE INCLUDED ARE:

1. Air Quality Pollution
2. Water Quality Contaminants
3. Traffic Density
4. Area Pollution Burden
5. School Safety
6. Hazardous Waste Facilities
7. Sensitive Populations
8. Socio-economic factors
9. Historic Resources
10. Americans With Disabilities
11. Fire Safety
12. Police Protection
13. Environmental Injustice
14. Toxic Environment
15. Existing Health Issues
16. Diesel Particulate Matter
17. Soil Toxicity

18. Existing State and Federal Laws Written To Afford Equal Protection To Our Community
This area is a "low income community of color" that has been dealt with for many years with environmental injustice.



Armando Bencomo <armando.bencomo@lacity.org>

Public Comments Not Uploaded Fwd: Urgent: Proposed development on contaminated site in Lincoln Heights

Michael Henry Hayden <michaelhenryhayden@gmail.com>
Reply-To: clerk.plumcommittee@lacity.org
To: Armando Bencomo <clerk.plumcommittee@lacity.org>

Fri, Mar 26, 2021 at 2:13 PM

Hello Mr. Bencomo,
Please forward the email below to each of the members of the PLUM Committee, and also please submit this into Council File # 21-0024, including the list of all email recipients.
Thank you for your help with this.
Sincerely,
Michael Hayden

----- Forwarded message -----

From: **Michael Henry Hayden** <michaelhenryhayden@gmail.com>
Date: Fri, Mar 26, 2021 at 2:08 PM
Subject: Urgent: Proposed development on contaminated site in Lincoln Heights
To: <mayor.helpdesk@lacity.org>, <governor@governor.ca.gov>, <Gilbert.Cedillo@lacity.org>, <councilmember.Krekorian@lacity.org>, <councilmember.blumenfeld@lacity.org>, <contactCD4@lacity.org>, <paul.koretz@lacity.org>, <councilmember.martinez@lacity.org>, <councilmember.rodriquez@lacity.org>, <councilmember.harris-dawson@lacity.org>, <councilmember.price@lacity.org>, <councilmember.ridley-thomas@lacity.org>, <councilmember.bonin@lacity.org>, <councilmember.Lee@lacity.org>, <councilmember.ofarrell@lacity.org>, <councilmember.kevindeleon@lacity.org>, <councilmember.buscaino@lacity.org>
Cc: <meredith.williams@dtsc.ca.gov>, <bertha.a.guerrero@gmail.com>, <jared.blumenfeld@calepa.ca.gov>, <firstdistrict@bos.lacounty.gov>, Rehman, Waqas <WRhman@bos.lacounty.gov>, <senator.durazo@senate.ca.gov>, <roberto.gama@mail.house.gov>, <marisela.villar@asm.ca.gov>

Dear Dear Governor Newsom, Mayor Garcetti, and Honorable Los Angeles City Councilmembers,

I am writing to you today requesting action on an urgent threat to human health and safety in Lincoln Heights. This concerns a 468-unit development which includes affordable housing being built on a toxic spill site in a low-income residential neighborhood across the street from a public elementary school. The city has approved this project without the requisite evaluation of the risks posed by PCE, TCE, and other toxic contaminants present at this site. I learned today that DTSC might approve as soon as Monday, March 29 a proposal by the developer to only perform testing after the project commences, rather than testing or making an assessment of the cumulative risks prior to breaking ground, as mandated by state law. Furthermore, the Department of City Planning is attempting to unlawfully terminate an appeal to the City Council filed by neighboring residents that is simply asking that this project be paused until the proper environmental assessment is conducted, as required by state law.

Please give this matter the urgent attention it merits, and see to it that appropriate assessment is made now, and that residents' due process rights to appeal are vigorously defended. Please read the letter below detailing some of our concerns, signed by a wide array of concerned community organizations.

Sincerely,
Michael Hayden,
President, Lincoln Heights Community Coalition

Action Now * California Communities Against Toxics * California Kids IAQ * California Safe Schools * Clean Air Coalition * Coalition For A Safe Environment * Comite Pro Uno * Community Dreams * Del Amo Action Committee * EMERGE * Lincoln Heights Community Coalition * Mothers of East Los Angeles * NAACP, San Pedro-Wilmington Branch #1069 * Our Right To Know * Paramount Community Coalition Against Toxics *

Resurrection Church * St. Philomena Social Justice Ministry * Stop Toxic Housing * Watts Labor Community Action Committee * Wilmington Improvement Network

March 26, 2021

Governor Gavin Newsom
[1303 10th Street, Suite 1173](#)
[Sacramento, CA 95814](#)

Mayor Eric Garcetti & Honorable Los Angeles City Councilmembers
[200 N. Spring Street](#)
[Los Angeles, California 90012](#)

Sent via Email & US Postal Service

RE: Proposed residential development built on a contaminated site in Lincoln Heights.

Case No. ENV-2016-2173-MND-REC1; Council File No. 21-0024

Dear Governor Newsom, Mayor Garcetti & Honorable Los Angeles City Councilmembers,

We are writing to express our concern about the proposed development of a 5-acre 468-unit residential project in Lincoln Heights (“subject property”). The subject property is immediately adjacent to the former Welch's dry-cleaning and truck refueling facility which operated from 1920-1988, and advertised itself as “America’s Largest Industrial Laundry.” The Welch’s site has a long history of toxic chemical discharges from leaking underground storage tanks, some as large as 10,000 gallons. Regulatory records of the site show extensive soil contamination and a shallow groundwater plume both onsite and along its southern boundary with the subject property. Despite these conditions the subject property has not been assessed for contamination which could threaten the health of existing community residents and future occupants of the proposed development. Below is a Site Vicinity Map showing the locations of the Welch’s site, the subject property, and adjoining sensitive land uses.



The City's environmental review of this project has not effectively addressed the concerns from the neighborhood despite the likelihood of toxic contamination beneath the subject property and potentially other nearby sensitive uses including Hillside Elementary School, homes and local businesses. The Lincoln Heights Neighborhood Council has been diligent and persistent in raising these concerns to the City and requesting that it effectively assess conditions on the subject property before the development proceeds. We, the undersigned, have reviewed this matter, including communications between the Neighborhood Council and City Planning, and conclude that the City has not addressed these concerns in a way that represents the best interests of the community, future occupants of the development, or the City.

Based on the history of chemical releases and the results of previous testing on Welch's site, conditions on the subject property may pose an endangerment to the health of future occupants. Soil and shallow groundwater contamination emanating from Welch's may also threaten the health of nearby existing residents, workers, and elementary school occupants. Reports from the State Department of Toxic Substance Control (DTSC) show that the chemicals released on the Welch's site included trichloroethylene (TCE), perchloroethylene (PCE), diesel, gasoline, benzene, chloroform, and other toxic chemicals. Airborne exposure to these chemicals can cause cancer, internal organ failure, and birth defects. When the extent of the contamination was uncovered in 1988, the State mandated the Welch's facility be vacated and dismantled, and since then, the DTSC has provided regulatory oversight of assessment and cleanup work on the Welch's site. However, it wasn't until 2007 that active cleanup of the Welch's site began.

DTSC mandated groundwater monitoring wells be installed both onsite and offsite in anticipation that the groundwater was carrying the toxic plume off-site to the Southwest; not Northwest as previously reported by

the developer's consultant (Source: Phase 1 Environmental Assessment for the subject property, Fulcrum Environmental, 2016). The monitoring results later confirmed the groundwater gradient is in fact toward the Southwest. Active monitoring wells continue to record levels of toxic contaminants exceeding State standards on and beyond the Welch's site, and so presumably beneath the subject property. Much of the monitoring network and vapor extraction system was prematurely decommissioned or stopped working before reaching the target cleanup goals.

DTSC records also indicate that the highest concentration of toxic contaminants on the Welch's site was at a point bordering the subject property, at the location where the project applicant has proposed excavation to construct a two-level subterranean parking lot. Dry-cleaning chemicals are especially volatile, posing a significant risk of toxic vapors being released during construction, and of traveling along underground utility corridors away from the original points of contamination. Such lateral movement or "migration" of volatile soil contaminants is exacerbated when trapped beneath concrete or asphalt, as has been the case for many decades on the subject property. These toxins can present a hazard when released during excavation and grading. Additionally, toxic vapors can migrate through underground utility corridors hundreds and potentially thousands of feet from a contaminated site and ultimately expose the occupants of homes or other enclosed structures. It is of critical importance to investigate this potential on properties located near sites where prior discharges of highly volatile chemicals have occurred. The Amphenol Site in Indiana provides a good case study for releases of volatile compounds, like those released on the Welch's site. U.S. EPA directed a comprehensive investigation of vapor intrusion originating at the Amphenol Site and migrating via soils, groundwater, and utility corridors into the adjoining residential community. Based on the initial findings, EPA directed a follow-up study to identify the extent to which toxic vapors were migrating along utility corridors and into homes. Vapors were found in homes at distances of nearly 1000 feet from the Amphenol Site. Vapor intrusion mitigation measures were implemented in homes where screening levels were exceeded.

(Source: <https://www.epa.gov/in/amphenolfranklin-power-products-franklin-ind#progress>)

With reference to the subject development, it is essential to define the extent to which PCE, TCE and other volatile contaminants on the former Welch's site have migrated as vapors along underground utility corridors and intruded into adjacent properties. The "Vapor Intrusion Guidance" released by the DTSC in 2011, references the need to assess pathways by which toxic vapors may be migrating in subsurface soils, specifically along utility corridors, where they could be impacting nearby properties. The Guidance states: *Vapor intrusion site investigations should include an evaluation of utility corridors. Vapors and free product liquids in utility corridors can potentially migrate long distances, longer than predicted with conventional fate and transport models..... Vapors can migrate in any direction along the corridor, while free product*

liquids will migrate in a downslope direction along the bottom of the corridor trench.....The locations of all utilities within, or adjacent to, subsurface contamination should be identified, regardless of whether the contamination is currently limited to property boundaries. If records show utility corridors might provide a conduit for contaminant migration, collection of active or passive soil gas samples is necessary to determine whether the backfill material of the conduit or adjacent soil is contaminated. The investigation of the corridor should continue until the extent of the contamination is delineated. If utility corridors are contaminated, monitoring the corridors with permanently installed vapor wells may be necessary.” (Source: Guidance for the Evaluation and Mitigation of Subsurface Vapor Intrusion to Indoor Air – Vapor Intrusion Guidance, DTSC, Cal/EPA, October 2011).

It's important to note why the manner in which utility corridors are designed often make them “preferential pathways” for the movement and migration of liquids and vapors through the subsurface. During their construction, utility pipelines are placed in a trench and backfilled with gravel, sand or other permeable sediments. This design allows for freer movement of the pipeline to dissipate pressures created by normal seismic activity. At the same time, this may also provide less resistance and a freer, or “preferential,” pathway for the movement of liquid and vapor phase contaminants. Utility corridors can be thought of as “super freeways” for faster movement of toxic contaminants in the subsurface. DTSC’s Human and Ecological Risk Office (HERO) previously reviewed a Site Assessment Report on the Welch’s site and recommended “.....including available information on underground utilities at and near the site as these utility corridors may act as soil vapor migration pathways.” HERO also specifically recommended: “..... collecting soil gas data within each area of concern to verify the previous soil gas sampling results, and for use in health risk assessment.” (Source: Communication Chawn Y Jeng, Ph.D., Toxicologist, Human and Ecological Risk Office to Alberto Valmidiano, Project Manager, DTSC-Glendale, 11-01-2007).

Two elementary schools and one middle school are located within 1,000 feet of the site; Loreto Elementary and Florence Nightingale Middle School are situated to the Northwest, and Hillside Elementary School is immediately across the street. The threat of toxic vapors migrating in the subsurface along utility corridors, or being released during construction to the air, must be mitigated to ensure the safety of school occupants, local business and area residents. We are conferring with officials of LAUSD’s Office of Environmental Health and Safety who are reviewing our concerns and committed to ensuring conditions on the former Welch’s site and adjacent properties do not endanger school occupants during or after development of the subject property.

The Centers for Disease Control and Prevention warns that these toxins pose a range of risks to human health and safety, especially to residents and workers who inhale even small quantities of these vapors. TCE and PCE, for example, can cause internal organ failure, birth defects and cancer. The Agency for Toxic

Substances and Disease Registry (ATSDR) reports there is strong evidence that TCE can cause kidney cancer in people and some evidence for TCE-induced liver cancer and malignant lymphoma. The Department of Health and Human Services (DHHS) considers TCE to be a known human carcinogen, and the International Agency for Research on Cancer (IARC) has classified TCE as carcinogenic to humans. The EPA has characterized trichloroethylene as carcinogenic to humans by all routes of exposure. ATSDR reports that studies in humans suggest that exposure to PCE might lead to a higher risk of bladder cancer, multiple myeloma, or non-Hodgkin's lymphoma. EPA considers PCE likely to be carcinogenic to humans by all routes of exposure. Testing for the presence and concentration of these compounds has not been conducted on the subject property.

We understand this project is proceeding under a Mitigated Negative Declaration (MND) that was prepared in 2016 for an entirely different project than the project being considered now. That original project expired on August 22, 2019, three years after approval by the City. The current project, therefore, is operating under an outdated and irrelevant Initial Study and MND. An addendum to the MND was prepared in 2020 that also neglected to address the most relevant historically recognized condition likely to affect this property, namely the toxic plume of underground contamination emanating from the adjacent Welch's site along the property boundary, and flowing directly through the subject property. A new EIR is needed to fully examine this condition, assess levels of contamination, and propose measures to mitigate the dangers of any release of toxins into the community.

We are also aware that the environmental review for the subject property was based on a Phase 1 Environmental Assessment dated July 19, 2019 which misrepresented the direction of the groundwater flow at this location. That Phase 1 characterized groundwater as flowing North (away from the subject property), when in fact it flows Southwest (directly through the subject property). This mischaracterization was used to advise against a Phase 2 Investigation which would have necessarily included soil and soil vapor testing for chemicals on and beneath the subject property.

It appears that City Planning has continued to push this project through despite the absence of testing and assessment, and against the opposition of community residents who fear for their safety. Lincoln Heights suffers some of the highest levels of pollution in Los Angeles, and CalEnviroScreen has scored the community among the highest 10 percent of pollution-burdened areas in the State. It also has one of the lowest median incomes. It is a community composed mostly of Latino and Asian residents, with a high proportion of non-English speakers. The neighborhood lacks the resources to defend itself against powerful interests, even in the face of strong and compelling evidence. This has all happened during the height of the pandemic in one of the neighborhoods struck most severely by Covid-19.

LA City leadership and our state government have long-championed the principle of environmental justice, but we believe the State and the City's actions to address concern from residents on the proposed development and the contamination at the site have not served the best interests of this underserved community. This would never happen anywhere in LA's affluent communities. We urge you to put the proposed development on hold until testing and assessment is completed on the subject property, and the results indicate that conditions within the development footprint do not pose a substantial threat to the health of community residents and the school across the street.

For more information regarding concerns about this issue contact Michael Hayden, Lincoln Heights Community Coalition at 919-543-5162, Angelo Bellomo at 805-433-5177 or Jane Williams, California Communities Against Toxics at 661-256-2101.

Sincerely,

Michael Henry Hayden
Lincoln Heights Coalition
Los Angeles, CA

Angelo J. Bellomo
Former Deputy Director, LA County Department of Health
Los Angeles, CA

Jane Williams
Executive Director
California Communities Against Toxics
Rosamond, CA

Robina Suwol
Executive Director
California Safe Schools
Los Angeles, CA

Jesse N. Marquez
Executive Director
Coalition For A Safe Environment
Wilmington, CA

Tim Watkins
CEO
Watts Labor Community Action Committee (WLCAC)
Watts, CA

Father John Moretta
Resurrection Church
Boyle Heights, CA

Cynthia Babich

Executive Director
DelAmo Action Committee
Rosamond, CA

Laurie Guillen
Founder
Paramount Community Coalition Against Toxics
Paramount, CA

Mitzi Shpak
Executive Director
Action Now
Altadena, CA

Teresa Marquez
President
Mothers of East Los Angeles
Boyle Heights, CA

Joe R. Gatlin
Vice President
NAACP
San Pedro-Wilmington Branch # 1069
San Pedro, CA

Modesta Pulido
Chairperson
St. Philomena Social Justice Ministry
Carson, CA

Mary Zakrasek, Ph.D.
Children's Health Advocate
Sherman Oaks, CA

Drew Wood
Executive Director
California Kids IAQ
Wilmington, CA

Mary Cordaro
Mary Cordaro, Inc
Los Angeles, CA

Ricardo Pulido
Executive Director
Community Dreams
Wilmington, CA

Rhonda Jessum, Ph.D.
Founder and Director
Our Right To Know
Malibu, CA

Magali Sanchez-Hall, MPH
Executive Director
EMERGE
Wilmington, CA

Rebecca Overmyer-Velázquez
Coordinator
Clean Air Coalition
North Whittier and Avocado Heights

Anabell Romero Chavez
Board Member
Wilmington Improvement Network
Wilmington, CA

Felipe Aguirre
Director
Comite Pro Uno
Maywood, CA

Kevin Wheeler
Treasurer
Stop Toxic Housing
Pasadena, CA

**RE: Proposed Residential Project at [135 – 153 West Avenue 34](#); Case No. Env-2016-2173-MND-
REC1; Council File No. 21-0024**

Cc: Jared Blumenfeld
Meredith Williams, Ph.D.
Senator Maria Elena Durazo
Assemblymember Wendy Carillo
Congressman Jimmy Gomez

 **Proposed residential development built on a contaminated site in Lincoln Heights.pdf**
314K

October, 2020

Dear City Planning Commissioners,

Thank you for hearing our appeal. Our community continues to raise many concerns with this project's foreseeable impact on our community. As currently planned, this project amplifies existing hazards and creates new ones, relies on infrastructure that does not exist, is inharmonious with our neighborhood's built environment, and poses an existential threat to many peoples' continued presence in our community.

On behalf of the Lincoln Heights community, the Lincoln Heights Community Coalition submits the following concerns about the proposed development:

1. Environmental Concerns

- a. The history of local contamination warrants concern and investigation
- b. Phase 1 uses erroneous information to recommend no testing or further action
- c. City Planning has violated its own guidelines by not engaging DTSC
- d. Applicant has not engaged SCAQMD & RWQCB
- e. Design imposes unreviewed fire hazards
- f. Project will create public safety and traffic hazards
- g. Project will further overburden Lincoln Heights emergency services

2. TOC Guidelines

- a. Density increase is excessive, and not mandated under JJJ
- b. Parking is inadequate, and not restricted by TOC Guidelines
- c. Neighborhood lacks the infrastructure to accommodate project

3. Design

- a. [Q] Conditions are not met
- b. Building is inharmonious with neighborhood character

4. Affordability

- a. Very Low Income units out of reach to majority of Lincoln Heights
- b. Applicant's compliance with program is not guaranteed
- c. Questions surrounding Tax Credit application
- d. Gentrification's effects on surrounding neighborhood

5. Conclusion and Recommendations

- a. Correct inadequate environmental review
- b. Recommend reduced density

- c. Refer design to Urban Design Studio for compliance
- d. Recommend greater affordability

Environmental Concerns

Many people have tried to dismiss our concerns, saying that California has the strictest environmental regulations in the world. Those restrictions only serve their purpose if they are followed and enforced. With no single agency charged with enforcing CEQA, private citizens are often tasked with pointing out violations. We can show that this project has actively evaded California's required oversight. The applicant and the Department of City Planning are apparently in violation of CEQA and LA municipal laws. We are appealing to you for the sake of our health and safety to take a closer look.

Soil Hazards

The adjacent property to the northeast was occupied by Welch's, which operated dry cleaning and refueling services at the site from 1920-1988, and advertised itself as "America's Largest Industrial Laundry." It has a long and disturbing history of dumping toxic pollutants into at least twelve leaking underground storage tanks across their property, some as large as 10,000 gallons. These tanks leaked TCE, PCE, diesel, gasoline, benzene, chloroform, and more. (Exhibit F, *Welch's 2007 Report*; Exhibit G, *Welch's 2008 Report*) Airborne fumes from these chemicals cause cancer, internal organ failure, and birth defects. (Exhibit K, *ATSDR Public Health Statement for Trichloroethylene*; Exhibit L, *WHO Indoor Air Quality Guidelines for Tetrachloroethylene, PCE*)

When the extent of the contamination was uncovered, the state mandated the property be vacated, destroyed, and has been overseeing remediation on that site ever since. DTSC began overseeing cleanup in 2007. They installed groundwater monitoring wells both onsite and offsite to the southwest, in the direction that the groundwater was carrying the toxic plume to the southwest. They later included soil vapor extraction units on the polluted site. The active monitoring wells, both on and offsite, continue to read levels of toxins higher than the state's limits. (Exhibit J, *Welch's 2018 Report*)

The toxic plume has been traveling freely from Welch's property through the applicant's property for as long as 100 years. Since Welch's property has benefitted from remediation but the applicant's property has not, it is conceivable and likely that the applicant's property currently suffers from higher levels of contamination than Welch's property does. Furthermore, aerial photography from LA City records and previous DTSC reports reveal that Welch's dry cleaning operation extended onto the applicant's property as recently as 1951, raising the very real prospect of decades of unchecked contamination directly onto the applicant's property. (Exhibit E, *Phase 1 ESA*)

TCE and PCE are especially harmful to human health. When the groundwater is shallow (as it is here at only 35 ft), they have the distinct likelihood of offgassing. These chemicals are especially volatile, posing a significant risk of vapor intrusion. The VOC's are less likely to dissipate into the atmosphere, but instead stay trapped underground if the soil is capped in concrete and asphalt, as is the case on the subject property. They become a hazard when exposed through excavation, or later as vapors intrude into a built structure. With homes and 5 schools within 1,200 feet, (Hillside Elementary is across the street) the danger of these contaminants being released is especially acute.

In 2016, just as the original MND for this case was being prepared and the property owner was attempting the sale of his property, the owners of Welch's site lobbied DTSC to allow permanent decommissioning of several monitoring wells and soil vapor extraction systems. (Exhibit I, *Welch's 2016 Report, Recommendations and Conclusions*) Two of those wells happened to be situated offsite at the southwest corner of the applicant's property, precisely where the applicant proposes their ingress/egress for this residential project. (Exhibit HH, *Avenue 34 Decommissioned Wells*) The DTSC agreed that some of the wells and extraction systems "could be decommissioned as long as a land use covenant (LUC) is prepared, limiting Site land use to commercial/industrial." (Exhibit I, *Welch's 2016 Report, Recommendations and Conclusions*) Cross-referencing the list of decommissioned wells with those wells' last readings reveals that several were still at levels above the state's limits when they were decommissioned. (Exhibit I, *2016 Welch's Report*) If the land next door has been deemed too dangerous for humans to live on after years of cleanup, how can we be assured of the safety of the subject property which has never been cleaned up?

It should be noted that the area of concern which has had the highest concentration of VOC's is at the southwest corner of the property, directly next to where the applicants plan to excavate their 2-level subterranean parking lot. (Exhibit G, *Welch's 2008 Report*)

Phase 1 Errors

Pinyon has pointed to their Phase 1 Environmental Site Assessment as evidence that, "the site is not contaminated." (Exhibit FF, *www.avenue-34.com/faq*) Let's look at their Phase 1. It was commissioned by MR Real Estate, LLC, a company listed as a partner on Pinyon's website. It is based in the applicant Kevin Ratner's home town of Shaker Heights, OH. It acknowledges the adjacent lot to the northeast is "an active hazardous waste site," but goes on to state that "the groundwater flows away from the subject property in a west-northwest direction." (Exhibit E, *Phase 1 ESA*, p. 36). This is false. DTSC, which oversees this site, confirms that the groundwater flows south-west parallel to the flow of the adjacent Arroyo Seco (Exhibit EE, *Correspondence with DTSC*), on a path directly through the applicant's property. This fact has been established by the groundwater monitoring wells installed to the southwest of both Welch's property and the applicant's property, which continue to show elevated levels of TCE and PCE. (Exhibit J, *Welch's 2018 Report*)

The preparers of the Phase 1 interviewed only one person, the property's owner Mr. Eric Ortiz. He said that there was "no commonly known or reasonably ascertainable information" regarding environmental concerns to the subject property. (Exhibit E, *Phase 1*, 5.2.4, p. 40) This is untrue. The debacle of Welch's pollution has been common knowledge in this neighborhood for many decades (the neighbors remember, and they all talk). DTSC has mailed multiple public notices to all nearby addresses over the years with groundwater monitoring wells installed on both sides of his property, the property owner did have reasonably ascertainable information about possible environmental impacts, which he withheld. (Exhibit H, *Welch's 2012 Public Notice*)

These erroneous statements are used to support the Phase 1's finding that there is "no evidence of recognized environmental conditions in connection with the subject property." It defines a recognized environmental condition as "the presence or likely presence of any hazardous substances on a property" due to an "existing or past release." (Exhibit E, *Phase 1, Findings*) The Phase 1 uses these flawed findings to recommend "no further investigations for the subject property at this time." (Exhibit E, *Phase 1, Conclusions and Recommendations*) Angelo Bellomo, former Director of DTSC, has commented that "this Phase 1 Assessment may have missed readily available information about conditions on the project site and adjacent properties." (Exhibit NN - *Angelo Bellomo Correspondence*)

Lack of DTSC Oversight

The LA Municipal Code requires DTSC to approve property owners' plans for the site use, and to approve testing and mitigation measures for possible contamination on the property. DTSC's approval must be submitted in writing to City Planning before City Planning may approve any determinations for an applicant's plans. (Exhibit B, *Subarea 4, (Q) Qualified Conditions of Approval, A.1.e*) DTSC confirmed as recently as last week that they have had no communication with the owners of the subject property, have conducted no surveys, and written no approvals for any planned use. (Exhibit EE, *Correspondence with DTSC*) DTSC only became aware of this project because we brought it to their attention. The applicant is in violation of the law, as is the Department of City Planning. If the Commission approves the applicants' plan today, without requiring further investigation by the appropriate state agencies, the Commission will also be complicit in evading their responsibility to protect our community from potential hazards to human and environmental health.

Lack of SCAQMD and RWQCB Oversight

Both the South Coast Air Quality Management District and the Regional Water Quality Control Board need to review and approve the screening and removal action plan determined by an environmental engineer specializing in toxic cleanup. Such an action plan will establish best practices for site investigation and remediation. During the excavation process, an organic vapor analyzer should be required to be on site to monitor VOC presence during excavation.

We reached out to both of these agencies recently, and they confirmed that they had not heard about this project, and have received no correspondence from the applicants.

Public Safety Impact

One element of this project's design immediately stands out as a clear public danger: the applicant has directed the buildings' inhabitants in and out of a single driveway at the corner of Avenue 34 and Artesian Street. Artesian is a one way street, only 14-ft wide, with a blind curve, no street lights, and no sidewalk, at a street-level metro rail crossing, on a path to two nearby elementary schools. A 2000 framework plan commissioned by the DOT for the Arroyo Seco Parkway Corridor refers to this corridor as a "nightmarish route," for its "unsafe, unpleasant conditions." (Exhibit LL - *Arroyo Seco Parkway Corridor*) It is shared by cars, pedestrians, and bicyclists. The applicant makes the misguided claim that the buildings' occupants will exit this driveway and turn left, towards Pasadena Ave. All of us who live in this neighborhood know that this is not what drivers will do. If you are on this street, Artesian St is the quickest way to get to most destinations. All GPS map programs concur with this. (Exhibit P, *Google Maps Directions*)

This project sits equidistant between two Metro stations. For trips downtown, the most logical station to walk to is half a mile south at Avenue 26. If, as the applicant proposes, the vast majority of the building's residents will rely exclusively on public transportation, they will find themselves dodging cars down this alley as they walk to the Avenue 26 Metro Station. (Exhibit MM - *Artesian St*)

The only way to avoid this impending disaster is to relocate the primary entrance/exit to the northeast corner of the property at Pasadena Ave. The applicants claim that most drivers will exit onto Pasadena Ave anyway, and of course Artesian's one-way nature means that all drivers will enter this complex from Pasadena Ave. Therefore, there would be little change to the traffic impact on Pasadena Ave to direct all drivers in and out of the northern corner at Pasadena, rather than in and out of the southern corner at Pasadena.

Five days before the hearing, Kevin Ratner asked the appellants to support a request he said he plans to make to City Planning. He proposed asking the city to allow vehicular access at the driveway already planned for Pasadena Ave. We support this request, having advocated for allowing cars to use the driveway on Pasadena Ave since the beginning of this process. However, leaving the exit open on W Avenue 34 will still create many new public hazards on this street, including daily garbage trucks, delivery trucks, car services, and more than 2200 new car trips daily, according to DOT's assessment.

Fire Safety Impact

We have grave concerns for the life safety of the residents of the proposed project if the applicants maintain their plans for only one entry or exit, despite planning to house more than 1400 persons. They have stated that there will be no fire-truck turn-around point at the end of Avenue 34,

and can make no allowances for fire vehicles on Artesian since it is only 14-ft wide. (Exhibit O, Fire Code)

In fact, Section D106.2 of the Los Angeles City Fire Code stipulates that residential projects of more than 200 residents must be foreseen with “two separate and approved fire apparatus access roads” for each building, and that the minimum width of access roads be 26 feet. With their proposed firelane/driveways only 20 ft wide, the proposed development fails on both counts to follow the law, and to consider the life safety of residents and others in the community.

Our area is served by Fire Station 1, which is one of the most overburdened stations in Los Angeles. Station 1 responds to an average of 1,995 calls per day for Lincoln Heights’ population of 28,201. Five neighboring stations have had an average of 1,107 incidents in the same period, for neighborhood populations averaging 42,485. 1,400 new residents on a single block will dramatically increase the pressures on this already overburdened station. (Exhibit Y, Emergency Response Statistics)

Emergency Services Impact

All of us who live on the blocks adjacent to the subject property have frequently had cause to call the police. Police response times for active thefts and home invasions on our block typically range from 1 to 7 hours. Sometimes the police haven’t come at all, and often nobody at the Hollenbeck Station will even answer the phone. Adding as many as 1,500 new residents to this block will only increase the demand on police services. A neighbor on W Avenue 34 called the police as recently as September 27, because an intruder was actively trespassing in his backyard while he was home. Police took more than one hour to respond. When he arrived, the officer described how this area is already overburdened, with not nearly enough officers to respond to all the calls. He further explained that recent City budget cuts since the impact of Covid across all City services make the likelihood of any improvements in response times unlikely.

Police availability is yet one more piece of our neighborhood’s infrastructure that is unprepared to shoulder the kind of immediate and inorganic growth this project will impose. The MND fails to make an accurate assessment of this impact, even throwing the question into confusion by failing to determine precisely which police station serves this neighborhood.

TOC Guidelines

Density

City Planning has granted the applicant’s request for a 70% increase in density, the maximum allowable under the guidelines. Measure JJJ calls for approving increases of 35% or above. However, it does not state that the requested increase must be granted. We believe, for a multitude of reasons, that this increase in density will be a detriment, rather than a benefit, to our community.

Parking Impact

Our neighborhood is already burdened by a shortage of parking availability, as the Commission heard from public comments at the first Appeal Hearing. As one of the oldest neighborhoods in Los Angeles, many homes and businesses were not designed with dedicated driveways. A survey of street parking within half a mile counted some 200 spaces, mostly already in use. Local businesses depend on street parking for their own work vehicles and for their clients. Many businesses on W Avenue 34 and W Avenue 33, including Alustretch LA, Frankiz Automotive, Abrego Gardening, Carnes Asadas Pancho Lopez, Big Bad Sound and Audio, and Greens Marijuana Dispensary will directly suffer the consequences of this project's impact on parking availability.

The project applicant has repeatedly misrepresented to our community that they are bound by the TOC's guidelines stipulating 0.5 parking stalls per unit. They have told us, "the city probably wouldn't allow more parking even if we tried to create it." That is completely false, and the applicant knows it, as we can demonstrate. The TOC guidelines specifically refer to the parking guidelines as "Residential *Minimum* Parking Requirements." It is well within the applicant's rights to build more than the minimum.

The applicant originally offered much more parking than is currently being proposed. The 2016 design included 467 parking stalls. In February 2020, the applicants released building plans with a total of 401 total parking stalls. Their most recent plans have removed 90 parking stalls, lowering the parking count to 311. Nevertheless, there are still a few more spaces than the required minimum, tacit acknowledgement on the part of the applicant and on the part of City Planning that the applicant has every right to add more parking stalls than the bare minimum.

Although the applicants have agreed to lead an effort to create a Preferential Parking District (PPD) in this neighborhood that would exclude their own building's tenants, they have taken no action on this plan since members of the neighborhood first proposed it in February 2020. While the appellants cautiously support such a move, we also recognize that such a proposed parking district faces many obstacles and uncertainties. It is far from guaranteed, and cannot be assumed to solve all the problems we foresee. Additionally, if a PPD is approved, how would this affect parking and traffic for the applicants' building? Where will delivery vehicles, retail customers, tenants, and tenant guests park? The applicants have answered none of these important questions that would seriously impact their property, which raises doubts in our community's mind that their PPD proposal may only be a tactic to gain our support while they are seeking to finalize their project's approval.

Neighborhood Infrastructure

Page 23 of the Director's Determination states that the subject property is part of the Northeast Los Angeles Community Plan. One of its goals (Objective 1-2) is "To allocate land for

new housing to accommodate a growth of population that is consistent with and promotes the health, safety, welfare, convenience, and pleasant environment of those who live and work in the community based on adequate infrastructure and government services, especially schools.”

This community does not have adequate infrastructure to accommodate the kind of immediate growth in population this project will invite. There are more food banks than grocery stores within 1 mile. There are no grocery stores or drug stores within half a mile. There is one small restaurant on the next block (whose owner supports this appeal and fears losing his loyal clients for lack of street parking). Otherwise, the closest restaurants along Pasadena Ave are more than 8 blocks away. This lack of walkable services is especially important to note, as the developer is capitalizing on TOC benefits and designing parking plans that presume that their tenants will not own cars. We easily foresee the opposite of the intended reduction of car traffic that TOC’s envision: there will be a constant stream of delivery services, car services, and tenant traffic on these streets day and night.

Design

[Q] Conditions

The [Q] Conditions for Subarea 4 call for some very specific design features that seem to be ignored in this design. Condition B.1.e requires 30% of the entire property to be publicly accessible open space. We are aware that only the sidewalks around the retail shops will be open to the public, with all the landscaped areas between the buildings closed to the public. (Exhibit B - *[Q] Conditions*). Condition B.2 describes the requirement for pedestrian paths open to the public traversing the midpoint of the property both north/south and east/west. These are missing from the design. Condition B.3 calls for regular breaks in the architectural facade that are absent from this design. Condition C.13.e requires non-permeable paving materials wherever possible. This does not seem to be part of the current design. There may well be more Conditions to which the applicant has failed to adhere.

Additionally, Condition D.7 requires the property’s use to be “with due regard for the character of the surrounding district, and the right is reserved to the City Planning Commission... to impose additional corrective conditions.” We ask the Commission to exercise their right to remedy these and other conditions which are not in due regard for the character of the surrounding district.

Neighborhood Character

The Lincoln Heights Historic Preservation Overlay Zone begins one block to the south, and the Highland Park HPOZ begins one block to the north of the proposed development. (Exhibit S - *Highland Park Historic Preservation Overlay Zone*, Exhibit T - *Lincoln Heights Historic Preservation Overlay Zone*)

Indeed, throughout Lincoln Heights and Highland Park, whether inside of or outside the HPOZ-protected areas, this whole region of East Los Angeles is characterized by smaller, 1- and 2-story single family homes, the vast majority of them built between 1885 and 1930. Across the street from this property are multiple Victorian style homes. This site is also only one block from an entrance to the Heritage Square Park. The area includes few apartment buildings, those that are present are 2-3 stories in height only.

Thus the proposed project with its large massing and scale and 5-story height, unarticulated facades, and garish hot pink color, would represent an offensive intrusion upon the fabric of these historic neighborhoods (whether protected by HPOZ or not).

Affordability

Very Low Income Units

The applicant has set aside 14% of these new apartments as Very Low Income Units. The average household in Lincoln Heights consists of 3 people. In Lincoln Heights, the median income per household - which consists of 3.6 people on average - is \$39,946. (That's far below LA's median income of \$77,300.) The applicant estimates that these new apartments will house an average of 3.2 people, which is how they arrive at their estimate of 1493 total residents. Let's look at what it would mean for a family of 3 to qualify for one of these Very Low Income units.

Under LA County affordable housing guidelines, to qualify for the Very Low Income level, a family of 3 qualifies \$50,700. However, anyone making less than \$50,680 will be paying more than 30% of monthly income towards rent, which is considered rent overburdened. Qualifying renters cannot have consumer debt equaling more than 60% of monthly income (that would be about \$2,500 for people meeting the income requirement). These homes cannot be passed on to family members, so if a head of household dies, divorces, or moves away, the remaining family will not be eligible to stay in the home. And of course, these apartments only remain affordable for 55 years. Therefore, these apartments cannot be considered permanent homes for long-term members of the community. Qualifying renters must be US citizens, but 24% of Lincoln Heights residents are not US citizens.

With a subsidized two bedroom apartment in this development costing \$1267, a qualifying Very Low Income family would need to make at least 127% of the median Lincoln Heights income to comfortably afford one of these subsidized apartments. This means that these "affordable" units will be inaccessible to the majority of Lincoln Heights residents. As currently planned, even the affordable units in this project could only serve a select portion of the upper economic strata of our neighborhood.

The applicant has recently made remarks that some of the market-rate apartments will be priced as "workforce housing." A quick Wikipedia search reveals that this is a term currently in vogue

among developers. It has no fixed meaning, and relates to no enforceable policy in Los Angeles. It's often understood to mean housing roughly targeting the median income, or up to 120% median income. In Los Angeles, that would be targeted for people making as much as \$92,760! That's more than 230% of the Lincoln Heights median income! You couldn't find enough people in Lincoln Heights to fill this building if you tried. It certainly will not serve our community.

Compliance

According to an Audit of Income-Restricted Affordable Housing Units in Los Angeles prepared in 2017 for the Department of City Planning, "the City's actual affordable housing inventory is less than the number of restricted units listed on paper, because some tenants exceed income guidelines and some owners collect more rent than allowed." (Exhibit U - *Audit of Income-Restricted Housing*) That analysis found that some 5.2% of units failed to adhere to restrictions on rent.

In light of this possibility, and in consideration of the applicants' actions that have steadily corroded our community's trust, we recommend that a schedule of regular annual or biannual inspections be imposed for the full extent of the 55-year term of affordability to determine that the applicants and any subsequent owners or managers of this project honor the rent restrictions to which they have agreed.

Application for Tax Credits

A recent story in CityWatch LA revealed that the applicant has filed an Application for Low-Income Housing Tax Credits. (Exhibit JJ - *City Watch 3*) The tax document was filed April 17, 2020, just before City Planning approved the proposal. The applicant is applying for \$851,827 in Federal Tax Credits. We have identified several representations on this application that seem to differ from the proposal being considered today.

The tax credit applicant represents that the square footage of the building will be 219,325 square feet. (Exhibit FF - *Tax Credit Application*, p. 11) The proposal the applicant submitted to City Planning many months earlier includes more than twice that amount - 514,766 square feet. The applicant also represents that there will be a total of 2 buildings on the site. The applicant's proposal to City Planning, however, describes this as a single project consisting of 3 buildings. The application claims that there will be no commercial or retail use in the building, but in fact there will be 3 retail shops totalling 16,400 square feet.

The tax credit application represents that this project will have a total of 67 units. It represents that there will be 1 manager apartment, 66 low-income units, and no market-rate units. The ratio of low-income to market-rate units, it claims, will be 100%. That contradicts what the applicant has

presented to us, which is that the building will have 66 low-income units, 401 market-rate units, and a low-income to market-rate ratio of only 14%.

Applicants for these tax credits agree “under perjury that the information contained in the application... is true and correct to the best of my knowledge and belief.” (p. 2, *Application*) Furthermore, it certifies an understanding “that any misrepresentation may result in cancellation of Tax Credit reservation, notification of the Internal Revenue Service and the Franchise Tax Board, and any other actions that TCAC is authorized to take.” (p. 3, *Application*)

Was this form filed correctly? If not, have other projects lost out on tax credits due to projects that misrepresented their scope? Are tax credits typically awarded to projects that have also been granted a 70% density bonus? Why has the applicant described this project as 100% affordable? We fear this may fit a pattern of deliberate omissions and evasions by the applicant, and we ask the Commission to resolve these questions, or to refer this document to the appropriate state or federal agencies for resolution.

Gentrification

The applicants make the unsupported argument that their project will act to relieve market pressures that are driving rents up in our economically disadvantaged community. We feel that this argument is unsound for multiple reasons.

These new apartments will overwhelmingly serve a market that currently *does not exist* in our neighborhood. According to the LA Times, annual household income is below \$25k for nearly 40% of Lincoln Heights residents, and below \$75k for over 80% of us. (Exhibit V - *LA Times*) For that reason, this project is unlikely to relieve the pressures that already exist here, but will instead exacerbate them.

Existing residents of Lincoln Heights in an average household size of 3.6 people, a figure that is high for both the City and the County of Los Angeles, and does not suggest an easing of housing accessibility when hundreds of new units proposed by this developer are built as studio and one-bedroom apartments. (Exhibit HH - *Lincoln Heights Profile*)

The type of housing experiencing the most noticeable increase in our neighborhood is the sale price of single-family homes. That market is also separate from the one being created by the applicants. People who choose to rent apartments like the ones being proposed are not the same people driving up the costs of home sales. Therefore, it's unrealistic to connect this new construction as a relief on that pressure. House prices will not go down. Additionally, the introduction of a new, wealthier demographic occupying this new construction is only likely to make this neighborhood more attractive to those people in the escalating market for single family homes. Therefore, we anticipate this project will continue to *drive house prices up*.

Many of the large, historic homes in Lincoln Heights have been subdivided into duplexes and triplexes, occupied by multiple families of renters. More than 70% of our community are renters.

Already, many residents have been forced out by their landlords, who flip the homes, renovate them for wealthier renters, or return them to single family homes and put them on the market at steeply escalating prices. Although the applicants repeat their mantra that they are displacing no one, most people in our community understand that this project threatens many with displacement, even those who live blocks away.

When Los Angeles built Dodger Stadium, they used eminent domain to forcibly evict hundreds from their homes. They made unfulfilled promises that they would build them comparable homes elsewhere. Many of those who were displaced settled in Lincoln Heights. Lincoln Heights understands the threat of encroaching development robbing people of their right to self-determine their community. (Exhibit V - *LA Times*)

When we have brought up with the development team the fact that there are no walkable retail or food services in this immediate neighborhood for their prospective tenants, they have responded that, “our buildings will attract those kinds of businesses.” That is another frightening proposition. It suggests that the local businesses that do operate in this part of Lincoln Heights - mechanics, manufacturing, light industry, sewing factories, commercial kitchens, etc. - will be displaced by new businesses catering to a new, wealthier clientele who will demand retail and dining real estate. Many of these existing businesses are owned and operated by residents of Lincoln Heights. If these businesses are pushed out, it will negatively reshape our community, forcing people to commute longer distances, and to lose the economic self-sufficiency they have created here over generations.

Lincoln Heights rents currently remain some of the lowest in Los Angeles. However, most incomes here are so low, that this is also one of the most rent *overburdened* communities in our city. Any new development must be approved only with an eye to the vulnerability our community faces from new pressures imposed on Lincoln Heights.

Conclusions and Recommendations

Environmental

Despite clear signs that potential environmental hazards abound, the applicant has successfully evaded the required environmental oversights. The Department of City Planning has further facilitated this evasion, by allowing the applicants’ flawed and privately-prepared report to stand in for the legally required State clearances. Additionally, we perceive clear dangers to public safety due to ill-advised traffic patterns, non-adherence to fire code, and undue burdens on emergency services. We ask the Commission to consider all these concerns, and to do whatever is necessary to correct them. We insist that the Commission act to protect the health and safety of our community by ensuring that all the appropriate reviews and remediations are implemented to their fullest.

TOC Guidelines

While we recognize the aspirations of the TOC guidelines to reduce car traffic and encourage affordable housing, this proposal lacks sensitivity to this site and this broader neighborhood. It will create the opposite of the desired effects to a dramatic degree. Our neighborhood's infrastructure cannot support the immediate increase of 1,400 new residents and 2,200 new car trips converging every day on this small block. This neighborhood has never been the kind of walkable urban center a massive TOC project would be well suited to, and if it becomes that kind of neighborhood, it will only come at the cost of our neighborhood's current longtime residents and businesses.

We recommend reducing density to something more in keeping with the neighborhood's current density. With an estimated 1,000-car shortfall of available street parking spaces, and a huge buildable property, we recommend increasing parking on the property. We urge the Commission to pursue any other actions that will enable the project to promote the TOC goals of reducing car traffic and creating affordable housing, rather than dramatically increasing car traffic and threatening our neighborhood's affordability, as this project currently threatens to do.

Design

This project is completely out of character in this neighborhood. We recommend that the Planning Commission refer this project to the Urban Design Studio for further modification, with the hope that a design more harmonious to the neighborhood of Lincoln Heights can be devised. Such modifications should adhere to the relevant [Q] Conditions, and perhaps should also involve the advice of local experts who have insight into the neighborhood's character.

Affordability

These apartments will be inaccessible to nearly all Lincoln Heights residents. Even the small proportion of affordable apartments could only conceivably serve the upper strata of our community. Nearby local businesses will be pushed out to make room for new businesses that cater to this building's more wealthy residents. The benefit of those apartments is negatively offset many times by the impact we foresee on struggling neighbors who will face new pressures of increased rents and property values, making the place they have long called home suddenly inaccessible. New development on this property should include much more affordable housing, and should probably include housing at the Extremely Low Income category.

We implore the Commission to make careful consideration of the threats to our community's continued existence. For one of the most economically disadvantaged neighborhoods in our city, this could signal a generational theft of the ability to self-determine the future and revitalization of Lincoln Heights.